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January 30, 1998

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Presidential Documents

Title 3—

The President

Proclamation 7065 of January 28, 1998

Year of the Ocean, 1998

By the President of the United States of America

A Proclamation

More than 70 percent of the Earth's surface is covered by water, and more than half the world's population lives within 50 miles of a coastline. We rely on the ocean as both a source and sustenance of life on our planet. It contains a wondrous abundance and diversity of life, from the smallest microorganism to the mammoth blue whale. It is a key source of food, medicine, energy, commerce, and recreation for the peoples of the world, and the more we learn about its influence on climate and weather, the more we realize its impact on our safety and quality of life.

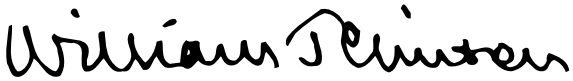
We are only beginning to understand the depths of the ocean's mysteries, but we are quickly learning one crucial lesson: the ocean's resources are limited, and we must work together to preserve them. Many areas are already overfished; decades of pollution, including industrial waste, sewage, and toxic runoff, has taken its toll on the health of the ocean and its living creatures. Many species of fish are threatened with extinction, and even our precious coral reefs, once a safe haven for an amazing variety of animal and plant life, have suffered greatly.

Because the ocean is a treasure that all nations of the world share in common, we must work in partnership to become wise stewards of its many riches. We must strive together—at local, national, and international levels—to preserve the ocean's health, to protect the marine environment, and to ensure the sustainable management of the myriad resources the ocean contains.

Dedicating 1998 as the Year of the Ocean is an important first step in this worldwide endeavor. Throughout the year, individuals, organizations, and governments will participate in activities designed to raise public awareness of the vital role the ocean plays in human life and of the equally vital role that human beings must play in the life of the ocean. The Year of the Ocean provides us with an extraordinary opportunity to learn more about the ocean's unique environment and to collaborate on protecting and preserving its invaluable resources.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim 1998 as the Year of the Ocean. I encourage the Governors of the States and the Commonwealth of Puerto Rico and officials of other areas subject to the jurisdiction of the United States to participate in the observance of this year. I invite all Americans to take this opportunity to learn more about the ocean and its vast biodiversity and to become involved in keeping our coastal waters safe and clean.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of January, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.



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Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

RIN 3206–AF78

5 CFR Part 733

Political Activity: Federal Employees Residing in Designated Localities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule regarding the political activity of Federal employees residing in designated localities. The final rule will inform Federal employees of the political activities which are permitted and prohibited under the Hatch Act Reform Amendments of 1993 for employees who reside in localities designated by OPM, and in connection with elections for local partisan political office in these localities. The regulation also includes a list of the designated localities.

EFFECTIVE DATE: March 2, 1998.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Chabot at (202) 606–1700.

SUPPLEMENTARY INFORMATION: On October 6, 1993, President Clinton signed the Hatch Act Reform Amendments of 1993. The Reform Amendments became effective on February 3, 1994 and specifically authorize OPM to issue regulations on the political activities of Federal employees regarding matters described in 5 U.S.C. 7325, as amended, concerning Federal employees' participation in the local elections of the localities in which they reside. On February 4, 1994, OPM published an interim regulation on the political activities of Federal employees residing in specified localities designated by OPM. 59 FR 5313. In view of the comments that it received concerning the interim regulation, OPM published a proposed rule on June 24, 1997. 62 FR 34017. OPM received comments concerning the proposed rule from two individuals and two Federal agencies before the comment period closed on August 25, 1997. OPM's analysis of the comments generally follows the numerical order of the regulations.

Section 733.103(b)(1) of the proposed regulation specifies that the Federally employed residents of designated localities may run for local partisan political office as independent candidates. Section 733.104(b)(1) of the proposed regulation prohibits these employees from running for local partisan political office as the representatives of a political party. An individual commented that, except for the legislative history of the Reform Amendments, OPM did not provide any reason for requiring the Federally employed residents of designated localities to run as independent candidates for local partisan political office. He states his belief that §§ 733.103(b)(1) and 733.104(b)(1) of the proposed regulation violate provisions in section 2(a) of the Reform Amendments that are codified at 5 U.S.C. 7321 and 7325. He noted that the Reform Amendments, at 5 U.S.C. 7321, state the policy of Congress that:

> [E]mployees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

He believes that the proposed regulation violates section 7321 because it discourages Federal employees from fully exercising their right to participate in the political processes of the nation.

He also noted that under the Reform Amendments, at 5 U.S.C. 7325, OPM may prescribe regulations permitting the Federally employed residents of designated localities to take an active part in local partisan political campaigns, ''without regard to'' the prohibition against candidacy for partisan political office specified in 5 U.S.C. 7323(a)(3). He believes that Congress expressed its intent through 5 U.S.C. 7325 that Federal employees in designated localities should be permitted to run for partisan political office as the representatives of political parties. Accordingly, he also believes that §§ 733.103(b)(1) and 733.104(b)(1) of the proposed regulation violate 5 U.S.C. 7325 by requiring Federal employees to run as independent candidates for local partisan political office.

Finally, he noted that, although § 733.103(b)(3) of the proposed regulation permits the Federally employed residents of designated localities to accept and receive political contributions on behalf of candidates for local partisan political office who represent political parties, § 733.104(b)(2) prohibits Federal employees from soliciting political contributions on behalf of such candidates. He also believes that there is a minimal difference between soliciting political contributions and accepting and receiving such contributions. Thus, he believes that OPM should permit Federal employees to solicit political contributions on behalf of candidates who represent political parties.

OPM notes in response that section 7325 of title 5, United States Code, provides OPM with discretionary authority to permit Federal employees to run for local ''partisan political office'' when certain statutory prerequisites are fulfilled, and does not include language reflecting any Congressional intent to permit these employees to run for local partisan political office as the candidates of political parties. According to the Reform Amendments, at 5 U.S.C. 7322(2), a ''partisan political office'' includes ''any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.'' Under this definition, a public office becomes a ''partisan political office'' when any candidate for election to that office represents a political party whose candidates for Presidential elector received votes in the last Presidential election. Accordingly, an independent candidate becomes a candidate for ''partisan political office'' when he or she opposes the candidates of such political parties in an election for public office. Thus, OPM concluded that permitting employees to run as independent candidates for local partisan political office while prohibiting them from running as the representatives of political parties does not violate 5 U.S.C. 7325 or ignore the

intent of Congress in enacting this provision.

Although section 2(a) of the Reform Amendments provides that Federal employees should be encouraged to participate fully in the political processes of the nation ''to the extent not expressly prohibited by law,'' section 10 of the Reform Amendments (the Sense of the Senate) limits section 2(a) by providing that Federal employees should not be authorized to solicit political contributions from the general public, or run for the nomination or as a candidate for a local partisan political office, except as expressly provided under current law. It is clear from the language of the Reform Amendments, particularly section 10, and from the legislative history of the Reform Amendments that Congress was especially concerned about candidacy for partisan political office and soliciting political contributions. As OPM stated in its notice of proposed rulemaking, the legislative history of the Reform Amendments shows that Congress was well acquainted with the provisions concerning candidacy for local partisan political office that were in effect under the Hatch Act and that Congress intended to preserve those provisions in enacting the Reform Amendments. See 62 FR 34017, 34018–19 (June 24, 1997). Under those provisions, the Federally employed residents of designated localities were required to run as independent candidates for local partisan political office. OPM believes that the proposed regulation, at §§ 733.103(b)(1) and 733.104(b)(1), complies with the Reform Amendments and reflects the intent of Congress in enacting the Reform Amendments.

Similarly, Federal employees residing in designated localities prior to the enactment of the Reform Amendments were permitted to solicit, accept, and receive political contributions only on behalf of independent candidates for local partisan political office. Although section 10 of the Reform Amendments provides that Federal employees should not be authorized to solicit political contributions, it does not include any provision concerning the acceptance or receipt of political contributions. Therefore, the proposed regulation permits Federal employees to accept and receive political contributions on behalf of candidates who represent political parties but prohibits Federal employees from contributions for such candidates. OPM also believes that §§ 733.103(b)(3) and 733.104(b)(2) of the proposed regulation comply with the Reform Amendments and reflect the intent of Congress in enacting the Reform Amendments.

In commenting on OPM's regulatory proposal, another individual asked: ''Does the Constitution [of the United States] mean anything'' to OPM? The individual did not respond to OPM's request to elaborate on that comment. OPM notes in response to this comment that the Supreme Court of the United States upheld the constitutionally of the former Hatch Act's prohibitions in two decisions. *United Public Workers of America* v. *Mitchell*, 330 U.S. 75 (1947); *United States Civil Service Commission* v. *National Association of Letter Carriers AFL–CIO*, 413 U.S. 548 (1973). These more stringent prohibitions are almost identical to the prohibitions that currently apply to employees in sensitive agencies and positions under the Reform Amendments. Moreover, these prohibitions are significantly more restrictive than the prohibitions that currently apply to the majority of Federal employees under the Reform Amendments.

Section 733.105(a) of the proposed regulation describes certain sensitive agencies and positions whose employees and incumbents are prohibited from partisan political participation under the Reform Amendments, except for participation in elections for local partisan political office in localities designated by OPM. The Central Imagery Office currently appears in the list of sensitive agencies and positions at § 733.105(a)(13) of the OPM regulatory proposal for 5 CFR part 733. Officials at two Federal agencies commented that section 1111 (a) and (b) of the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, consolidated the Central Imagery Office listed in § 733.105(a)(13) with the Defense Mapping Agency to form the National Imagery and Mapping Agency. Section 1122(a)(1) of Pub. L. 104–201 further amends the Hatch Act Reform Amendments at 5 U.S.C. 7323(b)(2)(B)(I)(XIII) by substituting the National Imagery and Mapping Agency for the Central Imagery Office. Accordingly, § 733.105(a)(13) of the final rule identifies the National Imagery and Mapping Agency, rather than the Central Imagery Office, as an agency whose employees are subject to the Reform Amendments' more restrictive prohibitions against partisan political participation.

OPM notes in this regard that the Reform Amendments, at 5 U.S.C. 7323(b)(2) and 7325, prohibit employees in specified sensitive agencies and positions from participating actively in partisan political activities, except for those activities connected with elections to local partisan political offices in the localities designated by OPM. Under 5 U.S.C. 7323(b)(2), individuals who have been appointed by the President, by and with the advice and consent of the Senate (PAS employees), have been excluded from the prohibition on active participation in partisan political activities, even though these individuals are employed in the sensitive agencies or positions described in section 7323(b)(2)(B).

Sections 733.105 and 733.106 of the proposed regulation apply to individuals who are employed in sensitive agencies and positions and who also reside in the localities designated by OPM. Sections 733.105 and 733.106 permit these employees to participate in the local elections of the designated localities but only as, or on behalf of, individuals who are running as independent candidates for local partisan political offices. The proposed regulation did not adequately reflect that PAS employees are not subject to the statutory prohibition against active participation in partisan political activities and, therefore, that they also are not subject to §§ 733.105 and 733.106 of the regulation. Accordingly, OPM has amended these provisions to reflect clearly that PAS employees in sensitive agencies and positions are covered by §§ 733.103 and 733.104 of the regulation and that the provisions in §§ 733.105 and 733.106 do not apply to them.

The Reform Amendments, at 5 U.S.C. 7323(a) (2) and (3), prohibit Federal employees from becoming candidates for partisan political office and from soliciting, accepting, or receiving political contributions. However, the Reform Amendments, at 5 U.S.C. 7325, authorize OPM to prescribe regulations permitting employees in certain communities to participate in local elections for partisan political office without regard to the prohibitions in 5 U.S.C. 7323(a) (2) and (3) if the requirements specified in section 7325 are met. The first requirement is that the community or political subdivision must be located in Maryland or Virginia and in the immediate vicinity of the District of Columbia. Alternatively, the majority of the community's registered voters must be employed by the United States Government. The second requirement is that OPM must determine that it is in the domestic interest of the employees to permit that political participation because of special or unusual circumstances existing in the municipality or political subdivision.

Section 733.107(a) of the final regulation reflects these statutory requirements. Under part 733, the

exemption from the prohibitions in 5 U.S.C. 7323(a) (2) and (3) is a partial exemption because employees are required to run as independent candidates for local partisan political office and they are permitted to participate in other political activities connected with elections for local public office as specified in part 733. Section 733.107(c) of the final regulation includes a list of designated localities whose residents have been granted a partial exemption by OPM.

In its notice of proposed rulemaking, OPM noted that Spotsylvania County, Virginia and St. Mary's County, Maryland had fulfilled the statutory requirements for a partial exemption to issue and proposed the addition of these counties to the regulatory list of designated localities. 62 FR 34017, 34020 (June 24, 1997). OPM also placed legal notices in local newspapers to advise the residents of Spotsylvania County and St. Mary's County concerning the proposals. The legal notice regarding Spotsylvania County appeared in the Free Lance-Star on July 15, 1997 and a legal notice concerning St. Mary's County appeared in the Enterprise on July 16, 1997. OPM received only one comment concerning these proposals from a resident of St. Mary's County who supported the addition of that county to the regulatory list. Therefore, the final regulation includes Spotsylvania County, Virginia and St. Mary's County, Maryland in the list of designated localities at § 733.107(c) of the regulation. The addition of Spotsylvania County will be listed among the designated Virginia municipalities and political subdivisions after Prince William County and before Stafford County. The addition of St. Mary's County to the designated Maryland municipalities and political subdivisions will be listed after Rockville and before Seat Pleasant. Public notices concerning the addition of Spotsylvania and St. Mary's Counties to the list of designated localities in the OPM final regulation will be published in a local newspaper serving each county.

The District of Columbia currently is included in the OPM regulatory list of designated localities. The District of Columbia was added to this list on July 5, 1977, by the United States Civil Service Commission. As OPM pointed out in its proposed regulation, however, two Federal agencies submitted comments questioning whether the District of Columbia should continue to be listed as a partially exempt municipality in view of the unpublished memorandum opinion of the United States District Court for the District of Columbia in *Ward Three Democratic Committee* v. *United States*, No. 78–853 (D.D.C. Aug. 29, 1980). 62 FR 34017, 34020–21. OPM recognizes that, when the statutory exemption requirements were enacted in 1940, Congress did not foresee a need for an exemption for the District of Columbia because the District held no local elections at the time and was, instead, governed by three Commissioners appointed by the President of the United States.

In discussing the history of the district court decision, one of the Federal agencies noted that, on May 30, 1974, the Civil Service Commission added the District of Columbia to the list of exempted localities at 5 CFR 733.124, retroactively effective May 16, 1974. 39 FR 18761 (1974). In *Joseph* v. *United States Civil Service Commission*, 554 F. 2d 1140 (1977), the United States Court of Appeals for the District of Columbia declared invalid the exemption for the District of Columbia because it was not published after a notice and comment period, as required by the Administrative Procedure Act. The appeals court held that, under the Hatch Act, the District of Columbia could not qualify under the first alternative for an exemption to issue. *Id.* at 1154–1155. The appeals court stated in this regard that

> Although there can be no dispute that it is ''in the immediate vicinity of the District of Columbia,'' it is equally certain that it is not in the states of Maryland or Virginia. The legislative history of this first alternative clearly indicates that it was proposed to restrict the Civil Service Commission's exemption authority to areas adjacent to the District. (Citation omitted.) Admittedly the failure to include areas within the District may well have been due to the fact that there were no elective positions within the District Government in 1940 when the Commission was given its exemption authority. (Footnote omitted.) The literal language of the first alternative in subsection 7327(b)(1), however, clearly does not include the District, and although a court should interpret the meaning of statutory language in light of the intent of its drafters, we cannot rewrite the statute to compensate for unforeseen circumstances.

Id. The appeals court also stated that, if the Civil Service Commission republished the exemption, it should furnish statistical evidence that a majority of District of Columbia voters were employed by the Untied States Government or the District of Columbia Government. *Id.* at 1152–1157. In order to comply with the decision in *Joseph*, the Civil Service Commission subsequently proposed to add the District of Columbia to the list of exempted localities on May 6, 1977, 42 FR 23160 (1977), and the District was then added to the list of exempted localities, effective July 5, 1977. 42 FR 34308.

In a second suit challenging the validity of § 733.124, the appeals court remanded the case to the district court to gather statistical evidence to determine whether the majority of registered voters in the District of Columbia were employed by the United States or the District of Columbia Governments. *Ward Three Democratic Committee* v. *United States*, 609 F. 2d 10 (D.C. Cir. 1979). On remand, the district court found that, based upon the statistical evidence submitted by the parties, less than 50 percent of registered voters in the District of Columbia were employed by the United States Government or the District of Columbia Government. Thus, the district court held that § 733.124(b), the regulation which provided for partial exemptions at that time, was ''not applicable to the District of Columbia and shall not be applied thereto.'' *Ward Three Democratic Committee* v. *United States*, No. 78–853 (D.D.C. Aug. 29, 1980). Although this judicial decision was based upon requirements stated in the former Hatch Act for an exemption to issue, the same requirements also appear in the Reform Amendments.

OPM discussed these judicial decisions in its notice of proposed rulemaking and requested further comments from the public as well as from Federal, Postal Service, and District of Columbia Government employees who are registered voters in the District of Columbia. 62 FR 34017, 34020–34021 (June 24, 1997). OPM also placed an official notice concerning this matter in the July 14, 1997 edition of the Washington Post. Publication of the proposed regulation and official notice has not resulted in any comments concerning the District of Columbia or any evidence showing that the District of Columbia should remain on the list of designated localities.

Moreover, on several occasions, OPM corresponded with the Office of the Corporation Counsel for the District of Columbia about this matter. In correspondence to OPM dated June 12, 1995, the Office of the Corporation Counsel advised that:

> [B]ased upon the decision in Ward Three Democratic Committee v. United States, No. 78–853 (D.D.C. Aug 29, 1980), we reluctantly conclude that deletion of the District of Columbia from the list of exempt jurisdictions is not inconsistent with the Hatch Act Reform Amendments regarding political management and political campaigns involving the District.

In succeeding letters to OPM, dated September 18, 1995, and July 29, 1997,

the Office of the Corporation Counsel reaffirmed this statement.

In view of these circumstances, OPM does not have any choice except to remove the District of Columbia from the regulatory list of designated localities in § 733.107(c) of the final regulation. Accordingly, the final regulation reflects that the District of Columbia has been removed from the list of designated localities in § 733.107(c). A public notice concerning the removal of the District of Columbia from the list of designated localities in the final version of 5 CFR 733.107(c) will be published in a local newspaper serving that city.

Finally, OPM noted in its proposed rule that it would pursue a legislative solution to place the District of Columbia on the same footing as the surrounding Virginia and Maryland localities. OPM will continue to pursue a legislative solution in this matter.

E.O. 12866, Regulatory Review

This regulation has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the changes will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 733

Political activities (Government employees).

Office of Personnel Management.

Janice R. Lachance,

Director.

Part 733 is revised to read as follows:

PART 733—POLITICAL ACTIVITY—FEDERAL EMPLOYEES RESIDING IN DESIGNATED LOCALITIES

Sec.
733.101 Definitions.
733.102 Exclusion of employees in the Criminal Division of the United States Department of Justice.
733.103 Permitted political activities—employees who reside in designated localities.
733.104 Prohibited political activities—employees who reside in designated localities.
733.105 Permitted political activities—employees who reside in designated localities and are employed in certain agencies and positions.
733.106 Prohibited political activities—employees who reside in designated localities and are employed in certain agencies and positions.
733.107 Designated localities.

Authority: 5 U.S.C. 7325; sec. 308 of Pub. L. 104–93, 109 Stat. 961, 966 (Jan. 6, 1996).

§ 733.101 Definitions.

In this part:

Accept means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

Candidate means an individual who seeks nomination or election to any elective office whether or not the person is elected. An individual is deemed to be a candidate if the individual has received political contributions or made expenditures or has consented to another person receiving contributions or making expenditures with a view to bringing about the individual's nomination or election.

Campaign means all acts done by a candidate and his or her adherents to obtain a majority or plurality of the votes to be cast toward a nomination or in an election.

Election includes a primary, special, runoff, or general election.

Employee means:

Any individual (other than the President, the Vice President, or a member of the uniformed services) employed or holding office in—

(1) An Executive agency other than the General Accounting Office;

(2) A position within the competitive service which is not in an Executive agency;

(3) The government of the District of Columbia, other than the Mayor or a member of the City Council or the Recorder of Deeds; or

(4) The United States Postal Service or the Postal Rate Commission.

On Duty means the period when an employee is:

(1) In a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay); or

(2) Representing any agency or instrumentality of the United States Government or any agency or instrumentality of the District of Columbia Government in an official capacity.

Partisan when used as an adjective means related to a political party.

Partisan political group means any committee, club, or other organization which is affiliated with a political party or candidate for public office in a partisan election, or organized for a partisan purpose, or which engages in partisan political activity.

Partisan political office means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but does not include any office or position within a political party or affiliated organization.

Person means an individual; a State, local, or foreign government; or a corporation and the subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity.

Political activity means an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.

Political contribution means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose.

(1) A political contribution includes:

(i) Any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

(ii) Any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

(iii) The provision of personal services, paid or unpaid, for any political purpose.

(2) A political contribution does not include the value of services provided without compensation by any individual who volunteers on behalf of any candidate, campaign, political party, or partisan political group.

Political management means the direction or supervision of a partisan political group or campaign for partisan political office.

Political party means a national political party, a State political party, or an affiliated organization.

Political purpose means an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group.

Receive means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

Room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or

any agency thereof includes, but is not limited to:

(1) Any Federally owned space (including, but not limited to, ''public buildings'' as defined in 40 U.S.C. 612(1)) or Federally leased space in which Federal employees perform official duties on a regular basis;

(2) Public areas as defined in 40 U.S.C. 490(a)(17) and 41 CFR 101–20.003 of buildings under the custody and control of the General Services Administration.

(3) A room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency thereof does not include rooms in the White House, or in the residence of the Vice President, which are part of the Residence area or which are not regularly used solely in the discharge of official duties.

Solicit means to request expressly of another person that he or she contribute something to a candidate, a campaign, a political party, or partisan political group.

Subordinate refers to the relationship between two employees when one employee is under the supervisory authority, control or administrative direction of the other employee.

Uniformed services means uniformed services as defined in 5 U.S.C. 2101(3).

§ 733.102 Exclusion of employees in the Criminal Division of the United States Department of Justice.

Employees in the Criminal Division in the Department of Justice (except employees appointed by the President, by and with the advice and consent of the Senate) specifically are excluded from coverage under the provisions of this part.

§ 733.103 Permitted political activities—employees who reside in designated localities.

(a) This section does not apply to an individual who is employed in an agency or position described in § 733.105(a), unless that individual has been appointed by the President, by and with the advice and consent of the Senate.

(b) Employees who reside in a municipality or political subdivision designated by OPM under § 733.107 may:

(1) Run as independent candidates for election to partisan political office in elections for local office in the municipality or political subdivision;

(2) Solicit, accept, or receive a political contribution as, or on behalf of, an independent candidate for partisan political office in elections for local office in the municipality or political subdivision;

(3) Accept or receive a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(4) Solicit, accept, or receive uncompensated volunteer services as an independent candidate, or on behalf of an independent candidate, for local partisan political office, in connection with the local elections of the municipality or subdivision; and

(5) Solicit, accept, or receive uncompensated volunteer services on behalf of an individual who is a candidate for local partisan political office and who represents a political party.

§ 733.104 Prohibited political activities—employees who reside in designated localities.

(a) This section does not apply to an individual who is employed in an agency or position described in § 733.105(a), unless that individual has been appointed by the President, by and with the advice and consent of the Senate.

(b) Employees who reside in a municipality or political subdivision designated by OPM under § 733.107 may not:

(1) Run as the representative of a political party for local partisan political office;

(2) Solicit a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(3) Knowingly solicit a political contribution from any Federal employee, except as permitted under 5 U.S.C. 7323(a)(2)(A)–(C).

(4) Accept or receive a political contribution from a subordinate; or

(5) Solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purpose.

(c) An employee covered under this section may not participate in political activities:

(1) While he or she is on duty:

(2) While he or she is wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;

(3) While he or she is in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof; or

(4) While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

(d) An employee described in 5 U.S.C. 7324(b)(2) may participate in political activity otherwise prohibited by § 733.104(c) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

(e) Candidacy for, and service in, a partisan political office shall not result in neglect of, or interference with, the performance of the duties of the employee or create a conflict, or apparent conflict, of interest.

§ 733.105 Permitted political activities—employees who reside in designated localities and are employed in certain agencies and positions.

(a) This section applies to employees who reside in designated localities and are employed in the following agencies or positions:

(1) Federal Election Commission;

(2) Federal Bureau of Investigation;

(3) United States Secret Service;

(4) Central Intelligence Agency;

(5) National Security Council;

(6) National Security Agency;

(7) Defense Intelligence Agency;

(8) Merit Systems Protection Board;

(9) United States Office of Special Counsel;

(10) Office of Criminal Investigation of the Internal Revenue Service;

(11) Office of Investigative Programs of the United States Customs Service;

(12) Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms;

(13) National Imagery and Mapping Agency;

(14) Career Appointees in the Senior Executive Service;

(15) Administrative Law Judges; and

(16) Contract appeals board members described in 5 U.S.C. 5372a.

(b) This section does not apply to individuals who have been appointed by the President by and with the advice and consent of the Senate, even though they are employed in the agencies and positions described in paragraph (a) of this section.

(c) Employees who are covered under this section and who reside in a municipality or political subdivision designated by OPM under § 733.107 may:

(1) Run as independent candidates for election to partisan political office in elections for local office in the municipality or political subdivision;

(2) Solicit, accept, or receive a political contribution as, or on behalf of, an independent candidate for partisan political office in elections for local office in the municipality or political subdivision;

(3) Solicit, accept, or receive uncompensated volunteer services as, or on behalf of, an independent candidate for partisan political office in elections for office in the municipality or subdivision; and

(4) Take an active part in other political activities associated with elections for local partisan political office and in managing the campaigns of candidates for election to local partisan political office in the municipality or political subdivision, but only as an independent candidate or on behalf of, or in opposition to, an independent candidate.

§ 733.106 Prohibited political activities—employees who reside designated localities and are employed in certain agencies and positions.

(a) This section does not apply to individuals who have been appointed by the President, by and with the advice and consent of the Senate, even though they are employed in the agencies and positions described in § 733.105(a).

(b) Employees who are employed in the agencies and positions described in § 733.105(a), and who reside in a municipality or political subdivision designated by OPM under § 733.107, may not:

(1) Run as the representative of a political party for local partisan political office;

(2) Solicit, accept, or receive a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(3) Knowingly solicit a political contribution from any Federal employee;

(4) Accept or receive a political contribution from a subordinate;

(5) Solicit, accept, or receive uncompensated volunteer services on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(6) Solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purpose; or

(7) Take an active part in other political activities associated with elections for local partisan political office, when such participation occurs on behalf of a political party, partisan political group, or a candidate for local partisan political office who represents a political party.

(c) An employee covered under this section may not participate in political activities:

(1) While he or she is on duty:

(2) While he or she is wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;

(3) While he or she is in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof; or

(4) While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

(d) Candidacy for, and service in, or partisan political office shall not result in neglect of, or interference with, the performance of the duties of the employee or create a conflict, or apparent conflict, of interest.

§ 733.107 Designated localities.

(a) OPM may designate a municipality or political subdivision in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or a municipality in which the majority of voters are employed by the Government of the United States, when OPM determines that, because of special or unusual circumstances, it is in the domestic interest of employees to participate in local elections.

(b) Information as to the documentation required to support a request for designation is furnished by the General Counsel of OPM on request.

(c) The following municipalities and political subdivisions have been designated, effective on the day specified:

In Maryland

Annapolis (May 16, 1941).
Anne Arundel County (March 14, 1973).
Berwyn Heights (June 15, 1944).
Bethesda (Feb. 17, 1943).
Bladensburg (April 20, 1942).
Bowie (April 11, 1952).
Brentwood (Sept. 26, 1940).
Calvert County (June 18, 1992).
Capitol Heights (Nov. 12, 1940).
Cheverly (Dec. 18, 1940).
Chevy Chase, section 3 (Oct. 8, 1940).
Chevy Chase, section 4 (Oct. 2, 1940).
Chevy Chase View (Feb. 26, 1941).
Chevy Chase Village, Town of (March 4, 1941).
College Park (June 13, 1945).
Cottage City (Jan. 15, 1941).
District Heights (Nov. 2, 1940).
Edmonston (Oct. 24, 1940).
Fairmont Heights (Oct. 24, 1940).
Forest Heights (April 22, 1949).
Frederick County (May 31, 1991).
Garrett Park (Oct. 2, 1940).
Glenarden (May 21, 1941).
Glen Echo (Oct. 22, 1940).
Greenbelt (Oct. 4, 1940).
Howard County (April 25, 1974).
Hyattsville (Sept. 20, 1940).
Kensington (Nov. 8, 1940).
Landover Hills (May 5, 1945).
Martin's Additions, Village of (Feb. 13, 1941).
Montgomery County (April 30, 1964).
Morningside (May 19, 1949).
Mount Rainier (Nov. 22, 1940).
New Carrollton (July 7, 1981).
North Beach (Sept. 20, 1940).
North Brentwood (May 6, 1941).
North Chevy Chase (July 22, 1942).
Northwest Park (Feb. 17, 1943).
Prince George's County (June 19, 1962).
Riverdale (Sept. 26, 1940).
Rockville (April 15, 1948).
St. Mary's County (March 2, 1998).
Seat Pleasant (Aug. 31, 1942).
Somerset (Nov. 22, 1940).
Takoma Park (Oct. 22, 1940).
University Park (Jan. 18, 1941).
Washington Grove (April 5, 1941).

In Virginia

Alexandria (April 15, 1941).
Arlington County (Sept. 9, 1940).
Clifton (July 14, 1941).
Fairfax, City of (Feb. 9, 1954).
Fairfax County (Nov. 10, 1949).
Falls Church (June 6, 1941).
Herndon (April 7, 1945).
Loudoun County (Oct. 1, 1971).
Manassas (Jan. 8, 1980).
Manassas Park (March 4, 1980).
Portsmouth (Feb. 27, 1958).
Prince William County (Feb. 14, 1967).
Spotsylvania County (March 2, 1998).
Stafford County (Nov. 2, 1979).
Vienna (March 18, 1946).

Other Municipalities

Anchorage, Alaska (Dec. 29, 1947).
Benicia, Calif. (Feb. 20, 1948).
Bremerton, Wash. (Feb. 27, 1946).
Centerville, Ga. (Sept. 16, 1971).
Crane, Ind. (Aug. 3, 1967).
Elmer City, Wash. (Oct. 28, 1947).
Huachuca City, Ariz. (April 9, 1959).
New Johnsonville, Tenn. (April 26, 1956).
Norris, Tenn. (May 6, 1959).
Port Orchard, Wash. (Feb. 27, 1946).
Sierra Vista, Ariz. (Oct. 5, 1955).
Warner Robins, Ga. (March 19, 1948).

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 417

[Docket No. 97–082N]

Contents of HACCP Plans; Critical Control Points

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Compliance with the HACCP system regulations.

SUMMARY: The Food Safety and Inspection Service (FSIS) is publishing this document to ensure that the owners and operators of federally inspected establishments are aware that the identification of appropriate critical

control points is crucial to complying with the Agency's regulations on hazard analysis and critical control point (HACCP) systems. The HACCP system regulations require that a HACCP plan list critical control points for each food safety hazard identified as reasonably likely to occur in the production process. The number of critical control points will depend upon the production process and the hazard, but a HACCP plan must specify as critical control points the points, steps, or procedures at which control can be applied and, as measured by critical limits, occurrence of the hazard can be prevented, eliminated, or reduced to an acceptable level, and at a minimum, the critical limits must be designed to ensure that applicable targets or performance standards established by FSIS, and any other requirement in the Agency's regulations pertaining to the specific process or product, are met. These requirements implement FSIS's judgment that whenever a food safety hazard is reasonably likely to occur in the production process, by applying control measures, the establishment can at least reduce the hazard to an acceptable level, even if it cannot entirely prevent or eliminate its occurrence.

FOR FURTHER INFORMATION CONTACT: Patricia F. Stolfa, Assistant Deputy Administrator, Regulations and Inspection Methods, Food Safety and Inspection Service, Washington, DC 20250–3700; (202) 205–0699.

SUPPLEMENTARY INFORMATION: The Food Safety and Inspection Service (FSIS) administers a regulatory program under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) to protect the health and welfare of consumers by preventing the distribution of livestock products and poultry products that are unwholesome, adulterated, or misbranded. To further the goal of reducing the risk of foodborne illness from meat and poultry products to the maximum extent possible, FSIS issued the Pathogen Reduction-Hazard Analysis and Critical Control Point (HACCP) Systems final rule (61 FR 38806, July 25, 1996).

The HACCP system regulations, part 417,[1] require that every federally inspected establishment conduct, or have conducted for it, a hazard analysis to determine the food safety hazards reasonably likely to occur in the production process and identify the preventive measures the establishment can apply to control those hazards (§ 417.2(a)). Whenever a hazard analysis reveals one or more food safety hazards that are reasonably likely to occur, the establishment must develop and implement a HACCP plan, or plans, to control those hazards (§ 417.2(b)). Although it is possible that a hazard analysis conducted in accordance with the regulations will reveal no food safety hazard that is reasonably likely to occur, as the Agency stated when it issued the regulations, FSIS is not aware of any meat or poultry production process that can be deemed, categorically, to pose no likely hazards (61 FR 38824).[2]

For purposes of part 417, a critical control point (CCP) is a point, step, or procedure in a food process at which control can be applied and, as a result, a food safety hazard can be prevented, eliminated, or reduced to acceptable levels (§ 417.1).) Every HACCP plan must ''list the critical control points for each of the identified food safety hazards, including, as appropriate:''

(i) Critical control points designed to control food safety hazards that could be introduced in the establishment, and

(ii) Critical control points designed to control food safety hazards introduced outside the establishment, including food safety hazards that occur before, during, and after entry into the establishment * * *

(§ 417.2(c)(2)). The plan also must comply with the related requirements to specify the critical limits (maximum and minimum values) to be met at CCP's, the corrective actions to be followed in response to deviations from critical limits at CCP's, and the monitoring and verification procedures to ensure appropriate corrective actions if and when those deviations occur (§§ 417.1, 417.2(c), 417.3(a), and 417.4(a)). At a minimum, critical limits must be designed to ensure that applicable targets or performance standards established by FSIS, and any other requirement in FSIS's regulations (9 CFR chapter III) pertaining to the specific process or product, are met (§ 417.2(c)(3)).

It has come to FSIS's attention that in developing HACCP plans, some persons are viewing CCP's so narrowly that they risk noncompliance with regulatory requirements. FSIS is concerned that some establishments may be relying solely on HACCP concepts and theory, without evaluating CCP's in accordance with regulatory requirements. The Agency is publishing this notice to ensure that the owners and operators of federally inspected establishments are aware that the identification of appropriate critical control points is crucial.

The number of critical control points will depend upon the production process and the hazard. FSIS will treat failure to specify at least one CCP for each food safety hazard identified in accordance with the regulations as reasonably likely to occur as a failure to develop and implement a HACCP plan that complies with § 417.2 (§ 417.2(e)). The only exception, as specified in § 417.2(b)(3), is for food safety hazards associated with microbiological contamination: HACCP plans that cover thermally processed/commercially sterile products produced in accordance with the current canning regulations (part 318, subpart G, or part 381, subpart X) need not, at this time, address microbial hazards.[3]

FSIS anticipates that to operate in accordance with part 417, many establishments will find that for each identified hazard, they need more than one CCP, particularly if they are producing raw products. The Agency believes that depending upon a single CCP increases establishment exposure to production-disrupting corrective actions that affect large amounts of product. While FSIS is not prepared to say that compliance cannot be achieved with a single CCP when, for example, a product is treated sufficiently to be shelf stable, even though it is not commercially sterile, the Agency is concerned that establishments may be viewing CCP's too restrictively to ensure compliance with the regulations.

The part 417 requirements addressed in this notice implement the Agency's conclusion that whenever a food safety hazard is reasonably likely to occur in the production process, even if an establishment cannot entirely prevent or eliminate occurrence of the hazard, by applying control measures, the establishment can at least reduce it to an acceptable level. Part 417 requires all federally inspected establishments to take the prudent, preventive approach and develop systematic measures for controlling such hazards.

[1] Part 417 requirements will apply as of January 26, 1998, in establishments with 500 or more employees; January 25, 1999, in establishments with 10 or more but fewer than 500 employees (unless the establishment has annual sales of less than $2.5 million); and January 25, 2000, in establishments with fewer than 10 employees or annual sales of less than $2.5 million.

[2] Food safety hazards include any biological, chemical, or physical property that may cause a food to be unsafe for human consumption (§ 417.1).

[3] FSIS intends to convert the canning regulations to performance standards, which are more consistent with HACCP (61 FR 38824).

Done at Washington, DC, on: January 26, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–2297 Filed 1–29–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 417

[Docket No. 97–074N]

Contents of HACCP Plans

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Compliance with the HACCP system regulations.

SUMMARY: The Food Safety and Inspection Service is publishing this document to ensure that the owners and operators of federally inspected establishments are aware that its hazard analysis and critical control point (HACCP) system regulations require that an HACCP plan be a self-contained document. In particular, the Agency does not view references to good manufacturing practices, or establishment actions in accordance with good manufacturing practices, as satisfying the requirements for the contents of an HACCP plan. Among other things, an HACCP plan must list the critical control points for each food safety hazard reasonably likely to occur in the production process, the critical limits that must be met at each of the critical control points, and the procedures, and frequency with which they will be performed, that will be used to monitor each critical control point to ensure compliance with critical limits and to verify that the plan is being effectively implemented. An HACCP plan also must identify the corrective actions to be followed in response to deviations from critical limits at critical control points.

FOR FURTHER INFORMATION CONTACT: Patricia F. Stolfa, Assistant Deputy Administrator, Regulations and Inspection Methods, Food Safety and Inspection Service, Washington, DC 20250–3700; (202) 205–0699.

SUPPLEMENTARY INFORMATION: The Food Safety and Inspection Service (FSIS) administers a regulatory program under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) to protect the health and welfare of consumers by preventing the distribution of livestock products and poultry products that are unwholesome, adulterated, or misbranded. To further the goal of reducing the risk of foodborne illness from meat and poultry products to the maximum extent possible, FSIS issued the Pathogen Reduction-Hazard Analysis and Critical Control Point (HACCP) Systems final rule (61 FR 38806, July 25, 1996). As amended by that rule, FSIS's regulations require federally inspected establishments to take preventive and corrective measures at each stage of the food production process where food safety hazards occur.

The regulations on HACCP systems, part 417,* require a hazard analysis to determine the food safety hazards reasonably likely to occur in the production process and identify the preventive measures an establishment can apply to control them (§ 417.2(a)(1)) and, whenever this analysis reveals one or more such hazards, development and implementation of a written HACCP plan (§ 417.2(b)(1)). In § 417.2(c), the regulations specify minimum requirements for the contents of each HACCP plan, including requirements to list the food safety hazards for each process; list the critical control points for each of the identified hazards; list the critical limits that must be met at each of the critical control points; list the procedures, and frequency with which they will be performed, that will be used to monitor each of the critical control points to ensure compliance with the critical limits; and list the verification procedures, and the frequency with which they will be performed, that the establishment will use in accordance with § 417.4 (*i.e.*, to verify that the plan is being effectively implemented) (paragraphs (c)(1), (c)(2), (c)(3), (c)(4), and (c)(7) of § 417.2). In addition, a HACCP plan must include all corrective actions that have been developed in accordance with § 417.3(a), which requires the identification of the corrective action to be followed in response to a deviation from a critical limit (§ 417.2(c)(5)).

Given the explicit requirements to list critical control points, critical limits, and monitoring and verification procedures and to develop and identify corrective actions, and the Agency's statement, in issuing part 417, that it was clarifying requirements for the identification of critical control points within a HACCP plan (61 FR 38825), FSIS is concerned that some industry members and consultants to industry think that they can comply with § 417.2(c) by referring to good manufacturing practices, or establishment actions in accordance with good manufacturing practices. While FSIS has considered good manufacturing practices in developing some requirements that protect the public against livestock products and poultry products that are misbranded or economically adulterated (21 U.S.C. 453 and 601), the Agency has not adopted specific good manufacturing practices as part of its regulations.

The Agency is publishing this notice to ensure that the owners and operators of federally inspected establishments are aware that references to good manufacturing practices, or establishment actions in accordance with good manufacturing practices, rather than stating the critical control points, critical limits, monitoring and verification procedures, and corrective actions themselves is insufficient to satisfy the requirements of § 417.5(c). Part 417 requires that a HACCP plan be a self-contained document.

Moreover, the function of critical control points and critical limits is to prevent, eliminate, or reduce to an acceptable level one or more food safety hazards. By definition, critical limits are maximum and minimum values (§ 417.1), and by regulation, critical limits must be designed, at a minimum, to ensure that applicable targets or performance standards established by FSIS, and any other requirement in FSIS's regulations (9 CFR chapter III) pertaining to the specific process or product, are met (§ 417.2(c)(3)). To determine whether critical limits are met and, if not, prevent the distribution of adulterated food and future deviations, the regulations require plan-specific monitoring, verification, and corrective action procedures.

Done at Washington, DC, on: January 26, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–2296 Filed 1–29–98; 8:45 am]

BILLING CODE 3410–DM–P

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* Part 417 requirements will apply as of January 26, 1998, in establishments with 500 or more employees; January 25, 1999, in establishments with 10 or more but fewer than 500 employees (unless the establishment has annual sales of less than $2.5 million); and January 25, 2000, in establishments with fewer than 10 employees or annual sales of less than $2.5 million.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 143CE; Special Conditions No. SC–23–ACE–93]

Special Conditions: EXTRA Flugzeugbau GmbH, Model EA–400; Heat Capability of the Engine Mount and the Fuselage Connection Joint

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the EXTRA Flugzeugbau GmbH, Model EA–400 airplane. This airplane will have a novel or unusual design feature associated with the Heat Capability of the Engine Mount and the Fuselage Connection Joint. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: March 2, 1998.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Payauys, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Background

On April 6, 1993, EXTRA Flugzeugbau GmbH applied for a type certificate for their new Model EA–400. The EA–400 design is a two-place (side-by-side), all composite material, cantilevered high-wing, retractable gear, unpressurized, single reciprocating engine airplane with a maximum design weight of 3,974 pounds (1800 kilograms). It is intended for 14 CFR part 91 operation as a day-VFR normal category airplane.

The proposed type design of the EXTRA Flugzeugbau GmbH Model EA–400 airplane incorporates certain novel and unusual design features for which the exiting airworthiness regulations do not contain adequate or appropriate safety standards. These features include certain performance characteristics necessary for this type of airplane design that were not foreseen by the existing regulations.

This special condition addresses the flight safety of the EA–400 in case of an engine compartment fire with resulting heat conduction through the engine-mounts to composite structure joints beyond the firewall. The type certificate applicant shall demonstrate that the airplane structure design, especially the engine-mount attachments to the structure beyond the firewall, is able to retain the engine while withstanding the following:

1. An engine compartment fire, the loss of the most highly loaded composite joint, and heating of the next most highly loaded composite joint from those that remain;
2. Maximum continuous power for 5 minutes; and
3. Combined airplane flight maneuver and gust limit loads for at least 15 minutes.

Note: The engine-mount attachments at the firewall are not the same as the engine-to-engine-mount attachments, which contain vibration dampers.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, EXTRA Flugzeugbau GmbH must show that the Model EA–400 meets the applicable provisions of 14 CFR part 23, effective February 1, 1965, through amendment 23–45, effective August 6, 1993; 14 CFR part 36, effective December 1, 1969, through amendment 36–21 effective December 28, 1995; exemptions, if any; equivalent level of safety findings, if any; and the special conditions adopted by this rulemaking action.

Special conditions are issued, as appropriate, under 14 CFR part 11 § 11.49 after public notice, as required by § 11.28 and § 11.29(b), and become part of the type certification basis in accordance with 14 CFR part 21, § 21.17(a)(2)).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR part 21, § 21.101(a)(1)).

Novel or Unusual Design Features

The Model EA–400 will incorporate the following novel or unusual design features: Heat Capability of the Engine Mount and the Fuselage Connection Joint.

Discussion of Comments

Notice of proposed special conditions No. SC–23–ACE–93 for the EXTRA Flugzeugbau GmbH EA–400 airplanes was published on November 20, 1997 (62 FR 61926). No comments were received and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model A–400. Should EXTRA Flugzeugbau GmbH apply at a later date for a change to the type certificate to include another model incorporating the same level or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for EXTRA Flugzeugbau GmbH Model EA–400 airplanes:

Heat Capability of the Engine Mount and the Fuselage Connection Joint

(a) Modify the airworthiness standards given in 14 CFR part 23, POWERPLANT FIRE PROTECTION, *Nacelle areas behind firewalls* (§ 23.1182), by making the most critical composite engine-mount attachment ineffective (assumed destroyed by heat). Then, for 15 minutes, apply an additional flame test of 500° C (932° F) to the next most structurally critical engine-mount of those remaining. The flame shall encompass the whole engine-mount structural attach fitting. Conductive heat will affect the metallic and composite joint structural capability beyond the firewall. Test the joint structural capability with these simultaneous limit load conditions (under these conditions, the engine shall remain attached to the airplane):

(1) The combined thrust, torque and gyroscopic loads resulting from the engine and propeller at maximum continuous power for the first 5 minutes, and

(2) The airplane normal inertial limit loads that result from the following:

(i) A maneuver load factor equal to that obtained from a constant altitude 30° bank, combined with

(ii) The positive and negative vertical design gust load factors that occur at the design maneuvering speed and the minimum flying weight, and

(iii) A factor-of-safety equal to one.

Issued in Kansas City, Missouri on January 22, 1998.

Marvin Nuss,

Assistant Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2399 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–256–AD; Amendment 39–10294; AD 98–03–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–1A11 and CL–600–2A12 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL–600–1A11 and CL–600–2A12 series airplanes, that requires replacement of the anti-noise filter on the standby and auxiliary power unit (APU) fuel pump assemblies with a new filter. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent electrical arcing between the internal wiring and casing of the anti-noise filter on the standby and APU fuel pump assemblies, and consequent increased risk of fuel tank explosion or fire.

DATES: Effective March 6, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Equipment Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7511; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–1A11 and CL–600–2A12 series airplanes was published in the **Federal Register** on November 19, 1997 (62 FR 61706). That action proposed to require replacement of the anti-noise filter on the standby and auxiliary power unit (APU) fuel pump assemblies with a new filter.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 84 Model CL–600–1A11 and CL–600–2A12 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $5,689 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $578,676, or $6,889 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–03–02 Bombardier, Inc. (Formerly Canadair): Amendment 39–10294. Docket 97–NM–256–AD.

Applicability: Model CL–600–1A11 series airplanes, as listed in Bombardier Canadair Challenger Alert Service Bulletin A600–0644,

Revision 01, dated March 31, 1995; and Model CL–600–2A12 series airplanes, as listed in Bombardier Canadair Challenger Alert Service Bulletin A601–0441, Revision 01, dated March 31, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing between the internal wiring and casing of the anti-noise filter on the standby and auxiliary power unit (APU) fuel pump assemblies, and consequent increased risk of fuel tank explosion or fire, accomplish the following:

(a) Within 100 flight hours after the effective date of this AD, replace the anti-noise filter on the standby and auxiliary power unit (APU) fuel pump assemblies with a new filter, in accordance with Part B of Bombardier Canadair Challenger Alert Service Bulletin A600–0644, Revision 01, dated March 31, 1995 (for Model CL–600–1A11 series airplanes), or Bombardier Canadair Challenger Alert Service Bulletin A601–0441, Revision 01, dated March 31, 1995 (for Model CL–600–2A12 series airplanes); as applicable.

(b) As of the effective date of this AD, no person shall install on any airplane a fuel pump having part number (P/N) 600–62966–25 or 600–62966–27 with an anti-noise filter having P/N 160–151501 (prior to revision H stamped on the part) installed.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The replacement shall be done in accordance with Bombardier Canadair Challenger Alert Service Bulletin A600–0644, Revision 01, dated March 31, 1995; Bombardier Canadair Challenger Alert Service Bulletin A601–0441, Revision 01, dated March 31, 1995; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–97–02, dated February 25, 1997.

(f) This amendment becomes effective on March 6, 1998.

Issued in Renton, Washington, on January 21, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1973 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–301–AD; Amendment 39–10296; AD 98–03–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes. This action requires revising the Airplane Flight Manual (AFM) to prohibit use of the autobrake during landing on contaminated runways. This action also requires replacement of the brake and steering control unit (BSCU) with a new BSCU, which eliminates the need for the AFM revision. For certain airplanes, this action also requires installation of new brakes. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent insufficient braking capability, which could increase the potential for landing overrun.

DATES: Effective February 17, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 17, 1998.

Comments for inclusion in the Rules Docket must be received on or before March 2, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–301–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A330 and A340 series airplanes. The DGAC advises that some operators reported braking discrepancies at low taxi speed. Investigation has revealed anomalies in the standard of software associated with the brake and steering control unit (BSCU), which could result in insufficient braking capability. This condition, if not corrected, could increase the potential for landing overrun.

Explanation of Relevant Service Information

Airbus has released A330 Flight Manual Temporary Revision 4.03.00/05, dated July 12, 1996, and A340 Flight Manual Temporary Revision 4.03.00/13, dated July 12, 1996. These temporary revisions describe a revision to the Limitations Section of the Airplane Flight Manual (AFM) to prohibit use of the autobrake during landing on contaminated runways.

Airbus also has issued Service Bulletins A330–32–3062, Revision 2 (for Model A330 series airplanes), and A340–32–4087, Revision 2 (for Model A340 series airplanes), both dated May

27, 1997. These service bulletins describe procedures for installation of an improved S6D standard BSCU, which will improve braking capability.

Additionally, Airbus has issued Service Bulletins A330–32–3061, Revision 1, dated May 6, 1997 (for Model A330 series airplanes), and A340–32–4086, Revision 2, dated June 13, 1997 (for Model A340 series airplanes). These service bulletins, applicable to airplanes equipped with Bendix brakes, describe procedures for installation of improved Bendix brakes, which will reduce susceptibility to braking discrepancies at low taxi speed. For airplanes equipped with Bendix brakes, Airbus Service Bulletin A330–32–3061 must be accomplished prior to or concurrently with the accomplishment of Airbus Service Bulletin A330–32–3062; and Airbus Service Bulletin A330–32–4086 must be accomplished prior to or concurrently with the accomplishment of Airbus Service Bulletin A330–32–4087.

Accomplishment of Airbus Service Bulletin A330–32–3062 or A340–32–4087, as applicable, eliminates the need for the AFM revision. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

The DGAC classified these service bulletins and the temporary revisions as mandatory and issued French airworthiness directives 97–086–046(B)(R1) and 97–142–048(B), both dated July 2, 1997 (for Model A330 series airplanes); and 97–087–056(B), dated March 12, 1997 (for Model A340 series airplanes); in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires accomplishment of the actions specified in the service information described previously.

Cost Impact

None of the airplanes affected by this action is on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, estimated costs are provided as follows.

It would require approximately 1 work hour to accomplish the temporary revision of the AFM, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the temporary revision of the AFM required by this AD would be $60 per airplane.

It would require approximately 3 work hours to install an improved BSCU, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the BSCU installation required by this AD would be $180 per airplane.

For airplanes equipped with Bendix brakes, it would require approximately 8 work hours to install new Bendix brakes, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the brake installation required by this AD would be $480 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–301–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–03–04 Airbus Industrie: Amendment 39–10296. Docket 97–NM–301–AD.

Applicability: Model A330 and A340 series airplanes on which Airbus Modification 45006 has not been installed, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent insufficient braking capability, which could increase the potential for landing overrun, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) in accordance with paragraph (a)(1) or (a)(2) of this AD, as applicable. This action may be accomplished by inserting a copy of this AD into the applicable AFM.

(1) For Model A330 series airplanes: Revise the AFM to include the following:

''AUTOBRAKE

Do not use the autobrake on contaminated runway (runway covered with more than 3 millimeters of water or slush or snow or ice) and on suspected slippery runway (for example, runway having heavy rubber traces).

On contaminated runway or on suspected slippery runway:

—Apply manual braking only after the nose landing gear is on ground.
—Increase the landing distance by 4% (1% on icy runway).''

Note 2: This AFM revision also may be accomplished by inserting into the Limitations Section of the AFM a copy of Airbus A330 Flight Manual Temporary Revision 4.03.00/05, dated July 12, 1996.

(2) For Model A340 series airplanes: Revise the AFM to include the following:

''AUTOBRAKE

Do not use the autobrake on contaminated runway (runway covered with more than 3 millimeters of water or slush or snow or ice) and on suspected slippery runway (for example, runway having heavy rubber traces).

On contaminated runway or on suspected slippery runway:

—Apply manual braking only after the nose landing gear is on ground.
—Increase the landing distance by 5% (1% on icy runway).''

Note 3: This AFM revision also may be accomplished by inserting into the Limitations Section of the AFM a copy of Airbus A340 Flight Manual Temporary Revision 4.03.00/13, dated July 12, 1996.

(b) For airplanes equipped with Bendix brakes: Prior to or concurrently with the accomplishment of paragraph (c) of this AD, replace existing Bendix brakes with new Bendix brakes in accordance with paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For Model A330 series airplanes: Install Bendix brakes having increased zero torque pressure, in accordance with Airbus Service Bulletin A330–32–3061, Revision 1, dated May 6, 1997.

(2) For Model A340 series airplanes: Install Bendix brakes having increased zero torque pressure, in accordance with Airbus Service Bulletin A340–32–4086, Revision 2, dated June 13, 1997.

(c) Within 6 months after the effective date of this AD, replace the existing brake and steering control unit (BSCU) with a BSCU having part number C2029336D6D6D, in accordance with paragraph (c)(1) or (c)(2) of this AD, as applicable. Accomplishment of this modification constitutes terminating action for the requirements of paragraph (a) of this AD; after the modification has been accomplished, the temporary AFM limitation may be removed.

(1) For Model A330 series airplanes: Replace the BSCU with a modified BSCU, in accordance with Airbus Service Bulletin A330–32–3062, Revision 2, dated May 27, 1997.

(2) For Model A340 series airplanes: Replace the BSCU with a modified BSCU, in accordance with Airbus Service Bulletin A330–32–4087, Revision 2, dated May 27, 1997.

(d) As of the effective date of this AD, no person shall install a BSCU having P/N C2029335B5B5B on any airplane.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The replacements shall be done in accordance with the following Airbus service bulletins, as applicable, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
A330–32–3061, Revision 1, May 6, 1997	1–4	1	May 6, 1997.
	5–8	Original	Oct. 22, 1996.
A330–32–3062, Revision 2, May 27, 1997	1–8	2	May 27, 1997.
A340–32–4086, Revision 2, June 13, 1997	1, 2	2	June 13, 1997.
	3–8	1	Feb. 10, 1997.
A340–32–4087, Revision 2, May 27, 1997	1–8	2	May 27, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directives 97–086–046(B)(R1) and 97–142–048(B), both dated July 2, 1997; and 97–087–056(B), dated March 12, 1997.

(h) This amendment becomes effective on February 17, 1998.

Issued in Renton, Washington, on January 21, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1970 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–320–AD; Amendment 39–10297; AD 98–03–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A330 and A340 series airplanes. This action requires removal of three electric motor-driven hydraulic pumps (EHP) and associated wiring, and installation of placards in the flight deck. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent operation of the EHP, which could result in fire in the wheel well area, and consequent damage to airplane structure or injury to airplane occupants.

DATES: Effective February 17, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 17, 1998.

Comments for inclusion in the Rules Docket must be received on or before March 2, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–320–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A330 and A340 series airplanes. The DGAC advises that it has received several reports of fires in the wheel well area. The cause of the fires has been attributed to use of the electric motor-driven hydraulic pumps (EHP). The DGAC had previously issued French airworthiness directives to require electrical isolation of the three EHP in order to address the unsafe condition. However, since that time, the DGAC has received one additional report of an on-ground fire in the wheel well. The investigation into the cause of this incident has not yet concluded; however, deliberate or inadvertent operation of the EHP is believed to be related to the incident. This condition, if not corrected, could result in fire in the wheel well area, and consequent damage to airplane structure or injury to airplane occupants.

Explanation of Relevant Service Information

Airbus has issued All Operators Telex (AOT) 29–21, Revision 1, dated January 8, 1997, which describes procedures for the disconnection and electrical isolation of all EHP's, and the installation of certain system 'inoperative' placards in the flight deck.

Airbus also has issued Service Bulletins A330–29–3041, dated February 25, 1997 (for Model A330 series airplanes), and A340–29–4041, dated February 26, 1997 (for Model A340 series airplanes), which describe procedures for removal of the three EHP's and associated wiring to permit installation of alternative pumps, or installation of provisions that would allow use of dedicated ground support equipment. Accomplishment of the actions specified in the AOT and service bulletins described previously is intended to adequately address the identified unsafe condition.

The DGAC classified the AOT and service bulletins as mandatory and issued French airworthiness directives 97–017–043(B)R2, dated June 18, 1997, as revised by ERRATUM, dated July 2, 1997; and 97–018–059(B)R2, dated June 18, 1997, as revised by ERRATUM, dated July 2, 1997; in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the AD requires accomplishment of the actions specified in the AOT and service bulletins described previously.

Differences Between This AD and the French AD's

This AD differs from the parallel French airworthiness directives in that it requires a single method of preventing operation of the three EHP's. The DGAC AD's provide three methods of compliance: describing procedures for disconnection and electrical isolation of the three EHP's; removal of the three EHP's with installation of placards in the flight deck; or removal of the three EHP's and subsequent installation of replacement EHP's. However, the FAA has determined that removal of the EHP's is the most effective method of addressing the unsafe condition; therefore, this AD requires the removal of the three EHP's and installation of placards in the flight deck. Operators should note that such removal of the three EHP's allows the option of using ground support equipment, or installing alternative pumps, as described in the French airworthiness directives.

Cost Impact

None of the Model A330 and A340 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry;

therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 20 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no charge to the operator. Based on these figures, the cost impact of this AD would be $1,200 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–320–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

98–03–05 Airbus: Amendment 39–10297. Docket 97–NM–320–AD.

Applicability: All Model A330 and A340 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent operation of the electric motor-driven hydraulic pumps (EHP), which could result in fire in the wheel well area, and consequent damage to airplane structure or injury to airplane occupants, accomplish the following:

(a) Within 48 hours after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Remove the three EHP's and associated wiring in accordance with Airbus Service Bulletin A330–29–3041, dated February 25, 1997 (for Model A330 series airplanes), or A340–29–4041, dated February 26, 1997 (for Model A340 series airplanes), as applicable; and

(2) Open circuit breakers associated with the EHP's, and install placards in the flight deck, in accordance with paragraphs 4.2.2 and 4.2.3 of Airbus All Operators Telex (AOT) 29–21, Revision 1, dated January 8, 1997.

Note 2: Operators should note that removal of the three EHP's allows the option of using ground support equipment, or installing alternative pumps, as described in French airworthiness directives 97–017–043(B)R2, dated June 18, 1997, as revised by ERRATUM, dated July 2, 1997; and 97–018–059(B)R2, dated June 18, 1997, as revised by ERRATUM, dated July 2, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with Airbus Service Bulletin A330–29–3041, dated February 25, 1997; or Airbus Service Bulletin A340–29–4041, dated February 26, 1997; as applicable; and Airbus All Operators Telex (AOT) 29–21, Revision 1, dated January 8, 1997. This incorporation by

reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directives 97–017–043(B)R2, dated June 18, 1997, as revised by ERRATUM, dated July 2, 1997; and 97–018–059(B)R2, dated June 18, 1997, as revised by ERRATUM, dated July 2, 1997.

(e) This amendment becomes effective on February 17, 1998.

Issued in Renton, Washington, on January 23, 1998.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2286 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–13–U

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulations No. 4]

RIN 0960–AE80

Federal Old-Age, Survivors and Disability Insurance; Determining Disability and Blindness; Extension of Expiration Date for the Cardiovascular Body System Listings

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: The Social Security Administration (SSA) adjudicates claims at the third step of its sequential process for evaluating disability using the Listing of Impairments (the listings) under the Social Security and supplemental security income (SSI) programs. This rule extends the date on which the cardiovascular body system listings will no longer be effective. We have made no revisions to the medical criteria in these listings; they remain the same as they now appear in the Code of Federal Regulations. This extension will ensure that we continue to have medical evaluation criteria in the listings to adjudicate claims for disability based on impairments in the cardiovascular body system at step three of our sequential evaluation process.

EFFECTIVE DATE: This regulation is effective January 30, 1998.

FOR FURTHER INFORMATION CONTACT: Regarding this **Federal Register** document—Richard M. Bresnick, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1758; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: We use the listings in appendix 1 (Listing of Impairments) to subpart P of part 404 at the third step of the sequential evaluation process to evaluate claims filed by adults and individuals under age 18 for benefits based on disability under the Social Security and SSI programs. The listings are divided into parts A and B. We use the criteria in part A to evaluate impairments of adults. We use the criteria in part B first to evaluate impairments of individuals under age 18. If those criteria do not apply, then the medical criteria in part A will be used.

When we published revised listings in 1985 and subsequently, we indicated that medical advances in disability evaluation and treatment and program experience would require that the listings be periodically reviewed and updated. Accordingly, we established dates ranging from 3 to 8 years on which the various body system listings would no longer be effective unless extended by the Secretary of Health and Human Services or revised and promulgated again. Effective March 31, 1995, the authority to issue regulations was transferred to the Commissioner of Social Security by section 102 of Public Law 103–296, the Social Security Independence and Program Improvements Act of 1994.

In this final rule, we are extending the date on which the cardiovascular body system listings (4.00 and 104.00) will no longer be effective to February 10, 2000.

We last published final rules for the cardiovascular body system listings on February 10, 1994 (59 FR 6468).

We believe that the requirements in these listings are still valid for our program purposes. Specifically, if we find that an individual has an impairment that meets the statutory duration requirement and also meets or is medically equivalent in severity to an impairment in the listings or functionally equivalent to the listings in SSI claims based on disability filed by individuals under age 18, we will find that the individual is disabled at the third step of the sequential evaluation process.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Public Law 103–296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because this regulation only extends the date on which the cardiovascular body system listings will no longer be effective. It makes no substantive changes to the listings. The current regulations expressly provide that the listings may be extended, as well as revised and promulgated again. Therefore, opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in these body system listings. However, without an extension of the expiration date for these listings, we will lack regulatory guidelines for assessing impairments in the cardiovascular body system at the third step of the sequential evaluation processes after the current expiration date of the listings. In order to ensure that we continue to have regulatory criteria for assessing cardiovascular impairments under the listings, we find that it is in the public interest to make this rule effective upon publication.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

This regulation imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social

Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: January 20, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set forth in the preamble, chapter III, part 404, subpart P of title 20 of the Code of Federal Regulations is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P—[Amended]

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Appendix 1 to subpart P of part 404 is amended by revising item 5 of the introductory text before part A to read as follows:

Appendix 1 to Subpart P—Listing of Impairments

* * * * *

5. Cardiovascular System (4.00 and 104.00): February 10, 2000.

* * * * *

[FR Doc. 98–2276 Filed 1–29–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 814

[Docket No. 97N–0133]

Revising the Announcement Procedures for Approvals and Denials of Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to revise the premarket approval application (PMA) announcement procedure. FDA is discontinuing the publication of individual PMA approvals and denials in the **Federal Register**. Instead, the agency will announce approvals and denials of PMA's on the Internet. FDA will make the summaries of safety and effectiveness available through the Internet and by placing them in FDA's Dockets Management Branch. FDA will publish in the **Federal Register** for each quarter a list of the approvals and denials announced in that quarter. FDA is taking this action in order to expedite the availability of this information.

EFFECTIVE DATE: March 2, 1998.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–827–2974.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 12, 1980 (45 FR 81769 at 81772), FDA prescribed the contents of a PMA and the criteria for approving, disapproving, or withdrawing approval of a PMA. FDA acknowledged that, although the statute does not require it to publish the approval of a PMA in the **Federal Register**, section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) permits an interested person to obtain review of an approved PMA. Consequently, FDA proposed to announce approval of any PMA in the **Federal Register** and to include in the announcement notice of opportunity to petition for administrative review under section 515(g) of the act. (See 45 FR 81769 at 81772 and 81776). FDA also proposed to publish notice of any denial of approval or proposed withdrawal of approval of any PMA in the **Federal Register** and to include in the announcement notice of opportunity for administrative review under section 515(g) of the act. (See 45 FR 81769 at 81773 and 81777.) Subsequently, in the **Federal Register** of July 22, 1986 (51 FR 26342), FDA issued a final rule providing, among other things, that notice of approval of a PMA, notice of an order denying approval of a PMA, and notice of an order withdrawing approval of a PMA will be published in the **Federal Register**. (See 21 CFR 814.44(d), 814.45(d), and 814.46(e).) In the **Federal Register** of June 27, 1997 (62 FR 34680), FDA issued a proposed rule to revise the PMA announcement procedure by discontinuing publication of PMA approvals and denials in the **Federal Register** and, instead, announcing them on the Internet. Interested persons were given until September 25, 1997, to comment on the proposed regulation. FDA received two comments supporting the proposal, one from an in vitro diagnostic manufacturer and the other from a dental association.

II. Summary of the Final Rule

FDA is discontinuing publication of individual PMA approvals and denials in the **Federal Register**. Instead, FDA will notify the public of PMA approvals and denials by posting them on FDA's home page on the Internet (http://www.fda.gov), by placing the summaries of safety and effectiveness on the Internet and in FDA's Dockets Management Branch, and by publishing in the **Federal Register** after each quarter a list of the PMA approvals and denials announced in that quarter.

FDA believes that this procedure will expedite public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than is the **Federal Register**.

In accordance with section 515(d)(3) of the act, notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515 (g) of the act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA will begin on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant, in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

III. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to selects regulatory

approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that the final rule is consistent with regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the final rule involves a minor procedural change that primarily affects FDA and has no direct effect on small companies, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

V. Paperwork Reduction Act of 1995

This final rule contains no additional information collection requirements which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

List of Subjects in 21 CFR Part 814

Administrative practice and procedure, Confidential business information, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 814 is amended as follows:

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

1. The authority citation for 21 CFR part 814 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360c-360j, 371, 372, 373, 374, 375, 379, 379e, 381.

2. Section 814.44 is amended by revising paragraph (d) to read as follows:

§ 814.44 Procedures for review of a PMA.

* * * * *

(d)(1) FDA will issue to the applicant an order approving a PMA if none of the reasons in § 814.45 for denying approval of the application applies. FDA will approve an application on the basis of draft final labeling if the only deficiencies in the application concern editorial or similar minor deficiencies in the draft final labeling. Such approval will be conditioned upon the applicant incorporating the specified labeling changes exactly as directed and upon the applicant submitting to FDA a copy of the final printed labeling before marketing. FDA will also give the public notice of the order, including notice of and opportunity for any interested persons to request review under section 515(d)(3) of the act. The notice of approval will be placed on FDA's home page on the Internet (http://www.fda.gov), and it will state that a detailed summary of information respecting the safety and effectiveness of the device, which was the basis for the order approving the PMA, including information about any adverse effects of the device on health, is available on the Internet and has been placed on public display, and that copies are available upon request. FDA will publish in the **Federal Register** after each quarter a list of the approvals announced in that quarter. When a notice of approval is published, data and information in the PMA file will be available for public disclosure in accordance with § 814.9.

(2) A request for copies of the current PMA approvals and denials document and for copies of summaries of safety and effectiveness shall be sent in writing to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

* * * * *

3. Section 814.45 is amended by revising paragraph (d) to read as follows:

§ 814.45 Denial of approval of a PMA.

* * * * *

(d)(1) FDA will give the public notice of an order denying approval of the PMA. The notice will be placed on the FDA's home page on the Internet (http://www.fda.gov), and it will state that a detailed summary of information respecting the safety and effectiveness of the device, including information about any adverse effects of the device on health, is available on the Internet and has been placed on public display and that copies are available upon request. FDA will publish in the **Federal Register** after each quarter a list of the denials announced in that quarter. When a notice of denial of approval is made publicly available, data and information in the PMA file will be available for public disclosure in accordance with § 814.9.

(2) A request for copies of the current PMA approvals and denials document and copies of summaries of safety and effectiveness shall be sent in writing to the Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

Dated: January 22, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–2263 Filed 1–29–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 147

RIN 0790–AG54

Personnel Security Policies for Granting Access to Classified Information

AGENCY: Department of Defense.

ACTION: Interim final rule.

SUMMARY: This rule is published to streamline security practices throughout the government, uniform adjudicative guidelines, investigative standards and guidelines for temporary access are being established. This initiative will simplify security processing and allow the deserving public to obtain a security clearance in a faster, more efficient manner.

DATES: This rule is effective March 24, 1997. Comments must be received by March 31, 1998.

ADDRESSES: Forward comments to the Security Policy Board Staff, 1215 Jefferson Davis Highway, Suite 1101, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. T. Thompson, 703–602–9969.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Regulatory Planning and Review

It has been determined that this interim rule (32 CFR part 147) is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96–354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This part will streamline personnel security clearance procedures and make the process more efficient.

Public Law 96–511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 147

Classified information, Investigations, Security measures.

Accordingly, Title 32 of the Code of Federal Regulations, Chapter I, subchapter C is amended to add part 147 to read as follows:

PART 147—ADJUDICATIVE GUIDELINES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED INFORMATION

Subpart A—Adjudicative Guidelines

Sec.
147.1 Introduction.
147.2 Adjudicative process.
147.3 Guideline A—Allegiance to the United States.
147.4 Guideline B—Foreign influence.
147.5 Guideline C—Foreign preference.
147.6 Guideline D—Sexual behavior.
147.7 Guideline E—Personal conduct.
147.8 Guideline F—Financial considerations.
147.9 Guideline G—Alcohol consumption.
147.10 Guideline H—Drug involvement.
147.11 Guideline I—Emotional, mental, and personality disorders.
147.12 Guideline J—Criminal conduct.
147.13 Guideline K—Security violations.
147.14 Guideline L—Outside activities.
147.15 Guideline M—Misuse of information technology systems.

Subpart B—Investigative Standards

147.18 Introduction.
147.19 The three standards.
147.20 Exception to periods of coverage.
147.21 Expanding investigations.
147.22 Transferability.
147.23 Breaks in service.
147.24 The national agency check.

Subpart C—Guidelines for Temporary Access

147.28 Introduction.
147.29 Temporary eligibility for access.
147.30 Temporary eligibility for access at the CONFIDENTIAL AND SECRET levels and temporary eligibility for ''L'' access authorization.
147.31 Temporary eligibility for access at the TOP SECRET levels and temporary eligibility for ''Q'' access authorization. For someone who is the subject of a favorable investigation not meeting the investigative standards for access at those levels.
147.32 Temporary eligibility for access at the TOP SECRET and SCI levels and temporary eligibility for ''Q'' access authorization: For someone who is not the subject of a current, favorable personnel or personnel-security investigation of any kind.
147.33 Additional requirements by agencies.

Authority: E.O. 12968 (60 FR 40245, 3 CFR 1995 Comp., p 391).

Subpart A—Adjudication

§ 147.1 Introduction.

The following adjudicative guidelines are established for all United States Government civilian and military personnel, consultants, contractors, employees of contractors, licensees, certificate holders or grantees and their employees and other individuals who require access to classified information. They apply to persons being considered for initial or continued eligibility for access to classified information, to include sensitive compartmented information and special access programs and are to be used by government departments and agencies in all final clearance determinations.

§ 147.2 Adjudicative process.

(a) The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance. Eligibility for access to classified information is predicated upon the individual meeting these personnel security guidelines. The adjudicative process is the careful weighing of a number of variables known as the whole person concept. Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination. In evaluating the relevance of an individual's conduct, the adjudicator should consider the following actors:

(1) The nature, extent, and seriousness of the conduct;

(2) The circumstances surrounding the conduct, to include knowledgeable participation;

(3) The frequency and recency of the conduct;

(4) The individual's age and maturity at the time of the conduct;

(5) The voluntariness of participation;

(6) The presence or absence of rehabilitation and other pertinent behavioral changes;

(7) The motivation for the conduct;

(8) The potential for pressure, coercion, exploitation, or duress;

(9) The likelihood of continuation of recurrence.

(b) Each case must be judged on its own merits, and final determination remains the responsibility of the specific department or agency. Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security.

(c) The ultimate determination of whether the granting or continuing of eligibility for a security clearance is clearly consistent with the interests of national security must be an overall common sense determination based upon careful consideration of the following, each of which is to be evaluated in the context of the whole person, as explained further below:

(1) Guideline A: Allegiance to the United States.

(2) Guideline B: Foreign influence.

(3) Guideline C: Foreign preference.

(4) Guideline D: Sexual behavior.

(5) Guideline E: Personal conduct.

(6) Guideline F: Financial considerations.

(7) Guideline G: Alcohol consumption.

(8) Guideline H: Drug involvement.

(9) Guideline I: Emotional, mental, and personality disorders.

(10) Guideline J: Criminal conduct.

(11) Guideline K: Security violations.

(12) Guideline L: Outside activities.

(13) Guideline M: Misuse of Information Technology Systems.

(d) Although adverse information concerning a single criterion may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility, or emotionally unstable behavior. Notwithstanding, the whole person concept, pursuit of further investigations may be terminated by an appropriate adjudicative agency in the face of reliable, significant, disqualifying, adverse information.

(e) When information of security concern becomes known about an individual who is currently eligible for access to classified information, the adjudicator should consider whether the person:

(1) Voluntarily reported the information;

(2) Was truthful and complete in responding to questions;

(3) Sought assistance and followed professional guidance, where appropriate;

(4) Resolved or appears likely to favorably resolve the security concern;

(5) Has demonstrated positive changes in behavior and employment;

(6) Should have his or her access temporarily suspended pending final adjudication of the information.

(f) If after evaluating information of security concern, the adjudicator decides that the information is not serious enough to warrant a recommendation of disapproval or revocation of the security clearance, it may be appropriate to recommend approval with a warning that future incidents of a similar nature may result in revocation of access.

§ 147.3 Guideline A—Allegiance to the United States.

(a) *The concern.* An individual must be of unquestioned allegiance to the United States. The willingness to safeguard classified information is in doubt if there is any reason to suspect an individual's allegiance to the Untied States.

(b) *Conditions that could raise a security concern and may be disqualifying include:* (1) Involvement in any act of sabotage, espionage, treason, terrorism, sedition, or other act whose aim is to overthrow the Government of the United States or alter the form of government by unconstitutional means;

(2) Association or sympathy with persons who are attempting to commit, or who are committing, any of the above acts;

(3) Association or sympathy with persons or organizations that advocate the overthrow of the United States Government, or any state or subdivision, by force or violence or by other unconstitutional means;

(4) Involvement in activities which unlawfully advocate or practice the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any state.

(c) *Conditions that could mitigate security concerns include:* (1) The individual was unaware of the unlawful aims of the individual or organization and severed ties upon learning of these;

(2) The individual's involvement was only with the lawful or humanitarian aspects of such an organization;

(3) Involvement in the above activities occurred for only a short period of time and was attributable to curiosity or academic interest;

(4) The person has had no recent involvement or association with such activities.

§ 147.4 Guideline B—Foreign influence.

(a) *The concern.* A security risk may exist when an individual's immediate family, including cohabitants and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the Untied States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

(b) *Conditions that could raise a security concern and may be disqualifying include:* (1) An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country;

(2) Sharing living quarters with a person or persons, regardless of their citizenship status, if the potential for adverse foreign influence or duress exists;

(3) Relatives, cohabitants, or associates who are connected with any foreign government;

(4) Failing to report, where required, associations with foreign nationals;

(5) Unauthorized association with a suspected or known collaborator or employee of a foreign intelligence service;

(6) Conduct which may make the individual vulnerable to coercion, exploitation, or pressure by a foreign government;

(7) Indications that representatives or nationals from a foreign country are acting to increase the vulnerability of the individual to possible future exploitation, coercion or pressure;

(8) A substantial financial interest in a country, or in any foreign owned or operated business that could make the individual vulnerable to foreign influence.

(c) *Conditions that could mitigate security concerns include:* (1) A determination that the immediate family member(s) (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States;

(2) Contacts with foreign citizens are the result of official United States Government business;

(3) Contact and correspondence with foreign citizens are casual and infrequent;

(4) The individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons or organizations from a foreign country;

(5) Foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities.

§ 147.5 Guideline C—Foreign preference.

(a) *The concern.* When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

(b) Conditions that could raise a security concern and may be disqualifying include:

(1) The exercise of dual citizenship;

(2) Possession and/or use of a foreign passport;

(3) Military service or a willingness to bear arms for a foreign country;

(4) Accepting educational, medical, or other benefits, such as retirement and social welfare, from a foreign country;

(5) Residence in a foreign country to meet citizenship requirements;

(6) Using foreign citizenship to protect financial or business interests in another country;

(7) Seeking or holding political office in the foreign country;

(8) Voting in foreign elections;

(9) Performing or attempting to perform duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(c) *Conditions that could mitigate security concerns include:* (1) Dual citizenship is based solely on parents' citizenship or birth in a foreign country;

(2) Indicators of possible foreign preference (e.g., foreign military service) occurred before obtaining United States citizenship;

(3) Activity is sanctioned by the United States;

(4) Individual has expressed a willingness to renounce dual citizenship.

§ 147.6 Guidance D—Sexual behavior.

(a) *The concern.* Sexual behavior is a security concern if it involves a criminal offense, indicates a personality or emotional disorder, may subject the individual to coercion, exploitation, or duress, or reflects lack of judgment or discretion.[1] Sexual orientation or

[1] The adjudicator should also consider guidelines pertaining to criminal conduct (Guideline J) and

preference may not be used as a basis for or a disqualifying factor in determining a person's eligibility for a security clearance.

(b) *Conditions that could raise a security concern and may be disqualifying include:* (1) Sexual behavior of a criminal nature, whether or not the individual has been prosecuted;

(2) Compulsive or addictive sexual behavior when the person is unable to stop a pattern or self-destructive or high-risk behavior or that which is symptomatic of a personally disorder;

(3) Sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress;

(4) Sexual behavior of a public nature and/or that which reflects lack of discretion or judgment.

(c) *Conditions that could mitigate security concerns include:* (1) The behavior occurred during or prior to adolescence and there is no evidence of subsequent conduct of a similar nature;

(2) The behavior was not recent and there is no evidence of subsequent conduct of a similar nature;

(3) There is no other evidence of questionable judgment, irresponsibility, or emotional instability;

(4) The behavior no longer serves as a basis for coercion, exploitation, or duress.

§ 147.7 Guideline E—Personal conduct.

(a) *The concern.* Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information. The following will normally result in an unfavorable clearance action or administrative termination of further processing for clearance eligibility:

(1) Refusal to undergo or cooperate with required security processing, including medical and psychological testing;

(2) Refusal to complete required security forms, releases, or provide full, frank and truthful answers to lawful questions of investigators, security officials or other representatives in connection with a personnel security or trustworthiness determination.

(b) *Conditions that could raise a security concern and may be disqualifying also include:* (1) Reliable, unfavorable information provided by associates, employers, coworkers, neighbors, and other acquaintances;

(2) The deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(3) Deliberately providing false or misleading information concerning relevant and material matters to an investigator, security official, competent medical authority, or other representative in connection with a personnel security or trustworthiness determination;

(4) Personal conduct or concealment of information that may increase an individual's vulnerability to coercion, exploitation, or duties, such as engaging in activities which, if known, may affect the person's personal, professional, or community standing or render the person susceptible to blackmail;

(5) A pattern of dishonesty or rule violations, including violation of any written or recorded agreement made between the individual and the agency;

(6) Association with persons involved in criminal activity.

(c) *Conditions that could mitigate security concerns include:* (1) The information was unsubstantiated or not pertinent to a determination of judgment, trustworthiness, or reliability;

(2) The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily;

(3) The individual made prompt, good faith efforts to correct the falsification before being confronted with the facts;

(4) Omission of material facts was caused or significantly contributed to by improper or inadequate advice of authorized personnel, and the previously omitted information was promptly and fully provided;

(5) The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress;

(6) A refusal to cooperate was based on advice from legal counsel or other officials that the individual was not required to comply with security processing requirements and, upon being made aware of the requirement, fully and truthfully provided the requested information;

(7) Association with persons involved in criminal activities has ceased.

§ 147.8 Guideline F—Financial considerations.

(a) *The concern.* An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

(b) *Conditions that could raise a security concern and may be disqualifying include:* (1) A history of not meeting financial obligations;

(2) Deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, income tax evasion, expense account fraud, filing deceptive loan statements, and other intentional financial breaches of trust;

(3) Inability or unwillingness to satisfy debts;

(4) Unexplained affluence;

(5) Financial problems that are linked to gambling, drug abuse, alcoholism, or other issues of security concern.

(c) *Conditions that could mitigate security concerns include:* (1) The behavior was not recent;

(2) It was an isolated incident;

(3) The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downtrun, unexpected medical emergency, or a death, divorce or separation);

(4) The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

(5) The affluence resulted from a legal source;

(6) The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

§ 147.9 Guideline G—Alcohol consumption.

(a) *The concern.* Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness.

(b) *Conditions that could raise a security concern and may be disqualifying include:* (1) Alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, or other criminal incidents related to alcohol use;

(2) Alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, or drinking on the job;

(3) Diagnosis by a credentialed medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence;

(4) Evaluation of alcohol abuse or alcohol dependence by a licensed clinical social worker who is a staff

emotional, mental and personality disorders (Guideline I) in determining how to resolve the security concerns raised by sexual behavior.

member of a recognized alcohol treatment program;

(5) Habitual or binge consumption of alcohol to the point of impaired judgment;

(6) Consumption of alcohol, subsequent to a diagnosis of alcoholism by a credentialed medical professional and following completion of an alcohol rehabilitation program.

(c) *Conditions that could mitigate security concerns include:* (1) The alcohol related incidents do not indicate a pattern;

(2) The problem occurred a number of years ago and there is no indication of a recent problem;

(3) Positive changes in behavior supportive of sobriety;

(4) Following diagnosis of alcohol abuse or alcohol dependence, the individual has successfully completed impatient or outpatient rehabilitation along with aftercare requirements, participates frequently in meetings of Alcoholics Anonymous or a similar organization, has abstained from alcohol for a period of at least 12 months, and received a favorable prognosis by a credentialed medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

§ 174.10 Guideline H—Drug involvement.

(a) *The concern.* (1) Improper or illegal involvement with drugs raises questions regarding an individual's willingness or ability to protect classified information. Drug abuse or dependence may impair social or occupational functioning, increasing the risk of an unauthorized disclosure of classified information.

(2) Drugs are defined as mood and behavior altering substances, and include:

(i) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens),

(ii) Inhalants and other similar substances.

(3) Drug abuse is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.

(b) *Conditions that could raise a security concern and may be disqualifying include:* (1) Any drug abuse (see above definition);

(2) Illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution;

(3) Diagnosis by a credentialed medical professional (e.g., physician, clinical psychologist, or psychiatrist) of drug abuse or drug dependence;

(4) Evaluation of drug abuse or drug dependence by a licensed clinical social worker who is a staff member of a recognized drug treatment program;

(5) Failure to successfully complete a drug treatment program prescribed by a credentialed medical professional. Recent drug involvement, especially following the granting of a security clearance, or an expressed intent not to discontinue use, will almost invariably result in an unfavorable determination.

(c) *Conditions that could mitigate security concerns include:* (1) The drug involvement was not recent;

(2) The drug involvement was an isolated or aberration event;

(3) A demonstrated intent not to abuse any drugs in the future;

(4) Satisfactory completion of a prescribed drug treatment program, including rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a credentialed medical professional.

§ 147.11 Guideline I—Emotional, mental, and personality disorders.

(a) *The concern:* Emotional, mental, and personality disorders can cause a significant deficit in an individual's psychological, social and occupation functioning. These disorders are of security concern because they may indicate a defect in judgment, reliability, or stability. A credentialed mental health professional (e.g., clinical psychologist or psychiatrist), employed by, acceptable to or approved by the government, should be utilized in evaluating potentially disqualifying and mitigating information fully and properly, and particularly for consultation with the individual's mental health care provider.

(b) *Conditions that could raise a security concern and may be disqualifying include:* (1) An opinion by a credentialed mental health professional that the individual has a condition or treatment that may indicate a defect in judgment, reliability, or stability;

(2) Information that suggests that an individual has failed to follow appropriate medical advice relating to treatment of a condition, e.g., failure to take prescribed medication;

(3) A pattern of high-risk, irresponsible, aggressive, anti-social or emotionally unstable behavior;

(4) Information that suggests that the individual's current behavior indicates a defect in his or her judgment or reliability.

(c) *Conditions that could mitigate security concerns include:* (1) There is no indication of a current problem;

(2) Recent opinion by a credentialed mental health professional that an individual's previous emotional, mental, or personality disorder is cured, under control or in remission and has a low probability of recurrence or exacerbation;

(3) The past emotional instability was a temporary condition (e.g., one caused by a death, illness, or marital breakup), the situation has been resolved, and the individual is no longer emotionally unstable.

§ 147.12 Guideline J—Criminal conduct.

(a) *The concern.* A history or pattern of criminal activity creates doubt about a person's judgment, reliability and trustworthiness.

(b) *Conditions that could raise a security concern and may be disqualifying include:* (1) Allegations or admissions of criminal conduct, regardless of whether the person was formally charged;

(2) A single serious crime or multiple lesser offenses.

(c) *Conditions that could mitigate security concerns include:* (1) The criminal behavior was not recent;

(2) The crime was an isolated incident;

(3) The person was pressured or coerced into committing the act and those pressures are no longer present in that person's life;

(4) The person did not voluntarily commit the act and/or the factors leading to the violation are not likely to recur;

(5) Acquittal;

(6) There is clear evidence of successful rehabilitation.

§ 147.13 Guideline K—Security violations.

(a) *The concern.* Noncompliance with security regulations raises doubt about an individual's trustworthiness, willingness, and ability to safeguard classified information.

(b) *Conditions that could raise a security concern and may be disqualifying include.* (1) Unauthorized disclosure of classified information;

(2) Violations that are deliberate or multiple or due to negligence.

(c) *Conditions that could mitigate security concerns include actions that:* (1) Were inadvertent;

(2) Were isolated or infrequent;

(3) Were due to improper or inadequate training;

(4) Demonstrate a positive attitude towards the discharge of security responsibilities.

§ 147.14 Guideline L—Outside activities.

(a) *The concern.* Involvement in certain types of outside employment or activities is of security concern if it poses a conflict with an individual's

security responsibilities and could create an increased risk of unauthorized disclosure of classified information.

(b) *Conditions that could raise a security concern and may be disqualifying include any service, whether compensated, volunteer, or employment with:* (1) A foreign country;

(2) Any foreign national;

(3) A representative of any foreign interest;

(4) Any foreign, domestic, or international organization or person engaged in analysis, discussion, or publication of material on intelligence, defense, foreign affairs, or protected technology.

(c) *Conditions that could mitigate security concerns include:* (1) Evaluation of the outside employment or activity indicates that it does not pose a conflict with an individual's security responsibilities;

(2) The individual terminates the employment or discontinues the activity upon being notified that it is in conflict with his or her security responsibilities.

§ 147.15 Guideline M—Misuse of Information technology systems.

(a) *The concern.* Noncompliance with rules, procedures, guidelines, or regulations pertaining to information technology systems may raise security concerns about an individual's trustworthiness, willingness, and ability to properly protect classified systems, networks, and information. Information Technology Systems include all related equipment used for the communication, transmission, processing, manipulation, and storage of classified or sensitive information.

(b) *Conditions that could raise a security concern and may be disqualifying include:* (1) Illegal or unauthorized entry into any information technology system;

(2) Illegal or unauthorized modification, destruction, manipulation or denial of access to information residing on an information technology system;

(3) Removal (or use) of hardware, software, or media from any information technology system without authorization, when specifically prohibited by rules, procedures, guidelines or regulations;

(4) Introduction of hardware, software, or media into any information technology system without authorization, when specifically prohibited by rules, procedures, guidelines or regulations.

(c) *Conditions that could mitigate security concerns include:* (1) The misuse was not recent or significant;

(2) The conduct was unintentional or inadvertent;

(3) The introduction or removal of media was authorized;

(4) The misuse was an isolated event;

(5) The misuse was followed by a prompt, good faith effort to correct the situation.

Subpart B—Investigative Standards

§ 147.18 Introduction.

The following investigative standards are established for all United States Government civilian and military personnel, consultants, contractors, employees of contractors, licensees, certificate holders or grantees and their employees and other individuals who require access to classified information, to include Sensitive Compartmented Information and Special Access Programs, and are to be used by government departments and agencies as the investigative basis for final clearance determinations. However, nothing in these standards prohibits an agency from using any lawful investigative procedures in addition to these requirements in order to resolve any issue identified in the course of a background investigation or reinvestigation.

§ 147.19 The three standards.

There are three standards (Attachment D to this subpart part summarizes when to use each one):

(a) The investigation and reinvestigation standards for ''L'' access authorizations and for access to confidential and secret (including all secret-level Special Access Programs not specifically approved for enhanced investigative requirements by an official authorized to establish Special Access Programs by section in 4.4 of Executive Order 12958) (60 FR 19825, 3 CFR 1995 Comp., p. 33);

(b) The investigation standard for''Q'' access authorizations and for access to top secret (including top secret Special Access Programs) and Sensitive Compartmented Information;

(c) The reinvestigation standard for continued access to the levels listed in paragraph (b) of this section.

§ 147.20 Exception to periods of coverage.

Some elements of standards specify a period of coverage (e.g. seven years). Where appropriate, such coverage may be shortened to the period from the subject's eighteenth birthday to the present or to two years, whichever is longer.

§ 147.21 Expanding investigations.

Investigations and reinvestigations may be expanded under the provisions of Executive Order 12968 (60 FR 40245, 3 CFR 1995 Comp., p. 391) and other applicable statutes and Executive Orders.

§ 147.22 Transferability.

Investigations that satisfy the requirements of a given standard and are current meet the investigative requirements for all levels specified for the standard. They shall be mutually and reciprocally accepted by all agencies.

§ 147.23 Breaks in service.

If a person who requires access has been retired or separated from U.S. government employment for less than two years and is the subject of an investigation that is otherwise current, the agency regranting the access will, as a minimum, review an updated Standard Form 86 and applicable records. A reinvestigation is not required unless the review indicates the person may no longer satisfy the standards of Executive Order 12968 (60 FR 40245, 3 CFR 1995 Comp., p. 391); (Attachment D to this subpart, Table 2).

§ 147.24 The national agency check.

The National Agency Check is a part of all investigations and reinvestigations. It consists of a review of;

(a) Investigative and criminal history files of the FBI, including a technical fingerprint search;

(b) OPM's Security/Suitability Investigations Index;

(c) DoD's Defense Clearance and Investigations Index;

(d) Such other national agencies (e.g., CIA, INS) as appropriate to the individual's background.

Attachment A to Subpart B—Standard A—National Agency Check With Local Agency Checks and Credit Check (NACLC)

(a) *Applicability.* Standard A applies to investigations and reinvestigations for;

(1) Access to CONFIDENTIAL and SECRET (including all SECRET-level Special Access Programs not specifically approved for enhanced investigative requirements by an official authorized to establish Special Access Programs by sect. 4.4 of Executive Order 12958) (60 FR 19825, 3 CFR 1995 Comp., p. 333);

(2) ''L'' access authorizations.

(b) *For Reinvestigation: When to Reinvestigate.* The reinvestigation may be initiated at any time following completion of, but not later than ten years (fifteen years for CONFIDENTIAL) from the date of, the previous investigation or reinvestigation. (Attachment D to this subpart, Table 2, reflects the specific requirements for when to request a reinvestigation, including when there has been a break in service.)

(c) *Investigative Requirements.* Investigative requirements are as follows:

(1) *Completion of Forms:* Completion of Standard Form 86, including applicable releases and supporting documentation.

(2) *National Agency Check:* Completion of a National Agency Check.

(3) *Financial Review:* Verification of the subject's financial status, including credit bureau checks covering all locations where the subject has resided, been employed, or attended school for six months or more for the past seven years.

(4) *Date and Place of Birth:* Corroboration of date and place of birth through a check of appropriate documentation, if not completed in any previous investigation; a check of Bureau of Vital Statistics records when any discrepancy is found to exist.

(5) *Local Agency Checks:* As a minimum, all investigations will include checks of law enforcement agencies having jurisdiction where the subject has lived, worked, and/or attended school within the last five years, and, if applicable, of the appropriate agency for any identified arrests.

(d) *Expanding the Investigation:* The investigation may be expanded if necessary to determine if access is clearly consistent with the national security.

Attachment B to Subpart B—Standard B—Single Scope Background Investigation (SSBI)

(a) *Applicability.* Standard B applies to initial investigations for;

(1) Access to TOP SECRET (including TOP SECRET Special Access Programs) and Sensitive Compartment Information;

(2) ''Q'' access authorizations.

(b) *Investigative Requirements.* Investigative requirements are as follows:

(1) *Completion of Forms:* Completion of Standard Form 86, including applicable releases and supporting documentation.

(2) *National Agency Check:* Completion of a National Agency Check.

(3) *National Agency Check for the Spouse or Cohabitant (if applicable):* Completion of a National Agency Check, without fingerprint cards, for the spouse or cohabitant.

(4) *Date and Place of Birth:* Corroboration of date and place of birth through a check of appropriate documentation; a check of Bureau of Vital Statistics records when any discrepancy is found to exist.

(5) *Citizenship:* For individuals born outside the United States, verification of US citizenship directly from the appropriate registration authority; verification of US citizenship or legal status of foreign-born immediate family members (spouse, cohabitant, father, mother, sons, daughters, brothers, sisters).

(6) *Education:* Corroboration of most recent or most significant claimed attendance, degree, or diploma. Interviews of appropriate educational sources if education is a primary activity of the subject during the most recent three years.

(7) *Employment:* Verification of all employments for the past seven years; personal interviews of sources (supervisors, coworkers, or both) for each employment of six months or more; corroboration through records or sources of all periods of unemployment exceeding sixty days; verification of all prior federal and military service, including discharge type. For military members, all service within one branch of the armed forces will be considered as one employment, regardless of assignments.

(8) *References:* Four references, of whom at least two are developed; to the extent practicable, all should have social knowledge of the subject and collectively span at least the last seven years.

(9) *Former Spouse:* An interview of any former spouse divorced within the last ten years.

(10) *Neighborhoods:* Confirmation of all residences for the last three years through appropriate interviews with neighbors and through records reviews.

(11) *Financial Review:* Verification of the subject's financial status, including credit bureau checks covering all locations where subject has resided, been employed, and/or attended school for six months or more for the last seven years.

(12) *Local Agency Checks:* A check of appropriate criminal history records covering all locations where, for the last ten years, the subject has resided, been employed, and/or attended school for six months or more, including current residence regardless of duration.

Note: If no residence, employment, or education exceeds six months, local agency checks should be performed as deemed appropriate.

(13) *Public Records:* Verification of divorces, bankruptcies, and other court actions, whether civil or criminal, involving the subject.

(14) *Subject Interview:* A subject interview, conducted by trained security, investigative, or counterintelligence personnel. During the investigation, additional subject interviews may be conducted to collect relevant information, to resolve significant inconsistencies, or both. Sworn statements and unsworn declarations may be taken whenever appropriate.

(15) *Polygraph (only in agencies with approved personnel security polygraph programs):* In departments or agencies with policies sanctioning the use of the polygraph for personnel security purposes, the investigation may include a polygraph examination, conducted by a qualified polygraph examiner.

(c) *Expanding the Investigation.* The investigation may be expanded as necessary. As appropriate, interviews with anyone able to provide information or to resolve issues, including but not limited to cohabitants, relatives, psychiatrists, psychologists, other medical professionals, and law enforcement professionals may be conducted.

Attachment C to Subpart B—Standard C—Single Scope Background Investigation Periodic Reinvestigation (SSBI–PR)

(a) *Applicability.* Standard C applies to reinvestigation for;

(1) *Access to TOP SECRET (including TOP SECRET Special Access Programs) and Sensitive Compartmented Information;*

(2) ''Q'' access authorizations.

(b) *When to Reinvestigate.* The reinvestigation may be initiated at any time following completion of, but not later than five years from the date of, the previous investigation (see Attachment D to this subpart, Table 2).

(c) *Reinvestigative Requirements.* Reinvestigative requirements are as follows:

(1) *Completion of Forms:* Completion of Standard Form 86, including applicable releases and supporting documentation.

(2) *National Agency Check:* Completion of a National Agency Check (fingerprint cards are required only if there has not been a previous valid technical check of the FBI).

(3) *National Agency Check for the Spouse or Cohabitant (if applicable):* Completion of a National Agency Check, without fingerprint cards, for the spouse or cohabitant. The National Agency Check for the spouse or cohabitant is not required if already completed in conjunction with a previous investigation or reinvestigation.

(4) *Employment:* Verification of all employments since the last investigation. Attempts to interview a sufficient number of sources (supervisors, coworkers, or both) at all employments of six months or more. For military members, all services within one branch of the armed forces will be considered as one employment, regardless of assignments.

(5) *References:* Interviews with two character references who are knowledgeable of the subject; at least one will be a developed reference. To the extent practical, both should have social knowledge of the subject and collectively span the entire period of the reinvestigation. As appropriate, additional interviews may be conducted, including with cohabitants and relatives.

(6) *Neighborhoods:* Interviews of two neighbors in the vicinity of the subject's most recent residence of six months or more. Confirmation of current residence regardless of length.

(7) *Financial Review:—Financial Status:* Verification of the subject's financial status, including credit bureau checks covering all locations where subject has resided, been employed, and/or attended school for six months or more for the period covered by the reinvestigation;

(ii) *Check of Treasury's Financial Data Base:* Agencies may request the Department of the Treasury, under terms and conditions prescribed by the Secretary of the Treasury, to search automated data bases consisting of reports of currency transactions by financial institutions, international transportation of currency or monetary instruments, foreign bank and financial accounts, and transactions under $10,000 that are reported as possible money laundering violations.

(8) *Local Agency Checks:* A check of appropriate criminal history records covering all locations where, during the period covered by the reinvestigation, the subject has resided, been employed, and/or attended school for six months or more, including current residence regardless of duration. (Note: If no residence, employment, or education exceeds six months, local agency checks should be performed as deemed appropriate.)

(9) *Former Spouse:* An interview with any former spouse unless the divorce took place before the date of the last investigation or reinvestigation.

(10) *Public Records:* Verification of divorces, bankruptcies, and other court actions, whether civil or criminal, involving the subject since the date of the last investigation.

(11) *Subject Interview:* A subject interview, conducted by trained security, investigative, or counterintelligence personnel. During the reinvestigation, additional subject interviews may be conducted to collect relevant information, to resolve significant inconsistencies, or both. Sworn statements and unsworn declarations may be taken whenever appropriate.

(d) *Expanding the Reinvestigation:* The reinvestigation may be expanded as necessary. As appropriate, interviews with anyone able to provide information or to resolve issues, including but not limited to cohabitants, relatives, psychiatrists, psychologists, other medical professionals, and law enforcement professionals may be conducted.

Attachment D to Subpart B—Decision Tables

TABLE 1.—WHICH INVESTIGATION TO REQUEST

If the requirement is for	And the person has this access	Based on this investigation	Then the investigation required is	Using standard
Confidental Secret; "L"	None	None	NACLC	A
		Out of date NACLC or SSBI.		
	Conf, Sec; "L"			
Top Secret, SCI; "Q"	None	None	SSBI	B
	None; Conf, Sec; "L"	Current or out of date NACLC		
		Out of date SSBI		
	TS, SCI; "Q"		SSBI–PR	C

TABLE 2.—REINVESTIGATION REQUIREMENTS

If the requirement is for	And the age of the investigation is	Type required if there has been a break in service of	
		0–23 months	24 month's or more
Confidential	0 to 14 years. 11 mos	None (note 1)	NACLC
	15 yrs. or more	NACLC.	
Secret; "L"	0 to 9 yrs 11 mos	None (note 1).	
	10 yrs. or more	NACLC	
Top Secret, SCI; "Q"	0 to 4 yrs. 11 mos	None (note 1)	SSBI
	5 yrs or more	SSBI–PR.	

Note: As a minimum, review an updated Standard Form 84 and applicable records. A reinvestigation (NACLC or SSBI–PR) is not required unless the review indicates the person may no longer satisfy the standards of Executive Order 12968.

Subpart C—Guidelines for Temporary Access

§ 147.28 Introduction.

The following minimum investigative standards, implementing section 3.3 of Executive Order 12968, *Access to Classified Information,* are established for all United States Government and military personnel, consultants, contractors, subcontractors, employees of contractors, licensees, certificate holders or grantees and their employees and other individuals who require access to classified information before the appropriate investigation can be completed and a final determination made.

§ 147.29 Temporary eligibility for access.

Based on a justified need meeting the requirements of section 3.3 of Executive Order 12968, temporary eligibility for access may be granted before investigations are complete and favorably adjudicated, where official functions must be performed prior to completion of the investigation and adjudication process. The temporary eligibility will be valid until completion of the investigation and adjudication; however, the agency granting it may revoke it at any time based on unfavorable information identified in the course of the investigation.

§ 147.30 Temporary eligibility for access at the confidential and secret levels and temporary eligibility for "L" access authorization.

As a minimum, such temporary eligibility requires completion of the Standard Form 86, including any applicable supporting documentation, favorable review of the form by the appropriate adjudicating authority, and submission of a request for an expedited National Agency Check with Local Agency Checks and Credit (NACLC).

§ 147.31 Temporary eligibility for access at the top secret levels and temporary eligibility for "Q" access authorization: For someone who is the subject of a favorable investigation not meeting the investigative standards for access at those levels.

As a minimum, such temporary eligibility requires completion of the Standard Form 86, including any applicable supporting documentation, favorable review of the form by the appropriate adjudicating authority, and expedited submission of a request for a Single Scope Background Investigation (SSBI).

§ 147.32 Temporary eligibility for access at the top secret and SCI levels and temporary eligibility for "Q" access authorization: For someone who is not the subject of a current, favorable personnel or personnel-security investigation of any kind.

As a minimum, such temporary eligibility requires completion of the Standard Form 86, including any applicable supporting documentation, favorable review of the form by the appropriate adjudicating authority,

immediate submission of a request for an expedited Single Scope Background Investigation (SSBI), and completion and favorable review by the appropriate adjudicating authority of relevant criminal history and investigative records of the Federal Bureau of Investigation and of information in the Security/Suitability Investigations Index (SII) and the Defense Clearance and Investigations Index (DCII).

§ 147.33 Additional requirements by agencies.

Temporary eligibility for access must satisfy these minimum investigative standards, but agency heads may establish additional requirements based on the sensitivity of the particular, identified categories of classified information necessary to perform the lawful and authorized functions that are the basis for granting temporary eligibility for access. However, no additional requirements shall exceed the common standards for background investigations developed under section 3.2(b) of Executive Order 12968. Temporary eligibility for access is valid only at the agency granting it and at other agencies who expressly agree to accept it and acknowledge understanding of its investigative basis. It is further subject to limitations specified in sections 2.4(d) and 3.3 of Executive Order 12968, *Access to Classified Information.*

Dated: January 22, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 148

RIN 0790–AG55

National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity

AGENCY: Department of Defense.

ACTION: Interim final rule.

SUMMARY: This rule is published to make physical facilities available for reciprocal use in the storage of classified information. Once a facility has been certified as suitable for classified use by one organization, it may also be used by another for like purposes. No impact on the public is foreseen.

DATES: This rule is effective September 16, 1997. Comments must be received by March 31, 1998.

ADDRESSES: Forward comments to the Security Policy Board Staff, 1215 Jefferson Davis Highway, Suite 1101, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

Mr. T. Thompson, 703–602–9969.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Regulatory Planning and Review

It has been determined that this interim rule (32 CFR part 148) is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96–354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This part will streamline personnel security clearance procedures and make the process more efficient.

Public Law 96–511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 148

Classified information, Investigations, Security measures.

Accordingly, Title 32 of the Code of Federal Regulations, Chapter I, subchapter C is amended to add part 148 to read as follows:

PART 148—NATIONAL POLICY AND IMPLEMENTATION OF RECIPROCITY OF FACILITIES

Subpart A—National Policy on Reciprocity of Use and Inspections of Facilities

148.1 Interagency reciprocal acceptance.
148.2 Classified programs.
148.3 Security review.
148.4 Policy documentation.
148.5 Identification of the security policy board.
148.6 Agency review.

Subpart B—Guidelines for the Implementation and Oversight of the Policy on Reciprocity of Use and Inspections of Facilities

148.10 General.
148.11 Policy.
148.12 Definitions.
148.13 Responsibilities.
148.14 Procedures.

Authority: E.O. 12968 (60 FR 40245, 3 CFR 1995 Comp., p. 391.)

Subpart A—National Policy on Reciprocity of Use and Inspections of Facilities

§ 148.1 Intergency reciprocal acceptance .

Interagency reciprocal acceptance of security policies and procedures for approving, accrediting, and maintaining the secure posture of shared facilities will reduce aggregate costs, promote interoperability of agency security systems, preserve vitality of the U.S. industrial base, and advance national security objectives.

§ 148.2 Classified programs.

Once a facility is authorized, approved, certified, or accredited, all U.S. Government organizations desiring to conduct classified programs at the facility at the same security level shall accept the authorization, approval, certification, or accreditation without change, enhancements, or upgrades. Executive Order, Safeguarding Directives, National Industrial Security Program Operating Manual (NISPOM), the NISPOM Supplement, the Director of Central Intelligence Directives, interagency agreements, successor documents, or other mutually agreed upon methods shall be the basis for such acceptance.

§ 148.3 Security review.

After initial security authorization, approval, certification, or accreditation, subsequent security reviews shall normally be conducted no more frequently than annually.

Additionally, such reviews shall be aperiodic or random, and be based upon risk management principles. Security reviews may be conducted ''for cause'', to follow up on previous findings, or to

accomplish close-out actions. Visits may be made to a facility to conduct security support actions, administrative inquiries, program reviews, and approvals as deemed appropriate by the cognizant security authority or agency.

§ 148.4 Policy documentation.

Agency heads shall ensure that any policy documents their agency issues setting out facilities security policies and procedures incorporate the policy set out herein, and that such policies are reasonable, effective, efficient, and enable and promote interagency reciprocity.

§ 148.5 Idenfification of the security policy board.

Agencies which authorize, approve, certify, or accredit facilities shall provide to the Security Policy Board Staff a points of contact list to include names and telephone numbers of personnel to be contacted for verification of authorized, approved, certified, or accredited facility status. The Security Policy Board Staff will publish a comprehensive directory of points of contact.

§ 148.6 Agency review.

Agencies will continue to review and assess the potential value added to the process of co-use of facilities by development of electronic data retrieval across government. As this review continues, agencies creating or modifying facilities databases will do so in a manner which facilitates community data sharing, interest of national defense or foreign policy.

Subpart B—Guidelines for the Implementation and Oversight of the Policy on Reciprocity of use and Inspections of Facilities

§ 148.10 General.

(a) Redundant, overlapping, and duplicative policies and practices that govern the co-use of facilities for classified purposes have resulted in excessive protection and unnecessary expenditure of funds. Lack of reciprocity has also impeded achievement of national security objectives and adversely affected economic and technological interest.

(b) Interagency reciprocal acceptance of security policies and procedures for approving, accrediting, and maintaining the secure posture of shared facilities will reduce the aggregate costs, promote interoperability of agency security systems, preserve the vitality of the U.S. industrial base, and advance national security objectives.

(c) Agency heads, or their designee, are encouraged to periodically issue written affirmations in support of the policies and procedures prescribed herein and in the Security Policy Board (SPB) policy, entitled ''Reciprocity of Use and Inspections of Facilities.''

(d) The policies and procedures prescribed herein shall be applicable to all agencies. This document does not supersede the authority of the Secretary of Defense under Executive Order 12829 (58 FR 3479, 3 CFR 1993 Comp., p. 570); the Secretary of Energy or the Chairman of the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended; the Secretary of State under the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986; the Secretaries of the military departments and military department installation Commanders under the Internal Security Act of 1950; the Director of Central Intelligence under the National Security Act of 1947, as amended, or Executive Order 12333; the Director of the Information Security Oversight Office under Executive Order 12829 or Executive Order 12958 (60 FR 19825, 3 CFR 1995 Comp., p. 333); or substantially similar authority instruments assigned to any other agency head.

§ 148.11 Policy.

(a) Agency heads, or their designee, shall ensure that security policies and procedures for which they are responsible are reasonable, effective, and efficient, and that those policies and procedures enable and promote interagency reciprocity.

(b) To the extent reasonable and practical, and consistent with US law, Presidential decree, and bilateral and international obligations of the United States, the security requirements, restrictions, and safeguards applicable to industry shall be equivalent to those applicable within the Executive Branch of government.

(c) Once a facility is authorized approved, certified, or accredited, all government organizations desiring to conduct classified programs at the facility at the same security level shall accept the authorization, approval, certification, or accreditation without change, enhancements, or upgrades.

§ 148.12 Definitions.

Agency. Any ''executive agency,'' as defined in 5 U.S.C. 105; any ''Military department'' as defined in 5 U.S.C. 102; and any other entity within the Executive Branch that comes into possession of classified information.

Classified Information. All information that requires protection under Executive Order 12958, or any of its antecedent orders, and the Atomic Energy Act of 1954, as amended.

Cognizant Security Agency (CSA). Those agencies that have been authorized by Executive Order 12829 to establish an industrial security program for the purpose of safeguarding classified information disclosed or released to industry.

Cognizant Security Office (CSO). The office or offices delegated by the head of a CSA to administer industrial security in a contractor's facility on behalf of the CSA.

Facility. An activity of a government agency or cleared contractor authorized by appropriate authority to conduct classified operations or to perform classified work.

Industry. Contractors, licensees, grantees, and certificate holders obligated by contract or other written agreement to protect classified information under the National Industrial Security Program.

National Security. The national defense and foreign relations of the United States.

Senior Agency Official. Those officials, pursuant to Executive Order 12958, designated by the agency head who are assigned the responsibility to direct and administer the agency's information security program.

§ 148.13 Responsibilities.

(a) Each Senior Agency Official shall ensure that adequate reciprocity provisions are incorporated within his or her regulatory issuances that prescribe agency safeguards for protecting classified information.

(b) Each Senior Agency Official shall develop, implement, and oversee a program that ensures agency personnel adhere to the policies and procedures prescribed herein and the reciprocity provisions of the National Industrial Security Program Operating Manual (NISPOM).

(c) Each Senior Agency Official must ensure that implementation encourages reporting of instances of non-compliance, without fear of reprisal, and each reported instance is aggressively acted upon.

(d) The Director, Information Security Oversight Office (ISOO), consistent with his assigned responsibilities under Executive Order 12829, serves as the central point of contact within Government to consider and take action on complaints and suggestions from industry concerning alleged violations of the reciprocity provisions of the NISPOM.

(e) The Director, Security Policy Board Staff (D/SPBS) or his/her designee, shall serve as the central point

of contact within Government to receive from Federal Government employees alleged violations of the reciprocity provisions prescribed herein and the policy ''Reciprocity of Use and Inspections of Facilities'' of the SPB.

§ 148.14 Procedures.

(a) Agencies that authorize, approve, certify, or accredit facilities shall provide to the SPB Staff a points of contact list to include names and telephone numbers of personnel to be contacted for verification of the status of facilities. The SPB Staff will publish a comprehensive directory of agency points of contact.

(b) After initial security authorization, approval, certification, or accreditation, subsequent reviews shall normally be conducted no more frequently than annually. Additionally, such reviews shall be aperiodic or random, and be based upon risk-management principles. Security Reviews may be conducted ''for cause'', to follow up on previous findings, or to accomplish close-out actions.

(c) The procedures employed to maximize interagency reciprocity shall be based primarily upon existing organizational reporting channels. These channels should be used to address alleged departures from established reciprocity requirements and should resolve all, including the most egregious instances of non-compliance.

(d) Two complementary mechanisms are hereby established to augment existing organizational channels: (1) An accessible and responsive venue for reporting and resolving complaints/reported instances of non-compliance. Government and industry reporting channels shall be as follows:

(1) *Governnment.* (A) Agency employees are encouraged to bring suspected departures from applicable reciprocity requirements to the attention of the appropriate security authority in accordance with established agency procedures.

(B) Should the matter remain unresolved, the complainant (employee, Security Officer, Special Security Officer, or similar official) is encouraged to report the matter formally to the Senior Agency Official for resolution.

(C) Should the Senior Agency Official response be determined inadequate by the complainant, the matter should be reported formally to the Director, Security Policy Board Staff (D/SPBS). The D/SPBS, may revisit the matter with the Senior Agency Official or refer the matter to the Security Policy Forum as deemed appropriate.

(D) Should the matter remain unresolved, the Security Policy Forum may consider referral to the SPB, the agency head, or the National Security Council as deemed appropriate.

(ii) *Industry.* (A) Contractor employees are encouraged to bring suspected departures from the reciprocity provisions of the NISPOM to the attention to their Facility Security Officer (FSO) or Contractor Special Security Officer (CSSO), as appropriate, for resolution.

(B) Should the matter remain unresolved, the complainant (employee, FSO, or CSSO) is encouraged to report the matter formally to the Cognizant Security Office (CSO) for resolution.

(C) Should the CSO responses be determined inadequate by the complainant, the matter should be reported formally to the Senior Agency Official within the Cognizant Security Agency (CSA) for resolution.

(D) Should the Senior Agency Official response be determined inadequately by the complainant, the matter should be reported formally to the Director, information Security Oversight Office (ISOO) for resolution.

(E) The Director, ISOO, may revisit the matter with the Senior Agency Official or refer the matter to the agency head or the National Security Council as deemed appropriate.

(2) An annual survey administered to a representative sampling of agency and private sector facilities to assess overall effectiveness of agency adherence to applicable reciprocity requirements.

(i) In coordination with the D/SPBS, the Director, ISOO, as Chairman of the NISP Policy Advisory Committee (NISPPAC), shall develop and administer an annual survey to a representative number of cleared contractor activities/employees to assess the effectiveness of interagency reciprocity implementation. Administration of the survey shall be coordinated fully with each affected Senior Agency Official.

(ii) In coordination with the NISPPAC, the D/SPBS shall develop and administer an annual survey to a representative number of agency activities/personnel to assess the effectiveness of interagency reciprocity implementation. Administration of the survey shall be coordinated fully with each affected Senior Agency Official.

(iii) The goal of annual surveys should not be punitive but educational. All agencies and departments have participated in the crafting of these facilities policies, therefore, non-compliance is a matter of internal education and direction.

(e) Agencies will continue to review and assess the potential value added to the process of co-use of facilities by development of electronic data retrieval across government.

Dated: January 22, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–1956 Filed 1–29–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 149

RIN 0790–AG56

National Policy on Technical Surveillance Countermeasures

AGENCY: Department of Defense.

ACTION: Interim final rule.

SUMMARY: This rule is published to limit the use of technical surveillance countermeasures within the boundaries of the U.S. to cases where there is a reasonable showing of threat. No impact on the public is forseen.

DATES: This rule is effective September 16, 1997. Comments must be received by March 31, 1998.

ADDRESSES: Forward comments to the Security Policy Board Staff, 1215 Jefferson Davis Highway, Suite 1101, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. T. Thompson, 703–602–9969.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Regulatory Planning and Review

It has been determined that this interim rule (32 CFR Part 149) is not a significant regulatory action. The rule does not:

''(1) Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment, public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by other Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96–354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This part will streamline personnel security clearance procedures and make the process more efficient.

Public Law 96–511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 149

Classified information, Investigations, Security measures Accordingly; Title 32 of the Code of Federal Regulations, Chapter I, subchapter C is amended to add part 149 to read as follows:

Part 149—Policy on Technical Surveillance Countermeasures

Sec.
149.1 Policy.
149.2 Responsibilities.
149.3 Definitions.

Authority: E.O. 12968 (60 FR 40245, 3 CFR 1995 Comp., p. 391.)

§ 149.1 Policy.

(a) Heads of federal departments and agencies which process, discuss, and/or store classified national security information, restricted data, and sensitive but unclassified information, shall, in response to specific threat data and based on risk management principles, determine the need for Technical Surveillance Countermeasures (TSCM).

To obtain maximum effectiveness by the most economical means in the various TSCM programs, departments and agencies shall exchange technical information freely; coordinate programs; practice reciprocity; and participate in consolidated programs, when appropriate.

§ 149.2 Responsibilities.

(a) Heads of U.S. Government departments and agencies which plan, implement, and manage TSCM programs shall:

(1) Provide TSCM support consisting of procedures and countermeasures determined to be appropriate for the facility, consistent with risk management principles.

(2) Report to the Security Policy Board, attention: Chair, Facilities Protection Committee (FPC), for appropriate dissemination, all-source intelligence that concerns technical surveillance threats, devices, techniques, and unreported hazards, regardless of the source or target, domestic or foreign.

(3) Train a professional cadre of personnel in TSCM techniques.

(4) Ensure that the FPC and Training and Professional Development Committee are kept apprised of their TSCM program activities as well as training and research and development requirements.

(5) Assist other departments and agencies, in accordance with federal law, with TSCM services of common concern.

(6) Coordinate, through the FPC, proposed foreign disclosure of TSCM equipment and techniques.

(b) The FPC shall advise and assist the Security Policy Board in the development and review of TSCM policy, including guidelines, procedures, and instructions. The FPC shall:

(1) Coordinate TSCM professional training, research, development, test, and evaluation programs.

(2) Promote and foster joint procurement of TSCM equipment.

(3) Evaluate the impact on the national security of foreign disclosure of TSCM equipment or techniques and recommend policy changes as needed.

(4) Develop guidance for use in obtaining intelligence information on the plans, capabilities and actions of organizations hostile to the U.S. Government concerning technical penetrations and countermeasures against them.

(5) Biennially, review, update and disseminate the national strategy for TSCM.

§ 149.3 Definitions.

Classified National Security Information (CNSI). Information that has been determined pursuant to Executive Order 12958 (60 FR 19825, 3 CFR 1995 Comp., p. 333) or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

Restricted Data (RD). All data concerning design, manufacture or utilization of atomic weapons; the production of special nuclear material; or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the RD category pursuant to section 102 of the Atomic Energy Act of 1954, as amended.

Sensitive but Unclassified. Any information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of federal programs, or the privacy to which individuals are entitled under 5 U.S.C. 552a, but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

Technical Surveillance Countermeasures (TSCM). Techniques and measures to detect and nullify a wide variety of technologies that are used to obtain unauthorized access to classified national security information, restricted data, and/or sensitive but unclassified information.

Dated: January 22, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–1957 Filed 1–29–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–97–004]

RIN 2115–AE47

Drawbridge Operation Regulations; Minnesota River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the 24 hour advance notice requirement from the regulation governing operation of drawbridges over the Minnesota River between the mouth and LeSueur, MN. This action is being taken to update the regulation to reflect existing conditions and to ensure the reasonable needs of navigation are met. The change will require drawbridges on that reach of the river to operate under the General Drawbridge Operating Regulation contained in 33 CFR part 117 subpart A and thus open on demand.

DATES: This final rule is effective March 2, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Director, Western Rivers Operations, Bridge Branch, 1222 Spruce Street, Suite 2.107f, St. Louis, Missouri, 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (314) 539–3900, extension 378.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge

Administrator, Director, Western Rivers Operations, (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION:

Regulatory History

On September 4, 1997 the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulation for the Minnesota River in the **Federal Register** (62 FR 46697). The Coast Guard received no comments on the proposed rulemaking. No public hearing was requested, and none was held.

Background

In the past, the low number of vessel transits that required draw openings on the Minnesota River from its mouth through LeSueur, MN did not require the draw at Savage, MN to be manned 24 hours per day. Thus, the existing regulation, 33 CFR 117.663(a), required that river traffic provide a 24 hours advance notice in the event the railroad drawbridge at Savage, MN required opening. However, in the last several years, a significant increase in river traffic on this stretch of the Minnesota River, combined with the increased importance of that traffic's cargoes, has resulted in the need to open this draw on demand. In order to accommodate this increase in river traffic—and to better facilitate commerce—the Coast Guard organized a meeting between waterway users and the owners of the only affected drawbridge at Savage, MN, Mile 14.3 on the Minnesota River. This meeting resulted in an agreement between the waterway users and the bridge owners to eliminate the 24-hour advance-notice-opening requirement and institute an open-on-demand policy for the Savage, MN railroad bridge. Thus, the requirement in 33 CFR 117.663(a), that river traffic shall provide a 24 hours advance notice before the draw will be opened, is no longer applicable and requires deletion. All bridges at and below LeSueur, MN will now operate under the general bridge requirements found in 33 CFR Part 117 Subpart A. That is, the draws will open upon demand.

As previously mentioned, the only bridge that will be affected by this proposed rulemaking is the railroad drawbridge at Savage, MN. The regulation maintains the existing language in the second paragraph of 33 CFR 117.663 stating that the draws of bridges above LeSueur, MN need not be opened for the passage of vessels.

Discussion of Comments and Changes

No comments were received during the comment period for the Notice of Proposed Rulemaking. Removing the 24-hour-advance-notice requirement in 33 CFR 117.663(a) requires all drawbridges located downstream of LeSueur, MN on the Minnesota River to open upon demand for passage of river traffic as required by the General Drawbridge Operating Regulation, 33 CFR Part 117 Subpart A. The only bridge affected is the railroad drawbridge at Savage, MN.

Regulatory Evaluation

This rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory polices and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The rule affects one drawbridge and is not expected to significantly alter the day-to-day activities of any businesses. This evaluation is supported by the fact that the Coast Guard did not receive any comments on the expense of implementing the regulation. Moreover, since this change reflects existing operating conditions at the Savage, MN railroad drawbridge there are no impacts and additional costs associated with this rulemaking.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this change has significant economic impact on the substantial number of small entities. Small entities include (1) small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and (2) governmental jurisdictions with populations of less than 50,000. Specifically, since this rule only affects one drawbridge and the owners of that draw have already implemented an open-on-demand, policy the Coast Guard expects the impact of this change to be minimal. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et se.*) that this change will not have a significant economic impact on a substantial number of small entities.

Asstance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or, believes he or she qualifies as a small entity, and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Director, Western Rivers Operations, (314) 539–3900 extension 378.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Agreement.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2(e)(32)(e) of the NEPA Implementing Procedures, COMDTINST M16475.1B, this change is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have significant effect on the human environment. A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

1. The authority citation for 33 CFR part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.663 is revised to read as follows:

§ 117.663 Minnesota River.

The draws of bridges above LeSueur need not be opened for the passage of vessels.

Dated: January 20, 1998.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 98–2300 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300604; FRL–5766–5]
RIN 2070–AB78

Carboxin; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the fungicide carboxin and its metabolites in or on onion seed at 0.2 parts per million (ppm) for an additional 1-year period, to January 31, 1999. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on onion seed. Additionally, this rule changes the commodity expression for the tolerance from ''onion seed'' to ''onions, dry bulb.'' Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

DATES: This regulation becomes effective January 30, 1998. Objections and requests for hearings must be received by EPA, on or before March 31, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300604], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300604], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 267, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–308–9362; e-mail: schaible.stephen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of February 3, 1997 (62 FR 4911) (FRL–5584–5), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of carboxin and its metabolites in or on onion seed at 0.2 ppm, with an expiration date of January 17, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of carboxin on onion seed for this year's growing season due to the urgent and non-routine situation resulting from a lack of effective registered pesticides or alternative practices to control onion smut in northern onion producing States. After having reviewed the submission, EPA concurs that emergency conditions exist for these States. EPA has authorized under FIFRA section 18 the use of carboxin on onion seed for control of onion smut in onions, dry bulb.

EPA assessed the potential risks presented by residues of carboxin in or on onions, dry bulb. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of February 3, 1997 (62 FR 4911). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1-year period. Although this tolerance will expire and is revoked on January 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on onions, dry bulb after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by March 31, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is

requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES''at the beginning of this document

Electronic comments may be sent directly to EPA at: opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 51/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300604]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerancethat was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 14, 1998.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.301 is amended by adding a heading to paragraph (a); by revising paragraph (b); and by adding and reserving paragraphs (c) and (d) with headings to read as follows:

§ 180.301 Carboxin; tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* A time-limited tolerance is established for residues of the combined residues (free and bound) of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its sulfoxide metabolite (5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide), each expressed as the parent compund in connection with use of the pesticide under section 18 emergency exemption granted by EPA. The tolerance will expire and is revoked on the date specified in the following table:

Commodity	Parts per million	Expiration/revocation date
Onions, dry bulb	0.2	1/31/99

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 98–2212 Filed 1–29–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–5956–4]

Tennessee; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Tennessee has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Tennessee's revision consists of the provisions contained in rules promulgated between July 1, 1993 through June 30, 1994, otherwise known as RCRA Cluster IV. These requirements are listed in section B of this document. The Environmental Protection Agency (EPA) has reviewed Tennessee's application and has made a decision, subject to public review and comment, that Tennessee's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Tennessee's hazardous waste program revisions. Tennessee's application for program revision is available for public review and comment.

DATES: Final authorization for Tennessee's program revision shall be effective March 31, 1998, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Tennessee's program revision application must be received by the close of business, March 2, 1998.

ADDRESSES: Copies of Tennessee's program revision application are available during normal business hours at the following addresses for inspection and copying: Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535; U.S. EPA Region 4, Library, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104; (404) 562–8190. Written comments should be sent to Narindar Kumar at the address listed below.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act (''RCRA'' or ''the Act''), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter ''HSWA'') allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive ''interim authorization'' for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–268 and 124 and 270.

B. Tennessee

Tennessee initially received final authorization for its base RCRA program effective on February 5, 1985. Tennessee has received authorization for revisions to its program on July 22, 1996, October 23, 1995, July 7, 1995, July 31, 1992, and August 11, 1987. In June 1995, Tennessee submitted a program revision application for additional program approvals. Today, Tennessee is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Tennessee's application and has made an immediate final decision that Tennessee's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Tennessee. The public may submit written comments on EPA's immediate final decision up until March 2, 1998.

Copies of Tennessee's application for these program revisions are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

Approval of Tennessee's program revisions shall become effective March 31, 1998, unless an adverse comment pertaining to the State's revisions discussed in this document is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a document containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision. EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Tennessee is today seeking authority to administer the following Federal requirements promulgated between July 1, 1993 through June 30, 1994.

Checklist	Federal requirement	FR promulgation date	HSWA or FR reference	State authority
125	Boilers and Industrial Furnaces; Changes for Consistency with New Air Regulations.	7/20/93	58 FR 38816	TCA 68–212–106(a); 68–212–107(a) & (d)(1,3,5–6) TRC 1200–1–11–.01(2)(b); .09(1)(a).
126	Test and Monitoring Activities	8/31/93	58 FR 46040	TCA 68–212–104(7); 68–212–106(a)(1); 68–212–107(d)(1); TRC 1200–1–11–.01(2)(b); .01(3)(c); .02(3)(a); .02(5)(a); .06(10)(a); .06(14)(a); .05(10)(a); .05(14)(a); .10(1)(a); .10(3)(a); .10(5)(a); .01(2)(b); .07(5)(b); .07(1)(e); .07(1)(j).
127	Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevel Residues.	11/9/93	58 FR 59598	TCA 68–212–106(a)(1); 68–212–107(a) & (d)(1)(3)(5)(6); TRC 1200–1–11–.09(1)(a).

Checklist	Federal requirement	FR promulgation date	HSWA or FR reference	State authority
128	Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection.	1/4/94	59 FR 458	TCA 68–212–104 (7); 68–212–106(a)(1); 68–212–107 (d)(1); TRC 1200–1–11–.01(2)(b); .02(5)(a).
129	Revision of Conditional Exemption for Small Scale Treatability Studies.	8/18/94	59 FR 8362 ..	TCA 68–212–104(7) & (16); 68–212–106(a) & (d)(1) & (6); TRC 1200–1–11–.02(1)(a).
130	Recycled Used Oil Management Standards: Technical Amendments and Corrections II.	3/4/94	59 FR 10550	TCA 68–212-.06(a)(1); 68–212–107(a) & (d)(1) (3) (5) & (6); TRC 1200–1–11–.11(1)(a).
131	Recordkeeping Instructions: Technical Amendment.	3/24/94	59 FR 13891	TCA 68–212–104(8); 68–212–106(a)(3); 68–212–107(d)(2) (5) & (6); TRC 1200–1–11–.06(33)(a); .05(31)(a).
132	Wood Surface Protection: Correction	6/2/94	59 FR 28484	TCA 68–212–104(7); 68–212–106(a)(1); 68–212–107(d)(1); TRC 1200–1–11–.01(2)(b).
133	Letter of Credit Revision	6/10/94	59 FR 29958	TCA 68–212–107(a) & (d)(3); 68–212–108(d); TRC 1200–1–11–.06(8)(m) 3 & 10.
134	Correction of Beryllium Powder	6/20/94	59 FR 31551	TCA 68–212–104(7); 68–212–106(a)(1); 68–212–107(d)(1) & (9); TRC 1200–1–11–.02(4)(a); .02(5)(a); .10(3)(a).

C. Decision

I conclude that Tennessee's application for these program revisions meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Tennessee is granted final authorization to operate its hazardous waste program as revised.

Tennessee now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. Tennessee also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a ''Federal mandate'' duties that arise from participation in a voluntary Federal program, except in certain annual federal entitlement programs of $500 million or more that are not applicable here. Tennessee's request for approval of a hazardous waste program or revisions to its authorized hazardous waste program is voluntary and imposed no Federal mandate within the meaning of the Act. Rather, by having its hazardous waste program approved, the State will gain the authority to implement the program within its jurisdiction, in lieu of EPA thereby eliminating duplicative State and Federal requirements. If a State chooses not to seek authorization for administration of a hazardous waste program under RCRA Subtitle C, RCRA regulation is left to EPA.

In any event, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of Tennessee's hazardous waste program referenced in today's document will result in annual costs of $100 million or more.

EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector since the State, by virtue of the approval, may not administer the program in lieu of EPA and exercise primary enforcement. Hence owners and operators of treatment, storage and disposal facilities (TSDFs) generally no longer face dual Federal and State compliance requirements, thereby reducing overall compliance costs. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA had determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved State hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR parts 264, 265,

270, and 280 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once EPA authorizes a State to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs under the approved State program, in lieu of the Federal program.

Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. EPA recognizes that small entities may own and/or operate TSDFs that will become subject to the requirements of an approved State hazardous waste program. However, since such small entities which own and/or operate TSDFs are already subject to the requirements in 40 CFR parts 264, 265 and 270, this authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would result in an administrative change (i.e., whether EPA or the State administers the RCRA Subtitle C program in that State), rather than result in a change in the substantive requirements imposed on small entities. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small entities will be able to own and operate their TSDFs under the approved State program, in lieu of the federal program. Moreover, this authorization, in approving a state program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of TSDFs in that particular state.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively approves the Tennessee program to operate in lieu of the federal program, thereby eliminating duplicative requirements for handlers of hazardous waste in the state. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, and Water supply.

Authority: This document is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

R.F. McGhee,

Acting Regional Administrator, Region 4.

[FR Doc. 98–2361 Filed 1–29–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL–5938–5]

Commonwealth of Puerto Rico; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on the Commonwealth of Puerto Rico's application for program approval.

SUMMARY: The Commonwealth of Puerto Rico has applied for final approval of its underground storage tank program for petroleum and hazardous substances under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended. The United States Environmental Protection Agency (EPA) has reviewed the Commonwealth of Puerto Rico's application and has made a final determination that the Commonwealth of Puerto Rico's underground storage tank program for petroleum and hazardous substances satisfies all of the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the Commonwealth of Puerto Rico to operate its underground storage tank program for petroleum and hazardous substances.

EFFECTIVE DATES: Final approval for the Commonwealth of Puerto Rico shall be effective on March 31, 1998.

FOR FURTHER INFORMATION CONTACT: Madho Ramnarine Singh, Water Compliance Branch (DECA–WCB), U.S. EPA Region 2, 290 Broadway, New York, NY 10007–1866, Phone: (212) 637–4237 or Mr. Victor Trinidad, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico 00907–4127, Phone: (787) 729–6951.

SUPPLEMENTARY INFORMATION:

I. Background

Section 9004 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991c, authorizes EPA to grant approval to any State, which term includes the Commonwealth of Puerto Rico pursuant to section 1004(31) of RCRA, 42 U.S.C. § 6903(31), to operate its underground storage tank program in the State in lieu of the federal underground storage tank (UST) program. To qualify for approval, a State's program must be ''no less stringent'' than the federal program in all seven elements set forth at section 9004(a) (1) through (7) of RCRA, 42 U.S.C. 6991c(a) (1) through (7); include the notification requirements of section 9004(a)(8) of RCRA, 42 U.S.C. 6991c(a)(8); and provide for adequate enforcement of compliance with UST standards (section 9004(a) of RCRA, 42 U.S.C. 6991c(a)).

On January 17, 1996, EPA received the Commonwealth of Puerto Rico's formal application for approval of its underground storage tank program. In 1997 EPA received supplemental information as part of the Commonwealth's application. On August 6, 1997, EPA published a tentative determination announcing its intent to approve the Commonwealth of Puerto Rico program. Further background on the tentative decision to grant approval appears in the **Federal Register** at 62 FR 42222 (August 6, 1997).

Along with the tentative determination, EPA announced the availability of the application for public review and comment and the date of public hearings on the application and EPA's tentative determination. EPA requested advance notice for testimony and reserved the right to cancel the public hearing in the event of insufficient public interest. The public hearings were held on September 8, 1997 in the Public Hearing Room of the Puerto Rico Environmental Quality Board in Hato Rey, Puerto Rico, and on

September 9, 1997 in the Public Hearing Room of the Environmental Quality Board, Mayaguez Regional Office in Mayaguez, Puerto Rico. While a number of people attended the hearings, none of them chose to comment on EPA's decision. In addition, no written comments were submitted to EPA. As a result, no substantive issues were raised and EPA has decided to finalize its decision to approve the Commonwealth of Puerto Rico program.

Some provisions of the Commonwealth of Puerto Rico's underground storage tank program will not be part of the federally approved State program, because they are broader in scope than the federal program. ''Broader in scope'' provisions cannot be enforced by EPA; the Commonwealth of Puerto Rico, however, will continue to enforce such provisions. For instance, the federal program does not cover any underground storage tank system used for storing heating oil for consumptive use on the premises where stored, but this type of underground storage tank system is regulated under the Commonwealth's program. In addition, the Commonwealth charges fees for certain underground storage tank activities, such as annual notification and re-certification of underground storage tank facilities, transfer of ownership, duplication of records, and revision of permanent closure plans, and requires underground storage tank owners to obtain permits for certain activities, such as drilling and installation of groundwater monitoring and/or extraction wells. Although the federal underground storage tank program addresses neither fees nor permits, the Commonwealth may charge such fees and require such permits as it deems appropriate.

The public should also be aware that the Commonwealth's statutes, regulations and rules that will become part of the federally approved State program are available in English and Spanish translation. The English translation of the Commonwealth's statutes, regulations and rules is referenced as follows:

Statutes

(1) Puerto Rico Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Law of Puerto Rico Annotated (L.P.R.A.) §§ 1121 *et seq.*

(2) Puerto Rico Environmental Emergency Fund Act, 12 L.P.R.A.§ 1271 *et seq.*

Regulations

(1) Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

Rules

(1) Puerto Rico Civil Procedure Rules of 1979, 32 L.P.R.A. Appendix III

(2) Rules of Administrative Procedure for Hearings in Environmental Quality Board, Regulation Number 3672, promulgated in October 19, 1988.

II. Final Decision

I conclude that the Commonwealth of Puerto Rico's application for program approval meets all of the statutory and regulatory requirements established by subtitle I of RCRA and 40 CFR part 281. Accordingly, the Commonwealth of Puerto Rico is granted final approval to operate its underground storage tank program for petroleum and hazardous substances in lieu of the federal underground storage tank program. This approval is subject to the terms and conditions set forth in the Commonwealth's application for approval (including, but not limited to, the Memorandum of Agreement) and in the August 6, 1997 **Federal Register** Notice of Tentative Determination on Application of the Commonwealth of Puerto Rico for Final Approval.

III. Compliance With Executive Order 12866

The Office of Management and Budget has exempted this action from the requirements of section 6 of Executive Order 12866.

IV. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because it is not a ''federal mandate'' and because it does not impose annual costs of $100 million or more.

Today's rule contains no federal mandates for state, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any state, local or tribal governments or the private sector because the requirements of the Commonwealth of Puerto Rico program are already part of the Commonwealth law. Second, the Act also generally excludes from the definition of a ''federal mandate'' duties that arise from participation in a voluntary federal program. The Commonwealth's participation in an authorized UST program is voluntary.

Even if today's rule did contain a federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Commonwealth's program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may own and/or operate USTs, they are already subject to the regulatory requirements under existing Commonwealth law, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval of such requirements.

V. Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the regulatory requirements under existing Commonwealth law. EPA's authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this authorization will not have a

significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing Commonwealth law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

VI. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative Practice and Procedure, Hazardous Materials, State Program Approval, and Underground Storage Tanks.

Authority: This document is issued under the authority of Section 9004 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991c.

Dated: December 10, 1997.

Jeanne M. Fox,

Regional Administrator.

[FR Doc. 98–1531 Filed 1–29–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL 5938–6]

Underground Storage Tank Program: Approved State Program for the Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976 (RCRA), as amended, authorizes the United States Environmental Protection Agency (EPA) to grant approval to any State to operate its underground storage tank program in the State in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve State programs and incorporates by reference those provisions of the State statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the approval of the Commonwealth of Puerto Rico's underground storage tank program and incorporates by reference appropriate provisions of the Commonwealth's statutes and regulations.

DATES: This regulation is effective March 31, 1998, unless EPA publishes a prior **Federal Register** document withdrawing this immediate final rule. All comments on the codification of the Commonwealth of Puerto Rico's underground storage tank program must be received by the close of business March 2, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of March 31, 1998, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Mr. John Kushwara, Chief, Ground Water Compliance Section (DECA–WCB), U.S. EPA Region II, 290 Broadway, 20th Floor, New York, NY 10007–1866 or Mr. Victor Trinidad, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon, Stop 22, Santurce, Puerto Rico 00907–4127. Comments received by EPA may be inspected in the public docket, located in the EPA Region II Library, 290 Broadway, 16th Floor, New York , New York 10007–1866, from 9 a.m. to 4:30 p.m., Monday through Thursday and from 9 a.m. to 1:30 p.m. on Friday, excluding Federal holidays, Phone: (212) 637–3185 or EPA Region II, Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce De Leon Avenue, Suite 417, Santurce, Puerto Rico 00907–4127, Phone: (787) 729–6951.

FOR FURTHER INFORMATION CONTACT: Madho Ramnarine Singh, U.S. EPA Region II, Water Compliance Branch (DECA–EWCB), 290 Broadway, New York, NY 10007–1866. Phone: (212) 637–4237 or Mr. Victor Trinidad, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico 00907–4127, Phone: (787) 729–6951.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991c, authorizes the United States Environmental Protection Agency (EPA) to grant approval to any State, which term includes the Commonwealth of Puerto Rico pursuant to Section 1004(31) of RCRA, 42 U.S.C. 6903(31), to operate its underground storage tank program in the State in lieu of the federal underground storage tank program. EPA is publishing a **Federal Register** document announcing its decision to grant approval to Commonwealth of Puerto Rico concurrently with this document. Approval will be effective on March 31, 1998.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein those provisions of the State statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Commonwealth of Puerto Rico's underground storage tank program. This codification reflects the State program in effect at the time EPA grants the Commonwealth's approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on EPA's tentative determination to approve the Commonwealth of Puerto Rico program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in the Commonwealth of Puerto Rico. Codifying and incorporating by reference the Commonwealth's statutes and regulations does not restrict in any way federal authority to promulgate new laws or regulations relating to subtitle I of RCRA or to act otherwise pursuant to federal authority. By codifying the approved Commonwealth of Puerto Rico program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Puerto Rico, the status of federally approved requirements of the Commonwealth of Puerto Rico program will be readily discernible. Only those provisions of the Commonwealth's underground storage tank program for which approval has been granted by EPA may be incorporated by reference for enforcement purposes.

To codify EPA's approval of the Commonwealth of Puerto Rico's underground storage tank program, EPA has added section 282.102 to Title 40 of the CFR. Section 282.102 incorporates by reference for enforcement purposes the Commonwealth's statutes and regulations. Section 282.102 also references the Attorney General's

Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA. With regard to the statutory references contained in the Attorney General's Statement, the Commonwealth of Puerto Rico has chosen to cite to Articles in a compilation of the Commonwealth's statute in its amended form, rather than to corresponding Sections in the codified version of that amended statute.

EPA retains the authority under sections 9003(h)(1), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h)(1), 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections, enforcement and corrective actions in approved States. With respect to such actions, EPA will rely on federal sanctions, federal authorities, and federal procedures rather than the State authorized analogues to these provisions. Therefore, the approved Commonwealth of Puerto Rico enforcement authorities will not be incorporated by reference. Section 282.102 lists those approved Commonwealth authorities that would fall into this category.

The public also needs to be aware that some provisions of the Commonwealth's underground storage tank program are not part of the federally approved State program, because such provisions are ''broader in scope'' than subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, State provisions which are ''broader in scope'' than the federal program are not incorporated by reference for purposes of enforcement in Part 282. Section 282.102 of the codification simply lists for reference and clarity the Commonwealth of Puerto Rico statutory and regulatory provisions which are ''broader in scope'' than the federal program and which are not, therefore, part of the approved program being codified today. ''Broader in scope'' provisions cannot be enforced by EPA; the Commonwealth of Puerto Rico, however, will continue to implement and enforce such provisions.

Certification Under the Regulatory Flexibility Act

EPA has determined that this codification will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the Commonwealth requirements authorized by EPA under 40 CFR Part 281. EPA's codification does not impose any additional burdens on these small entities. This is because EPA's codification would simply result in an administrative change, rather than a change in the substantive requirements imposed on small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this codification will not have a significant economic impact on a substantial number of small entities. This codification incorporates the Commonwealth of Puerto Rico's requirements which have been authorized by EPA under 40 CFR Part 281 into the Code of Federal Regulations. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because it is not a ''federal mandate'' and because it does not impose annual costs of $100 million or more.

Today's rule contains no federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because it merely makes federally enforceable existing requirements with which regulated entities must already comply under Commonwealth law. Second, the Act also generally excludes from the definition of a ''federal mandate'' duties that arise from participation in a voluntary federal program. The requirements being codified today are the result of the Commonwealth of Puerto Rico's voluntary participation in accordance with RCRA subtitle I.

Even if today's rule did contain a federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector because today's action merely codifies an existing Commonwealth program that EPA is authorizing. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The requirements of section 203 of UMRA also do not apply to this action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA recognizes that although small governments may own and/or operate USTs, this codification incorporates into the Code of Federal Regulations the Commonwealth of Puerto Rico's requirements which are being authorized concurrently by EPA under 40 CFR part 281 and, thus, small governments are not subject to any additional significant or unique requirements by virtue of this codification.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects In 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State

program approval, Underground storage tanks, Water pollution control.

Dated: December 10, 1997.

Jeanne M. Fox,

Regional Administrator, Region 2.

For the reasons set forth in the preamble, 40 CFR part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for Part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991b(h)(1), 6991c, 6991d, and 6991e.

Subpart B—Approved State Programs

2. Subpart B is amended by adding § 282.102 to read as follows:

§ 282.102 Puerto Rico State-Administered Program.

(a) The Commonwealth of Puerto Rico is approved to administer and enforce an underground storage tank program in lieu of the federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The Commonwealth's program, as administered by the Commonwealth of Puerto Rico Environmental Quality Board, is approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this chapter. EPA is publishing the notice of final determination on the approved Commonwealth of Puerto Rico underground storage tank program concurrently with this notice and it will be effective on March 31, 1998.

(b) The Commonwealth of Puerto Rico has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection and enforcement authorities under sections 9003(h)(1), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h)(1), 6991d and 6991e, as well as its authority under other statutory and regulatory provisions.

(c) To retain program approval, the Commonwealth of Puerto Rico must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If the Commonwealth obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) The Commonwealth of Puerto Rico has final approval for the following elements submitted to EPA in its program application for final approval and to be published in the **Federal Register** concurrently with this notice, and to be effective on March 31, 1998. Copies may be obtained from the Underground Storage Tank Program, Puerto Rico Environmental Quality Board, 431 Ponce De Leon Avenue, Nacional Plaza, Suite 614, Hato Rey, PR 00917, Phone: (787) 767–8109.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Puerto Rico Statutory Requirements Applicable to the Underground Storage Tank Program, 1997.

(B) Puerto Rico Regulatory Requirements Applicable to the Underground Storage Tank Program, 1997.

(ii) The following specifically identified sections and rules in the Commonwealth of Puerto Rico's statutes, regulations and rules are part of the approved Commonwealth program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(*1*) Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) § 1121 *et seq.*

(*i*) Section 1131 Functions and duties [Insofar as paragraphs (10), (12), (13), (19), (22), (23), (25), (26), (29), and (30) set forth enforcement authorities.]

(*ii*) Section 1134 Hearings, orders and judicial proceedings

(*iii*) Section 1136 Penalty

(*iv*) Section 1139 Civil actions

(*v*) Section 1142 Powers [Insofar as (b)(5) sets forth enforcement authorities.]

(*2*) Puerto Rico Environmental Emergency Fund Act, 12 L.P.R.A. § 1269 *et seq.*

(B) The regulatory provisions include:

(*1*) Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

(*2*) Part X—General Provisions.

(*i*) Rule 1005 Right of Entry

(*ii*) Rule 1007 Notice of Violation and Compliance Order

(*iii*) Rule 1008 Closure of an Underground Storage Tank

(*iv*) Rule 1010 Penalties

(C) Other provisions include:

(*1*) Puerto Rico Civil Procedure Rules of 1979, 32 L.P.R.A. Appendix III

(*2*) Rules of Administrative Procedure for Hearings in Environmental Quality Board, Regulation Number 3672, promulgated on October 19, 1988.

(iii) The following specifically identified sections and rules in the Commonwealth of Puerto Rico's statutes, regulations and rules are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(*1*) Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) §§ 1121 *et seq.*

(*i*) Section 1131—Functions and duties [Insofar as paragraph (13) addresses permit and license requirements and associated fees, as well as the NPDES and UIC programs; and paragraph (34) relates solely to the solid and hazardous waste programs.]

(*ii*) Section 1132—Transfer of powers

(*iii*) Section 1135—Character of Board for federal purposes [Insofar as it addresses permit requirements.]

(*iv*) Section 1138—Effectiveness of previous documents [Insofar as it addresses permit and licensing requirements.]

(B) The regulatory provisions include:

(*1*) Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

(*i*) Part VI—Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances: Rule 603—Initial Abatement Measures and Site Check [Insofar as 603(A)(5) requires owners and operators to obtain permits or franchises for drilling and installation of groundwater monitoring and/or extraction wells.]; Rule 605—Free Product Removal [Insofar as 605(A) and 605(D)(6) require owners and operators to obtain permits or franchises for drilling and installation of water monitoring and/or extraction wells.].

(*ii*) Part XII—Fee Rules [Insofar as fees are broader in scope than the federal program.]: Rule 1201—Applicability; Rule 1202—Annual Notification Fees; Rule 1203—Fee Relative to Transfer of Ownership; Rule 1204—Fees for Duplication of Records; Rule 1205—Fee Payments; Rule 1206—Exemptions from Fees; Rule 1207—Fees for Revision of Permanent Closure Plans; Rule 1208—Fees for Annual Re-certification of UST Facilities.

(2) *Statement of legal authority.* The Attorney General Statement, a letter

signed on July 2, 1997, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the application for approval on January 17, 1996, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the application on January 17, 1996 and supplemented on April 17, 1997, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 2 and the Puerto Rico Environmental Quality Board, signed by an authorized representative of the Environmental Quality Board on March 7, 1997 and subsequently by an authorized representative of EPA, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to Part 282 is amended by adding in alphabetical order ''Puerto Rico'' and its listing.

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Puerto Rico

(a) The statutory provisions include:

1. Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) § 1121 *et seq.*

(1) Section 1121—Short title
(2) Section 1122—Purpose
(3) Section 1123—Declaration of policy
(4) Section 1124—Interpretation of legal provisions
(5) Section 1125—Duties of governmental agencies
(6) Section 1126—Savings clause
(7) Section 1127—Complementary character
(8) Section 1128—Annual report of Governor
(9) Section 1129—Creation of Board; composition; term
(10) Section 1130—Duties of Chairman
(11) Section 1130A—Consulting Council
(12) Section 1131—Functions and duties [Except paragraphs (10), (12), (19), (22), (23), (25), (26), (29), and (30), insofar as they outline enforcement authorities; paragraph (13), insofar as it addresses enforcement authorities, permit and license requirements and associated fees, as well as the NPDES and UIC programs; and paragraph (34), insofar as it relates solely to the solid and hazardous waste programs.]
(13) Section 1133—Consultation and use of facilities
(14) Section 1135—Character of Board for federal purposes [Except insofar as it addresses permit requirements.]
(15) Section 1135A—Administration of the Puerto Rico Water Pollution Control Revolving Fund
(16) Section 1137—Confidential documents
(17) Section 1138—Effectiveness of previous documents [Except insofar as it addresses permit and licensing requirements.]
(18) Section 1140—Limitations
(19) Section 1141—Definitions
(20) Section 1142—Powers [Except insofar as (b)(5) sets forth enforcement authorities.]

(b) The regulatory provisions include:

1. Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

a. Part I—Program Scope and Interim Prohibition.

(1) Rule 101—Program Scope
(2) Rule 102—Purpose
(3) Rule 103—Applicability
(4) Rule 104—Interim Prohibition for Deferred UST Systems
(5) Rule 105—Definitions and Abbreviations [Except insofar as the Puerto Rico definition of ''Underground Storage Tank or UST'' does not exclude from regulation heating oil tanks used for storing heating oil for consumptive use on the premises where stored.]

b. Part II—UST Systems: Design, Construction, Installation, and Notification.

(1) Rule 201—Performance Standards for New UST Systems
(2) Rule 202—Upgrading of Existing UST Systems
(3) Rule 203—Notification Requirements

c. Part III—General Operating Requirements.

(1) Rule 301—Spill and Overfill Control
(2) Rule 302—Operation and Maintenance of Corrosion Protection
(3) Rule 303—Compatibility
(4) Rule 304—Repairs Allowed
(5) Rule 305—Reporting and Recordkeeping

d. Part IV—Release Detection.

(1) Rule 401—General Requirements for all UST Systems
(2) Rule 402—Requirements for Petroleum UST Systems
(3) Rule 403—Requirements for Hazardous Substance UST Systems
(4) Rule 404—Methods of Release Detection for Tanks
(5) Rule 405—Methods of Release Detection for Piping
(6) Rule 406—Release Detection Recordkeeping

e. Part V—Release Reporting and Investigation.

(1) Rule 501—Reporting of Suspected Releases
(2) Rule 502—Investigation Due to Off-site Impacts
(3) Rule 503—Release Investigation and Confirmation Steps
(4) Rule 504—Reporting and Cleanup of Spills and Overfills

f. Part VI—Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances.

(1) Rule 601—General
(2) Rule 602—Initial Response
(3) Rule 603—Initial Abatement Measures and Site Check [Except insofar as 603(A)(5) requires owners and operators to obtain permits or franchises for drilling and installation of groundwater monitoring and/or extraction wells.]
(4) Rule 604—Initial Site Characterization
(5) Rule 605—Free Product Removal [Except insofar as 605(A) and 605 (D)(6) require owners and operators to obtain permits or franchises for drilling and installation of water monitoring and/or extraction wells.]
(6) Rule 606—Investigation for Soil and Groundwater Clean-up
(7) Rule 607—Corrective Action Plan
(8) Rule 608—Public Participation

g. Part VII—Out-Of-Service UST Systems and Closure.

(1) Rule 701—Temporary Closure
(2) Rule 702—Permanent Closure and Changes-in-Service
(3) Rule 703—Assessing the Site at Closure or Change-in-Service
(4) Rule 704—Applicability to Previously Closed UST Systems
(5) Rule 705—Closure Methods

h. Part VIII—Notification Requirements and Procedures.

(1) Rule 801—Notification of Underground Storage System
(2) Rule 802—Notification Requirements
(3) Rule 803—Notification Responsibility
(4) Rule 804—UST Notification Identification Number
(5) Rule 805—Changes to Facility Notification Data

i. Part IX—Financial Responsibility Requirements.

(1) Rule 901—Applicability
(2) Rule 902—Compliance Dates
(3) Rule 903—Definition of Terms
(4) Rule 904—Amount and Scope of Required Financial Responsibility
(5) Rule 905—Allowable Mechanisms and Combinations of Mechanisms
(6) Rule 906—Financial Test of Self-Insurance
(7) Rule 907—Guarantee
(8) Rule 908—Insurance and Risk Retention Group Coverage
(9) Rule 909—Surety Bond
(10) Rule 910—Letter of Credit
(11) Rule 911—Trust Fund
(12) Rule 912—Standby Trust Fund
(13) Rule 913—Substitution of Financial Assurance Mechanisms by Owner or Operator
(14) Rule 914—Cancellation or Nonrenewal by a Provider of Financial Assurance
(15) Rule 915—Reporting by Owner or Operator
(16) Rule 916—Recordkeeping

(17) Rule 917—Drawing on Financial Assurance Mechanisms
(18) Rule 918—Release from the Requirements
(19) Rule 919—Bankruptcy or Other Incapacity of Owner or Operator of Provider of Financial Assurance
(20) Rule 920—Replenishment of Guarantees, Letters of Credit, or Surety Bonds
(21) Rule 921—Suspension of Enforcement

j. Part X—General Provisions.

(1) Rule 1001—Amendments to this Regulation
(2) Rule 1002—Monitoring, Recordkeeping, Reporting, Sampling, and Testing Methods
(3) Rule 1003—Malfunction or Non-compliance, Reporting
(4) Rule 1004—Confidentiality of Information
(5) Rule 1006—Public Notice and Public Hearings
(6) Rule 1009—Public Nuisance
(7) Rule 1011—Overlapping or Inconsistent Provisions
(8) Rule 1012—Derogation
(9) Rule 1013—Separability Clause
(10) Rule 1014—Effectiveness

k. Part XI—General Prohibitions.

(1) Rule 1101—Purpose, Scope and Applicability
(2) Rule 1102—General Prohibitions

[FR Doc. 98–1532 Filed 1–29–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 405, 410, 411, and 414

[HCFA–1884–CN]

RIN 0938–AH94

Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule, Other Part B Payment Policies, and Establishment of the Clinical Psychologist Fee Schedule for Calendar Year 1998; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule with comment period.

SUMMARY: This document corrects technical errors that appeared in the final rule with comment period published in the **Federal Register** on October 31, 1997 entitled ''Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule, Other Part B Payment Policies, and Establishment of the Clinical Psychologist Fee Schedule for Calendar Year 1998.''

EFFECTIVE DATE: These corrections are effective October 31, 1997.

FOR FURTHER INFORMATION CONTACT: Stanley Weintraub, (410) 786–4498.

SUPPLEMENTARY INFORMATION:

Background

In FR Doc. 97–28973 of October 31, 1997 (62 FR 59048), there were a number of technical errors. The errors relate to an omission in the preamble in the discussion of practice expense relative value units (RVUs) for procedures furnished in both in-office and out-of-office settings, to an inconsistency between the preamble discussion and information in the addenda for HCPCS code G0101 (Cervical or Vaginal Cancer Screening: Pelvic and Clinical Breast Examination), to inconsistencies between the preamble discussion and the regulations text for screening mammography and screening pelvic examinations, and to an omission of a reference to status indicator ''I'' in the explanation of the information in Addendum B. We also printed incorrect information for certain procedure codes in Addendum B, beginning on page 59103. The corrections appear in this document under the heading ''Correction of Errors.''

Correction of Errors

In FR Doc. 97–28973 of October 31, 1997 (62 FR 59048), make the following corrections:

Page 59078

Addendum C of the proposed rule titled ''Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule, Other Part B Payment Policies, and Establishment of the Clinical Psychologist Fee Schedule for Calendar Year 1998'' published in the **Federal Register** on June 18, 1997 (62 FR 33158) generally provided resource-based practice expense RVUs for both in-office and out-of-office settings. We intended to calculate final resource-based practice expense RVUs by code and for the two sites in the final rule. However, section 4505 of the Balanced Budget Act of 1997 (BBA 1997) (Public Law 105–33), enacted on August 5, 1997, postponed the implementation of this provision until 1999. For the final rule, we wanted the carriers to make the same site-of-service calculations as they have done in previous years. However, we neglected to change the language in the preamble to state that the carriers will continue to calculate the differential. Therefore, on page 59078, in the second column, in the fourth full paragraph, the fourth sentence is incorrect and currently reads, ''To coordinate this policy with the site-of-service distinctions in the June 1997 proposed rule and the interaction of the provisions of section 4505 of the BBA 1997, we are listing in Addendum B the practice expense RVUs for the two sites for the 700 procedure codes instead of allowing the carrier to calculate the 50 percent reduction.'' Remove this sentence and replace it with the following two sentences: ''Addendum B lists the practice expense RVUs for both the facility and nonfacility settings. If the code is subject to the site-of-service differential, the carrier will reduce the facility practice expense RVU by 50 percent in calculating the allowance for the code.''

Page 59091

On page 59091, in the first column, in the first full sentence, we incorrectly stated that the RVUs assigned to HCPCS code G0101 (Cervical or Vaginal Cancer Screening: Pelvic and Clinical Breast Examination) are comparable to the RVUs assigned to a *new* patient office visit. This statement is inconsistent with the RVUs assigned to this code, which are correctly listed in Addenda B and C. We should have stated that the RVUs for HCPCS code G0101 are comparable to the RVUs assigned to an *established* patient office visit. Therefore, remove the first full sentence in the first column on page 59091 and replace it with the following: ''We decided that this service is comparable to a level 2 evaluation and management established patient office visit.''

Page 59100

On page 59100, there is an inaccuracy that needs to be corrected so that the regulations text is consistent with the preamble discussion of mammography services on pages 59078 through 59079, which states that section 4101(a) of the BBA 1997 amends section 1834(c)(2)(A) of the Social Security Act effective January 1, 1998 to simply provide that in the case of any woman over 39 years of age, payment may be made for a screening mammography if at least 11 months have passed following the month in which the last screening mammography was performed. On page 59100, we failed to state in the amendatory language in item 4 for § 410.34 (Mammography services: Conditions for and limitations on coverage) that we were removing paragraphs (d)(5) and (d)(6), which specify certain age limitations on the frequency of screening mammography before the enactment of the BBA 1997 and which are now obsolete. In addition, because we should have removed these two paragraphs, the line

of asterisks following paragraph (d)(4) in the regulations text itself should not have been included. Therefore, on page 59100, in the first column, correct the amendatory language in item 4 to read as follows:

''4. Section 410.34 is amended by revising the introductory text to paragraph (d) and paragraph (d)(4), and by removing paragraphs (d)(5) and (d)(6), to read as follows:'' Also on page 59100, in the regulations text itself under § 410.34 (Mammography services: Conditions for and limitations on coverage), remove the asterisks that follow paragraph (d)(4).

Page 59101

On page 59101, there is an inaccuracy that needs to be corrected so that the regulations text is consistent with the law and the preamble discussion of screening pelvic examinations on pages 59082 through 59083, which defines such an examination to be one performed for the early detection of cervical or vaginal cancer without regard to whether the results are normal or not. On page 59101, in the regulations text under § 410.56 (Screening pelvic examinations), correct paragraphs (b)(1) and (b)(4) by removing the words ''and found to be normal'' at the end of each sentence.

Page 59103

On page 59103, in the explanation of the information in Addendum B, we omitted a reference to status indicator ''I.'' Therefore, on page 59103, add the following after the entry for status code ''G'':

''I=Code not valid for Medicare purposes. Medicare does not recognize codes assigned this status. Medicare uses another code for reporting of, and payment for, these services. This indicator is treated in the same manner as status indicator ''G.'' Its use allows for more efficient carrier processing of Medicare claims.

Addendum B, pages 59103 through 59247

We assigned incorrect RVUs to the following CPT codes. Entries on the pages listed below for the codes listed are corrected as follows: Page 59103 for CPT codes 11055, 11056, and 11057; page 59104 for CPT code 11719; page 59158 for CPT codes 59150 and 59151; page 59183 for CPT codes 76076 and 76076–TC; and page 59214 for CPT codes 92543, 92543–TC, and 92543–26.

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Malpractice RVUs	Non-facility total	Facility total	Global
*		*	*	*	*		*	*		
11055		R	Trim skin lesion	0.27	0.26	0.26	0.01	0.54	0.54	000
11056		R	Trim 2-4 skin lesions	0.39	0.35	0.35	0.02	0.76	0.76	000
11057		R	Trim over 4 skin lesions	0.50	0.28	0.28	0.02	0.80	0.80	000
*		*	*	*	*		*	*		
11719		R	Trim nail(s)	0.11	0.24	0.12	0.01	0.36	0.24	000
*		*	*	*	*		*	*		
59150		A	Treat ectopic	*11.20	4.53	4.53	1.05	16.78	16.78	090
59151		A	Treat ectopic pregnancy	*11.10	8.61	8.61	0.64	20.35	20.35	090
76076		A	Dual energy x-ray study	0.22	0.82	0.82	0.07	1.11	1.11	XXX
76076	TC	A	Dual energy x-ray study	0.00	0.72	0.72	0.05	0.77	0.77	XXX
*		*	*	*	*		*	*		
92543		A	Caloric vestibular test	0.10	0.21	0.21	0.02	0.33	0.33	XXX
92543	TC	A	Caloric vestibular test	0.00	0.10	0.10	0.01	0.11	0.11	XXX
92543	26	A	Caloric vestibular test	0.10	0.11	0.11	0.01	0.22	0.22	XXX
*		*	*	*	*		*	*		

[1] CPT codes and descriptions only are copyright 1997 American Medical Association. All Rights Reserved. Applicable FARS/DFARS Apply.
[2] Copyright 1994 American Dental Association. All rights reserved.
[3] + Indicates RVUs are not used for Medicare payment.
[4] * Work RVUs increased in global surgical package.
[5] # Indicates reduction of Practice Expense RVUs as a result of 110% PE reduction.

Page 59239

We erroneously assigned a status indicator of ''A'' (Active code) in the column labeled ''Status'' for HCPCS code G0116 (NETT; psychosocial counsel). The corrected status indicator should be ''R,'' which means restricted coverage.

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUS [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Malpractice RVUs	Non-facility total	Facility total	Global
*		*	*	*	*		*	*		
G0116		R	NETT; psychosocial counsel	0.11	0.35	0.35	0.05	1.51	1.51	XXX
*		*	*	*	*		*	*		

[1] CPT codes and descriptions only are copyright 1997 American Medical Association. All Rights Reserved. Applicable FARS/DFARS Apply.
[2] Copyright 1994 American Dental Association. All rights reserved.
[3] Indicates RVUs are not used for Medicare payment.
[4] Work RVUs increased in global surgical package.
[5] Indicates reduction of Practice Expense RVUs as a result of 110% PE reduction.

Additionally, we printed incorrect short descriptors for certain codes in Addendum B. Entries on the pages listed below for the codes listed are corrected as follows: Page 59107 for CTP code 17200; page 59194 for CPT codes 80004, 80009, 80010, 80018, and 80019; page 59202 for CTP codes 86287, 86290, 86295, and 86311; page 59208 for CPT

codes 88157, and 88157–26; page 59211 for CTP codes 90825 and 90855; and page 59226 for CPT codes 99353 and 99376.

CPT [1]/ HCPCS [2]	MOD	Status	Description	Physician work RVUs [3 4]	Non-facility practice expense RVUs [5]	Facility practice expense RVUs [5]	Malpractice RVUs	Non-facility total	Facility total	Global
*		*	*	*	*		*	*		
17200		D	Electro-cautery of skin tags	* 0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
80004		D	4 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
80009		D	9 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
80010		D	10 clinical chemistry tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
80018		D	17–18 blood/urine tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
80019		D	19 blood/urine tests	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
86287		D	Hepatitis B (HBsAg)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
86290		D	Hepatitis BC antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
86295		D	Hepatitis BE antibody test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
86311		D	HIV antigen test	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
88157		D	TBS smear (bethesda system)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
88157	26	D	TSB smear (bethesda system)	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
90825		D	Evaluation of tests/records	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
90855		D	Individual psychotherapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
99353		D	Home visit/estab patient	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		
99376		D	Care plan oversight/over 60	0.00	0.00	0.00	0.00	0.00	0.00	XXX
*		*	*	*	*		*	*		

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[2] Copyright 1994 American Dental Association. All rights reserved.
[3] Inidcates RVUs are not used for Medicare payment.
[4] Work RVUs increased in global surgical package.
[5] Indicates reduction of Practice Expense RVUs as a result of 100% reduction.

Section 1848 of the Social Security Act (42 U.S.C. 1395w–4)).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 14, 1998.

Neil J. Stillman,

Deputy Assistant, Secretary for, Information Resources Management.

[FR Doc. 98–2328 Filed 1–29–98; 8:45 am]

BILLING CODE 4120–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Chapter XII and Part 1201

Service of Process; Production or Disclosure of Official Material or Information

AGENCY: Corporation for National and Community Service.

ACTION: Final Rule.

SUMMARY: The Corporation for National and Community Service is revising this regulation regarding the disclosure of litigation-related information. This final rule establishes consistency in the Corporation's assertions of privileges and objections, thereby reducing the potential for both inappropriate disclosure of information and wasteful allocation of Corporation resources.

EFFECTIVE DATE: February 20, 1998.

FOR FURTHER INFORMATION CONTACT: Britanya Rapp, Senior Attorney Advisor, Corporation for National and Community Service at (202) 606–5000, ext. 258.

SUPPLEMENTARY INFORMATION: On July 17, 1997, the Corporation for National and Community Service (hereinafter

''Corporation'') published, for public comment, a Notice of Proposed Rulemaking (NPRM) to remove its obsolete regulations on standards of conduct that were superseded by the Office of Government Ethics Uniform Standards of Conduct (5 CFR part 2635). There were no public comments received. The Corporation publishes this rulemaking in order to clarify policies, procedures, and responsibilities regarding (1) the service of legal process on the Corporation and any individuals connected with the Corporation; (2) the production of official Corporation information in matters of litigation; and (3) the appearance of, and testimony by, any individuals connected with the Corporation in matters of litigation. The Corporation expects this rule will promote consistency in the Corporation's assertions of privileges and objections, thereby reducing the potential for both inappropriate disclosure of information and wasteful allocation of Corporation resources. This rule is intended only to inform the public about Corporation procedures concerning the service of process and responses to demands or requests and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the Corporation or the United States.

These regulations are not subject to the provisions of the Paperwork Reduction Act, the Freedom of Information Act, or the Government in the Sunshine Act because they do not contain any information requirements within the meaning of those Acts. These regulations also do not signify a ''significant regulatory action'' as defined by Executive Order 12866, and thus do not fall within the requirements of that Order. Nothing in this part otherwise permits disclosure of information by the Corporation or any individuals connected to the Corporation except as provided by statute or other applicable law.

List of Subjects in 45 CFR Part 1201

Administrative practice and procedure, Courts, Freedom of information.

Accordingly, and under the authority of 42 U.S.C. 12501 et seq., Chapter XII of title 45 of the Code of Federal Regulations is amended as follows:

1. The heading for Chapter XII is revised to read as follows:

CHAPTER XII—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

2. Part 1201 is revised to read as follows:

PART 1201–PRODUCTION OR DISCLOSURE OF OFFICIAL INFORMATION IN RESPONSE TO COURT ORDERS, SUBPOENAS, NOTICES OF DEPOSITIONS, REQUESTS FOR ADMISSIONS, INTERROGATORIES, OR IN CONNECTION WITH FEDERAL OR STATE LITIGATION

Sec.
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Authority: 42 USC Sec. 12501 *et seq.*

§ 1201.1 Definitions.

(a) *Corporation Employee* means the Chief Executive Officer of the Corporation and all employees, former employees, National Civilian Community Corps Members (hereinafter sometimes known as ''Corps Members''), and VISTA Volunteers (hereinafter sometimes also known as ''AmeriCorps*VISTA Members''), who are or were subject to the supervision, jurisdiction, or control of the Chief Executive Officer, except as the Corporation may otherwise determine in a particular case.

(b) *Litigation* encompasses all pre-trial, trial, and post-trial stages of all judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, or other judicial or quasi-judicial bodies or tribunals, whether criminal, civil, or administrative in nature.

(c) *Official Information* means all information of any kind, however stored, that is in the custody and control of the Corporation, relates to information in the custody and control of the Corporation, or was acquired by individuals connected with the Corporation as part of their official status within the Corporation while such individuals are employed by, or serve on behalf of, the Corporation.

§ 1201.2 Scope.

(a) This part states the procedures followed with respect to:

(1) Service of summonses and complaints or other requests or demands directed to the Corporation or to any Corporation employee in connection with Federal or State litigation arising out of, or involving the performance of, official activities of the Corporation; and

(2) Oral or written disclosure, in response to subpoenas, orders, or other requests or demands from Federal or by State judicial or quasi-judicial authority, whether civil or criminal, or in response to requests for depositions, affidavits, admissions, responses to interrogatories, document production, or other litigation-related matters of:

(i) Any material contained in the files of the Corporation; or

(ii) Any information acquired:

(A) When the subject of the request is currently a Corporation employee or was a Corporation employee; or

(B) As part of the performance of the person's duties or by virtue of the person's position.

§ 1201.3 Service of summonses and complaints.

(a) Only the Corporation's General Counsel or his/her designee (hereinafter ''General Counsel''), is authorized to receive and accept summonses or complaints sought to be served upon the Corporation or its employees. All such documents should be delivered or addressed to General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW., Suite 8200, Washington, DC 20525.

(b) In the event any summons or complaint is delivered to a Corporation Employee other than in the manner specified in this part, such attempted service shall be ineffective, and the recipient thereof shall either decline to accept the proffered service or return such document under cover of a written communication that refers the person attempting to effect service to the procedures set forth in this part.

(c) Except as otherwise provided in § 1201.4(c), the Corporation is not an authorized agent for service of process with respect to civil litigation against Corporation Employees purely in their personal, non-official capacity. Copies of summonses or complaints directed to Corporation Employees in connection with legal proceedings arising out of the performance of official duties may, however, be served upon the General Counsel.

§ 1201.4 Service of subpoenas, court orders, and other demands or requests for official information or action.

(a) Except in cases in which the Corporation is represented by legal counsel who have entered an appearance or otherwise given notice of their representation, only the General Counsel is authorized to receive and accept subpoenas, or other demands or requests directed to any component of the Corporation or Corporation Employees, whether civil or criminal in nature, for:

(1) Material, including documents, contained in the files of the Corporation;

(2) Information, including testimony, affidavits, declarations, admissions, response to interrogatories, or informal statements, relating to material contained in the files of the Corporation or which any Corporation employee acquired in the course and scope of the performance of official duties;

(3) Garnishment or attachment of compensation of Corporation Employees; or

(4) The performance or non-performance of any official Corporation duty.

(b) In the event that any subpoena, demand, or request is sought to be delivered to a Corporation Employee other than in the manner prescribed in paragraph (a) of this section, such attempted service shall be ineffective. Such Corporation Employee shall, after consultation with the General Counsel, decline to accept the subpoena, and demand or request the return of it under cover of a written communication referring to the procedures prescribed in this part.

(c) Except as otherwise provided in this part, the Corporation is not an agent for service or otherwise authorized to accept on behalf of Corporation Employees any subpoenas, show-cause orders, or similar compulsory process of federal or state courts, or requests from private individuals or attorneys, which are not related to the employees' official duties except upon the express, written authorization of the individual Corporation Employee to whom such demand or request is directed.

(d) Acceptance of such documents by the General Counsel does not constitute a waiver of any defenses that might otherwise exist with respect to service under the Federal Rules of Civil or Criminal Procedure at 28 U.S.C. Appendix, Rules 4–6 or 18 USC Appendix or other applicable rules.

§ 1201.5 Testimony and production of documents prohibited unless approved by appropriate Corporation officials.

(a) Unless authorized to do so by the General Counsel, no Corporation Employee shall, in response to a demand or request in connection with any litigation, whether criminal or civil, provide oral or written testimony by deposition, declaration, affidavit, or otherwise concerning any information acquired:

(1) While such person was a Corporation Employee;

(2) As part of the performance of that person's official duties; or

(3) By virtue of that person's official status.

(b) No Corporation Employee shall, in response to a demand or request in connection with any litigation, produce for use at such proceedings any document or any other material acquired as part of the performance of that individual's duties or by virtue of that individual's official status, unless authorized to do so by the General Counsel.

§ 1201.6 Procedure when testimony or production of documents is sought.

(a) If Official Information is sought, either through testimony or otherwise, the party seeking such information must (except as otherwise required by federal law or authorized by the General Counsel) set forth in writing with as much specificity as possible, the nature and relevance of the Official Information sought. The party must identify the record or reasonably describe it in terms of date, format, subject matter, the offices originating or receiving the record, and the names of all persons to whom the record is known to relate. Corporation Employees may produce, disclose, release, comment upon, or testify concerning only those matters that were specified in writing and properly approved by the General Counsel. The General Counsel may waive this requirement in appropriate circumstances.

(b) To the extent it deems necessary or appropriate, the Corporation may also require from the party seeking such testimony or documents a schedule of all reasonably foreseeable demands, including but not limited to the names of all current and former Corporation Employees from whom discovery will be sought, areas of inquiry, expected duration of proceedings requiring oral testimony, and identification of potentially relevant documents.

(c) The General Counsel will notify the Corporation Employee and such other persons as circumstances may warrant of the decision regarding compliance with the request or demand.

(d) The General Counsel will consult with the Department of Justice regarding legal representation for Corporation Employees in appropriate cases.

§ 1201.7 Procedure when response to demand is required prior to receiving instructions.

(a) If a response to a demand or request for Official Information pursuant to litigation is required before the General Counsel renders a decision, the Corporation will request that either a Department of Justice attorney or a Corporation attorney designated for the purpose:

(1) Appear, if feasible, with the employee upon whom the demand has been made;

(2) Furnish the court or other authority with a copy of the regulations contained in this part;

(3) Inform the court or other authority that the demand or request has been or is being, as the case may be, referred for the prompt consideration of the General Counsel; and

(4) Respectfully request the court or authority to stay the demand or request pending receipt of the requested instructions.

(b) In the event that an immediate demand or request for production or disclosure is made in circumstances that would preclude the proper designation or appearance of a Department of Justice or Corporation attorney on behalf of the Corporation employee, the Corporation Employee shall respectfully request the court or other authority for a reasonable stay of proceedings for the purpose of obtaining instructions from the Corporation.

§ 1201.8 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand or request in response to a request made pursuant to § 1201.7, or if the court or other authority rules that the demand or request must be complied with irrespective of the Corporation's instructions not to produce the material or disclose the information sought, the Corporation Employee upon whom the demand or request has been made shall, if so directed by the General Counsel, respectfully decline to comply with the demand or request, citing *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951), and the regulations in this part.

§ 1201.9 Considerations in determining whether the Corporation will comply with a demand or request.

(a) In deciding whether to comply with a demand or request, Corporation officials and attorneys are encouraged to consider:

(1) Whether such compliance would be unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure

governing the case or matter in which the demand arose;

(2) Whether compliance is appropriate under the relevant substantive law concerning privilege or disclosure of information;

(3) The public interest;

(4) The need to conserve the time of Corporation Employees for the conduct of official business;

(5) The need to avoid spending the time and money of the United States for private purposes;

(6) The need to maintain impartiality between private litigants in cases where a government interest is not implicated;

(7) Whether compliance would have an adverse effect on performance by the Corporation of its mission and duties; and

(8) The need to avoid involving the Corporation in controversial issues not related to its mission.

(b) Among those demands and requests in response to which compliance may not ordinarily be authorized are those when compliance would:

(1) Violate a statute, a rule of procedure, a specific regulation, or an executive order;

(2) Reveal information properly classified in the interest of national security;

(3) Reveal confidential commercial or financial information or trade secrets without the owner's consent;

(4) Reveal the internal deliberative processes of the Executive Branch; or

(5) Potentially impede or prejudice an ongoing law enforcement investigation.

§ 1201.10 Prohibition on providing expert or opinion testimony.

(a) Except as provided in this section, Corporation Employees shall not provide opinion or expert testimony based upon information that they acquired in the scope and performance of their official Corporation duties, except on behalf of the United States or a party represented by the Department of Justice.

(b) Upon a showing by the requester of exceptional need or unique circumstances and that the anticipated testimony will not be adverse to the interests of the United States, the General Counsel, in the exercise of discretion, may grant special, written authorization for Corporation Employees to appear and testify as expert witnesses at no expense to the United States.

(c) If, despite the final determination of the General Counsel, a court of competent jurisdiction or other appropriate authority orders the appearance and expert or opinion testimony of a Corporation Employee such individual shall immediately inform the General Counsel of such order. If the General Counsel determines that no further legal review of or challenge to the court's order will be made, the Corporation Employee shall comply with the order. If so directed by the General Counsel, however, the individual shall respectfully decline to testify.

§ 1201.11 Authority.

The Corporation receives authority to change its governing regulations from the National and Community Service Act of 1990 as amended (42 U.S.C. 12501 *et seq.*).

Dated: January 27, 1998.

Kenneth L. Klothen,

General Counsel, Office of the General Counsel.

[FR Doc. 98–2369 Filed 1–29–98; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208295–7295–01; I.D. 012398D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim specification for pollock in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 26, 1998, until superseded by the Final 1998 Harvest Specification of Groundfish, which will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The interim specification of pollock total allowable catch in Statistical Area 610 was established by the Interim 1998 Harvest Specifications (62 FR 65622, December 15, 1997) as 6,050 metric tons (mt), determined in accordance with § 679.20(c)(2)(i).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 interim specification of pollock in Statistical Area 610 soon will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,550 mt, and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

Classification

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

This action responds to the interim TAC limitations and other restrictions on the fisheries established in the interim 1998 harvest specifications for groundfish for the GOA. It must be implemented immediately to prevent overharvesting the 1998 interim TAC of pollock in Statistical Area 610 of the GOA. A delay in the effective date is impracticable and contrary to public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 26, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–2282 Filed 1–26–98; 4:44 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 20
Friday, January 30, 1998

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.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

RIN 1515–AB59

Andean Trade Preference

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to implement the duty preference provisions of the Andean Trade Preference Act (the Act). The document sets forth the country of origin and related rules which apply for purposes of duty-free or reduced-duty treatment on imported goods under the Act and specifies the documentary and other procedural requirements which apply to any claim for such preferential tariff treatment under the Act.

DATES: Comments must be received on or before March 31, 1998.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Tony Mazzoccoli, Office of Field Operations (202–927–0564).

Legal Aspects: Craig Walker, Office of Regulations and Rulings (202–927–1116).

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1991, President Bush signed into law the Andean Trade Preference Act (Public Law 102–182, Title II, §§ 201–206, 105 Stat. 1236–1244) (''the Act'', commonly referred to as the ATPA), the provisions of which are codified at 19 U.S.C. 3201 through 3206. Sections 202 and 204(c) of the Act (19 U.S.C. 3201 and 3203(c)) authorize the President to proclaim duty-free treatment for all eligible articles, and duty reductions for certain other goods, from any country designated by the President as a beneficiary country pursuant to section 203 of the Act (19 U.S.C. 3202). On July 2, 1992, President Bush signed Proclamation 6455 (57 FR 30069) which (1) Proclaimed the duty treatment authorized by the Act, (2) designated Colombia as a beneficiary country for purposes of the Act, and (3) modified the Harmonized Tariff Schedule of the United States (HTSUS) to incorporate the substance of the relevant provisions of the Act; under the terms of the proclamation, the proclaimed duty treatment was effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 22, 1992. On the same date President Bush signed Proclamation 6456 (57 FR 30097) designating Bolivia as a beneficiary country for purposes of the Act, similarly effective July 22, 1992. On April 13, 1993, President Clinton signed Proclamation 6544 (58 FR 19547) which, among other things, designated Ecuador as a beneficiary country for purposes of the Act, effective April 30, 1993. On August 11, 1993, President Clinton signed Proclamation 6585 (58 FR 43239) designating Peru as a beneficiary country for purposes of the Act, effective August 26, 1993. The modifications to the HTSUS contained in Proclamation 6455 setting forth the substance of the relevant provisions of the Act are now contained in General Note 11, HTSUS, and eligible articles and other goods to which preferential duty treatment under the Act applies are identified within the HTSUS by the designation ''J'' appearing with or without an asterisk in the ''Special'' rate of duty subcolumn.

Sections 204(a)–(c) of the Act (19 U.S.C. 3203(a)–(c)) set forth the standards which govern the eligibility of articles for duty-free or reduced-duty treatment under the Act. Section 204(a), which contains the basic origin and related rules for purposes of duty-free treatment, was based on section 213(a) of the Caribbean Basin Economic Recovery Act, as amended (19 U.S.C. 2703(a)), which sets forth the origin and related rules governing duty-free treatment under the Caribbean Basin Initiative (CBI). Thus, in order to be eligible for duty-free treatment under the Act, an article imported from a designated beneficiary country must meet three basic requirements: (1) It must be imported directly from a beneficiary country into the customs territory of the United States; (2) it must have its origin in a beneficiary country, that is, it either must be wholly the growth, product, or manufacture of a beneficiary country or must be a new or different article of commerce that has been grown, produced, or manufactured in a beneficiary country; and (3) it must have a minimum domestic value content, that is, at least 35 percent of its appraised value must be attributed to the sum of the cost or value of materials produced in one or more beneficiary countries plus the direct costs of processing operations performed in one or more beneficiary countries. The provisions of section 204(a) of the Act further parallel the provisions of section 213(a) of the CBI statute in the following regards: (1) Simple combining or packaging operations or mere dilution with water or another substance does not confer beneficiary country origin on an imported article or on a constituent material of an imported article; (2) the term ''beneficiary country'' is defined as including the Commonwealth of Puerto Rico and the U.S. Virgin Islands for purposes of determining compliance with the 35 percent value content requirement; (3) the cost or value of materials produced in the customs territory of the United States (other than in Puerto Rico) may be counted toward the 35 percent value content requirement to a maximum of 15 percent of the appraised value of the imported article; and (4) the expression ''direct costs of processing operations'' is defined in the same manner. However, the origin and related rules of section 204(a) of the Act differ from the corresponding provisions in section 213(a) of the CBI statute in two principal respects: (1) Section 204(a) of the Act specifically allows input attributable to one or more CBI beneficiary countries for purposes of the 35 percent value content requirement (the corresponding CBI statutory provision makes no mention of input attributable to beneficiary countries under the Act); and (2) section 204(a) of the Act has no provision corresponding

to section 213(a)(4) of the CBI statute which was added to facilitate the addition of value to an article in Puerto Rico and the granting of duty-free treatment after final exportation of an article from a CBI beneficiary country. Section 204(b) of the Act lists eight categories of goods excluded from the duty-free treatment provided for in section 204(a), one of which refers to articles to which reduced rates of duty apply under section 204(c) of the Act. Section 204(c) directs the President to proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves and leather wearing apparel that: (1) Are the product of any beneficiary country; and (2) were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences (GSP) under Title V of the Trade Act of 1974 (19 U.S.C. 2461–2466). These reduced duty rates, which were generally implemented in equal annual stages over a 5-year period (commencing in 1992 and ending in 1996), appear in the HTSUS in the ''Special'' rate of duty subcolumn followed by the symbol ''J'' within parentheses.

The U.S. Customs Service is responsible for the administration of laws and regulations regarding the entry of merchandise into the United States. Moreover, section 204(a)(2) of the Act specifically directs the Secretary of the Treasury to promulgate such regulations as may be necessary to carry out the duty-free treatment provisions of the Act. Accordingly, this document proposes to amend the Customs Regulations to implement the duty preference provisions of the Act.

In view of the similarity between the origin and related rules under the Act and those under the CBI, the proposed regulations set forth in this document are based in significant part on the CBI regulations contained in §§ 10.191–10.198 of the Customs Regulations (19 CFR 10.191–10.198). However, some variations have been made from the CBI approach, in some cases to reflect differences between the Act and the CBI statute and in other cases to simplify or otherwise improve on the layout of the CBI regulations. The proposed regulations are discussed in detail below.

Discussion of Proposed Amendments

Section 10.201

This section sets forth a general statement regarding the purpose of the regulations with reference to the Act and its implementation by the President.

Section 10.202

This section sets forth definitions of terms or expressions of general use throughout the regulatory texts.

Paragraph (a), which defines ''beneficiary country'', reflects both the definition in section 203(a)(1) of the Act and the approach taken in § 10.191(b)(1) of the CBI regulations. The exception language in the definition is directed to those entities that are treated as beneficiary countries only for the limited purpose of the 35 percent value content requirement (see the discussion of § 10.206(b) below). Thus, where the term ''beneficiary country'' appears in a regulatory text without any modifier or qualification and the context does not involve the 35 percent value content requirement, such term has reference only to an ATPA beneficiary country as so designated by the President.

The definition of ''eligible articles'' in paragraph (b) is similar to the approach taken in § 10.191(b)(2) of the CBI regulations. The definition refers specifically to duty-free treatment, which is authorized under section 204(a) of the Act, and thus does not apply to reduced-duty treatment under section 204(c) of the Act (see § 10.208 below). The list of articles excluded from the definition reflect the terms of section 204(b) of the Act.

The definition of ''entered'' in paragraph (c) is taken from section 203(a)(2) of the Act.

The definition of ''wholly the growth, product, or manufacture of a beneficiary country'' in paragraph (d) simply refers to the definition of the same expression set forth in § 10.191(b)(3) of the CBI regulations.

Section 10.203

This section makes a general reference to the requirements for preferential duty treatment and with cross-references to the specific sections which set forth those requirements in detail. Although somewhat different from the approach taken in the CBI regulations, Customs believes that this general statement/cross-reference approach will facilitate the reader's overall understanding of the duty-free aspects of the Act and the requirements thereunder.

This section refers only to duty-free treatment (which is provided for under section 204(a) of the Act) and to those sections of the regulations that deal with the requirements for such treatment. Thus, this section and the other sections cited therein have no application in the case of reduced-duty treatment which is provided for separately under section 204(c) of the Act (see the discussion of § 10.208 below).

Section 10.204

This section implements the ''imported directly'' requirement of section 204(a)(1)(A) of the Act and is based on § 10.193 of the CBI regulations. As in the case of the CBI, reference is made to shipment from ''any'' beneficiary country because, under the wording of the statute (and as a means to facilitate cumulation of value among multiple beneficiary countries—see § 10.206 below), the article merely must be imported directly from ''a'' beneficiary country and thus does not have to be shipped from the beneficiary country where it was produced.

Section 10.205

This section sets forth the basic country of origin rules which apply to articles for purposes of duty-free treatment under section 204 of the Act.

The ''wholly the growth, product, or manufacture'' language in paragraph (a)(1) and the ''new or different article of commerce which has been grown, produced, or manufactured'' language in paragraph (a)(2) reflect standards required by section 204(a)(2) of the Act to be included in the implementing regulations.

Paragraph (b) implements the simple combining or packaging or mere dilution exceptions to duty-free eligibility required to be in the regulations by section 204(a)(2) of the Act. Since the language of the Act in this regard is identical to language used in the CBI statute, this paragraph follows § 10.195(a)(1) of the CBI regulations by including the words ''(as opposed to complex or meaningful)'' after the word ''simple'', and the last sentence is intended to shorten the regulatory text by incorporating by reference the provisions of the CBI regulations which clarify the meaning and application of identical statutory language. It should be noted that, as in the case of the CBI, the simple combining or packaging or mere dilution language operates only in the limited context of eligibility for duty-free treatment; that language does not limit or otherwise affect a determination as to whether a new or different article of commerce has been created in a beneficiary country within the meaning of paragraph (a)(2) of this section.

Section 10.206

This section implements the 35 percent value content requirement contained in section 204(a)(1)(B) of the Act.

Paragraph (a) sets forth the basic requirement but refers simply to ''a beneficiary country or countries''

without specifically mentioning CBI beneficiary countries even though such countries are specified in the statutory text with regard to both the cost or value of materials and the direct costs of processing operations (see the discussion of paragraph (b) below). As in the case of the CBI, the statutory and regulatory texts permit unlimited cumulation of value among ''beneficiary countries'' for purposes of meeting the 35 percent value content requirement.

In paragraph (b), the first sentence defines ''beneficiary country'' as including, for purposes of the 35 percent value content requirement, (1) the Commonwealth of Puerto Rico and the U.S. Virgin Islands and (2) any CBI beneficiary country. The reference to CBI beneficiary countries in this regulatory context (rather than in paragraph (a) of this section) is intended to simplify the regulatory texts here and elsewhere and will have no substantive effect on the proper interpretation and application of the statutory provisions. The second sentence of this paragraph is based on the second sentence of § 10.195(b) of the CBI regulations and is intended to clarify a basic legal limitation on the statutorially-permitted cumulation of value attributable to entities that are not ''beneficiary countries'' as defined in section 203(a)(1) of the Act: except in the case of Puerto Rico which is part of the customs territory of the United States, if value is added to an article in any such entity (that is, in the U.S. Virgin Islands or in a CBI beneficiary country) after final exportation of the article from a beneficiary country designated as such by the President under the Act and prior to importation into the United States, such addition of value would disqualify the article from duty-free treatment because the article would have entered the commerce of the intermediate entity and thus could not be considered to be ''imported directly'' upon arrival in the customs territory of United States within the meaning of section 204(a)(1)(A) of the Act and § 10.204 of the implementing regulations. While the same legal limitation would not apply *per se* in the case of value added in Puerto Rico or in the case of U.S.-produced materials added in the United States (see paragraph (c) of this section), as a practical matter the opportunities for such additions in a post-final-exportation context and prior to entry for consumption are limited by the following factors: (1) Bonded manufacturing warehouses cannot be used because under 19 U.S.C. 1311 and § 19.15 of the Customs Regulations (19 CFR 19.15) the article subjected to a manufacturing process in such a warehouse may not be withdrawn for consumption but rather must be exported; (2) while a storage and manipulation warehouse under 19 U.S.C. 1557 and 1562 and Part 144 of the Customs Regulations (19 CFR Part 144) could be used, the benefit as regards added value would not be significant in most cases because manufacturing processes are precluded in such warehouses; (3) while foreign-trade zones established and operated under 19 U.S.C. 81a–81u and Part 146 of the Customs Regulations (19 CFR Part 146) could be used, such facilities involve special procedures and limitations; and (4) while an article could be imported under a temporary importation bond for processing (including manufacture) under subheading 9813.00.05, HTSUS, and § 10.31 of the Customs Regulations (19 CFR 10.31), such an article ultimately would have to be exported in accordance with the terms of the bond. It is also noted in this regard that the Act contains no provision similar to section 213(a)(4) of the CBI statute (19 U.S.C. 2703(a)(4)) which was added in 1984 specifically for the purpose of facilitating the addition of value through tail-end processing performed in bonded manufacturing warehouses located in Puerto Rico.

Paragraph (c) reflects section 204(a)(1) as regards the inclusion of U.S.-produced materials and is based on § 10.195(c) of the CBI regulations.

Paragraph (d) is based on § 10.196 of the CBI regulations. The following points are noted as regards this paragraph:

1. Subparagraph (1) corresponds to paragraph (a) of the CBI regulation but with the following principal differences: (1) the simple combining or packaging or mere dilution limitation (also applicable to materials under section 204(a)(2) of the Act) has been included directly, rather than as a cross-reference to the rule set forth in the regulatory provision covering articles (§ 10.205(b)), for purposes of clarity and in order to ensure that a clear distinction is made between application of the rule for purposes of eligibility of an article for duty-free treatment and application of the rule for purposes of determining the origin of a material for purposes of the 35 percent value content requirement; and (2) to avoid unnecessary repetition of regulatory text, the examples of § 10.196(a), and the principles and examples of § 10.195(a)(2), of the CBI regulations have been incorporated by reference since those CBI provisions are equally applicable in the present context.

2. Subparagraph (2) is taken from § 10.196(b) of the CBI regulations.

3. Subparagraph (3) follows § 10.196(c) of the CBI regulations but also refers specifically to materials produced in the customs territory of the United States.

Paragraph (e) implements section 204(a)(3) of the Act (which is identical to section 213(a)(3) of the CBI statute (19 U.S.C. 2703(a)(3)) and follows the terms of § 10.197 of the CBI regulations.

Paragraph (f) is based on, and is used in the same context as, § 10.195(e) of the CBI regulations. Wherever origin terminology and the term ''beneficiary country'' are used together with reference to an article, the latter term is restricted so as to cover only a beneficiary country designated under the Act by the President, in order to reflect the fact that an article (as opposed to materials incorporated in an article) must be a product of such a beneficiary country and cannot be a product of a CBI beneficiary country.

Section 207

This section is intended to cover all procedural requirements, including the submission of documentation required to support a claim for duty-free treatment. The provisions of this section are based on CBI regulatory provisions.

Paragraph (a), which concerns the procedure for filing a claim for duty-free treatment, is based on § 10.192 of the CBI regulations but does not include the first sentence of the CBI provision which Customs believes is redundant and thus unnecessary. The exception language at the beginning of the paragraph is intended to reflect the fact that this procedure does not apply in the case of an informal entry.

Paragraph (b) concerns the documentary evidence of country of origin and of compliance with the 35 percent value content requirement and, subject to changes to reflect the context of the Act, follows the terms of § 10.198(a) of the CBI regulations.

Paragraph (c) sets forth the procedures which apply in the case of informal entries and is based on § 10.198(b) of the CBI regulations.

Paragraph (d), which concerns evidence of direct importation, is based on § 10.194 of the CBI regulations. However, the last sentence of paragraph (a) of the CBI provision has not been included because it is covered by paragraph (e) of this section.

Paragraph (e), which concerns verification of submitted documentation, is based on § 10.198(c) of the CBI regulations but refers to all documentation submitted under § 10.207, that is, evidence of country of

origin and of compliance with the 35 percent value content requirement submitted under paragraph (b) and evidence of direct importation submitted under paragraph (d).

Section 10.208

This section implements the duty-reduction provisions of section 204(c) of the Act. This section is set forth separately to reflect the fact that the Act treats the duty-reduction provisions separately from the duty-free provisions of section 204(a) and without any repetition of, or cross-reference to, the legal requirements that apply for purposes of duty-free treatment. Thus, paragraph (a) of this section does not refer to direct importation, the 35 percent value content requirement, or the simple combining or packaging or mere dilution limitation because, under the terms of the Act, those legal standards apply only for purposes of duty-free treatment under section 204(a), and no ATPA Declaration is required under this section because the ATPA Declaration is directed primarily to compliance with the 35 percent value content requirement. However, because Customs believes that the words ''product of'' as used in section 204(c)(1)(A) of the Act should be interpreted as synonymous with the basic origin rule used for Customs purposes, paragraph (a) of this section repeats the rule set forth in § 10.205(a) as discussed above. Paragraph (b), which sets forth the normal procedure for filing a reduced-duty claim, and paragraph (c), which covers verification of a reduced-duty claim, are variations of §§ 10.207(a) and (e) and are otherwise self-explanatory.

Comments

Before adopting the proposed amendments as a final rule, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Anenue, N.W., 3rd Floor, Washington, D.C.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. The amendments reflect statutory requirements that are already in effect and follow existing regulatory provisions that implement similar statutory programs. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collection of information in these proposed regulations is in § 10.207. This information conforms to requirements in 19 U.S.C. 3203(a) and is used by Customs to determine whether goods imported from designated beneficiary countries are entitled to duty-free entry under that statutory provision. The likely respondents are business organizations including importers, exporters, and manufacturers.

Estimated total annual reporting and/or recordkeeping burden: 5,000 hours.

Estimated average annual burden per respondent/recordkeeper: 2 minutes.

Estimated number of respondents and/or recordkeepers: 150,000.

Estimated annual number of responses: 150,000.

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operations, maintenance, and purchase of services to provide information.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 10

Andean trade preference, Customs duties and inspection, Entry procedures, Exports, Imports, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

For the reasons set forth above, it is proposed to amend Part 10, Customs Regulations (19 CFR Part 10), as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for Part 10 continues to read, and a specific authority citation for §§ 10.201 through 10.207 is added to read, as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

§ 10.201 through 10.207 also issued under 19 U.S.C. 3203.

2. Part 10 is amended by adding a new center heading followed by new sections 10.201 through 10.208 to read as follows:

Andean Trade Preference

10.201 Applicability.
10.202 Definitions.
10.203 Eligibility criteria in general.
10.204 Imported directly.
10.205 Country of origin criteria.
10.206 Value content requirement.
10.207 Procedures for filing duty-free treatment claim and submitting supporting documentation.
10.208 Duty reductions for certain products.

Andean Trade Preference

§ 10.201 Applicability.

Title II of Public Law 102–182 (105 Stat. 1233), entitled the Andean Trade

Preference Act (ATPA) and codified at 19 U.S.C. 3201–3206, authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country, to designate countries as beneficiary countries, and to proclaim duty reductions for certain goods not eligible for duty-free treatment. The provisions of §§ 10.202 through 10.208 of this part set forth the legal requirements and procedures that apply for purposes of obtaining such duty-free or reduced-duty treatment for articles from a beneficiary country which are identified for purposes of such treatment in General Note 11, Harmonized Tariff Schedule of the United States (HTSUS), and in the ''Special'' rate of duty column of the HTSUS.

§ 10.202 Definitions.

The following definitions apply for purposes of §§ 10.201 through 10.208:

(a) *Beneficiary country.* Except as otherwise provided in § 10.206(b), the term ''beneficiary country'' refers to any country or successor political entity with respect to which there is in effect a proclamation by the President designating such country or successor political entity as a beneficiary country in accordance with section 203 of the ATPA (19 U.S.C. 3202).

(b) *Eligible articles.* The term ''eligible'' when used with reference to an article means any merchandise which is imported directly from a beneficiary country as provided in § 10.204, which meets the country of origin criteria set forth in § 10.205 and the value-content requirement set forth in § 10.206, and which, if the requirements of § 10.207 are met, is therefore entitled to duty-free treatment under the ATPA. The following merchandise shall not be considered eligible articles entitled to duty-free treatment under the ATPA:

(1) Textile and apparel articles which are subject to textile agreements;

(2) Footwear not designated on December 4, 1991, as eligible for the purpose of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461–2466);

(3) Tuna, prepared or preserved in any manner, in airtight containers;

(4) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710, Harmonized Tariff Schedule of the United States (HTSUS);

(5) Watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTSUS column 2 rates of duty apply;

(6) Sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12, HTSUS;

(7) Rum and tafia classified in subheading 2208.40.00, HTSUS; or

(8) Articles to which reduced rates of duty apply under section 204(c) of the ATPA (19 U.S.C. 3203(c)) (see § 10.208).

(c) *Entered.* The term ''entered'' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(d) *Wholly the growth, product, or manufacture of a beneficiary country.* The expression ''wholly the growth, product, or manufacture of a beneficiary country'' has the same meaning as that set forth in § 10.191(b)(3) of this part.

§ 10.203 Eligibility criteria in general.

An article classifiable under a subheading of the Harmonized Tariff Schedule of the United States for which a rate of duty of ''Free'' appears in the ''Special'' subcolumn followed by the symbol ''J'' or ''J*'' in parentheses is eligible for duty-free treatment, and will be accorded such treatment, if each of the following requirements is met:

(a) *Imported directly.* The article is imported directly from a beneficiary country as provided in § 10.204.

(b) *Country of origin criteria.* The article complies with the country of origin criteria set forth in § 10.205.

(c) *Value content requirement.* The article complies with the value content requirement set forth in § 10.206.

(d) *Filing of claim and submission of supporting documentation.* The claim for duty-free treatment is filed, and any required documentation in support of the claim is submitted, in accordance with the procedures set forth in § 10.207.

§ 10.204 Imported directly.

In order to be eligible for duty-free treatment under the ATPA, an article shall be imported directly from a beneficiary country into the customs territory of the United States. For purposes of this requirement, the words ''imported directly'' mean:

(a) Direct shipment from any beneficiary country to the United States without passing through the territory of any non-beneficiary country; or

(b) If shipment from any beneficiary country to the United States was through the territory of a non-beneficiary country, the articles in the shipment did not enter into the commerce of the non-beneficiary country while en route to the United States, and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(c) If shipment from any beneficiary country to the United States was through the territory of a non-beneficiary country and the invoices and other documents do not show the United States as the final destination, then the articles in the shipment, upon arrival in the United States, are imported directly only if they:

(1) Remained under the control of the customs authority in the intermediate country;

(2) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the articles are imported into the United States as a result of the original commercial transaction between the importer and the producer or the latter's sales agent; and

(3) Were not subjected to operations in the intermediate country other than loading and unloading, and other activities necessary to preserve the articles in good condition.

§ 10.205 Country of origin criteria.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, an article may be eligible for duty-free treatment under the ATPA if the article is either:

(1) Wholly the growth, product, or manufacture of a beneficiary country; or

(2) A new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country.

(b) *Exceptions.* No article shall be eligible for duty-free treatment under the ATPA by virtue of having merely undergone simple (as opposed to complex or meaningful) combining or packaging operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article. The principles and examples set forth in § 10.195(a)(2) of this part shall apply equally for purposes of this paragraph.

§ 10.206 Value content requirement.

(a) *General.* An article may be eligible for duty-free treatment under the ATPA only if the sum of the cost or value of the materials produced in a beneficiary country or countries, plus the direct costs of processing operations performed in a beneficiary country or countries, is not less than 35 percent of the appraised value of the article at the time it is entered.

(b) *Commonwealth of Puerto Rico, U.S. Virgin Islands and CBI beneficiary*

countries. For purposes of determining the percentage referred to in paragraph (a) of this section, the term ''beneficiary country'' includes the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and any CBI beneficiary country as defined in § 10.191(b)(1) of this part. Any cost or value of materials or direct costs of processing operations attributable to the Virgin Islands or any CBI beneficiary country must be included in the article prior to its final exportation to the United States from a beneficiary country as defined in § 10.202(a).

(c) *Materials produced in the United States.* For purposes of determining the percentage referred to in paragraph (a) of this section, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered may be attributed to the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico). The principles set forth in paragraph (d)(1) of this section shall apply in determining whether a material is ''produced in the customs territory of the United States'' for purposes of this paragraph.

(d) *Cost or value of materials.* (1) *''Materials produced in a beneficiary country or countries'' defined.* For purposes of paragraph (a) of this section, the words ''materials produced in a beneficiary country or countries'' refer to those materials incorporated in an article which are either:

(i) Wholly the growth, product, or manufacture of a beneficiary country or two or more beneficiary countries; or

(ii) Substantially transformed in any beneficiary country or two or more beneficiary countries into a new or different article of commerce which is then used in any beneficiary country as defined in § 10.202(a) in the production or manufacture of a new or different article which is imported directly into the United States. For purposes of this paragraph (d)(1)(ii), no material shall be considered to be substantially transformed into a new or different article of commerce by virtue of having merely undergone simple (as opposed to complex or meaningful) combining or packaging operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article. The examples set forth in § 10.196(a) of this part, and the principles and examples set forth in § 10.195(a)(2) of this part, shall apply for purposes of the corresponding context under paragraph (d)(1) of this section.

(2) *Questionable origin.* When the origin of a material either is not ascertainable or is not satisfactorily demonstrated to the appropriate port director, the material shall not be considered to have been grown, produced, or manufactured in a beneficiary country or in the customs territory of the United States.

(3) *Determination of cost or value of materials.* (i) The cost or value of materials produced in a beneficiary country or countries or in the customs territory of the United States includes:

(A) The manufacturer's actual cost for the materials;

(B) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(C) The actual cost of waste or spoilage, less the value of recoverable scrap; and

(D) Taxes and/or duties imposed on the materials by any beneficiary country or by the United States, provided they are not remitted upon exportation.

(ii) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(B) An amount for profit; and

(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

(iii) If the pertinent information needed to compute the cost or value of a material is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

(e) *Direct costs of processing operations.* (1) *Items included.* For purposes of paragraph (a) of this section, the words ''direct costs of processing operations'' mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include, but are not limited to the following, to the extent that they are includable in the appraised value of the imported merchandise:

(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise; and

(iv) Costs of inspecting and testing the specific merchandise.

(2) *Items not included.* For purposes of paragraph (a) of this section, the words ''direct costs of processing operations'' do not include items which are not directly attributable to the merchandise under consideration or are not costs of manufacturing the product. These include, but are not limited to:

(i) Profit; and

(ii) General expenses of doing business which either are not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

(f) *Articles wholly the growth, product, or manufacture of a beneficiary country.* Any article which is wholly the growth, product, or manufacture of a beneficiary country as defined in § 10.202(a), and any article produced or manufactured in a beneficiary country as defined in § 10.202(a) exclusively from materials which are wholly the growth, product, or manufacture of a beneficiary country or countries, shall normally be presumed to meet the requirement set forth in paragraph (a) of this section.

§ 10.207 Procedures for filing duty-free treatment claim and submitting supporting documentation.

(a) *Filing claim for duty-free treatment.* Except as provided in paragraph (c) of this section, a claim for duty-free treatment under the ATPA may be made at the time of filing the entry summary by placing the symbol ''J'' as a prefix to the Harmonized Tariff Schedule of the United States subheading number applicable to each article for which duty-free treatment is claimed on that document.

(b) *Shipments covered by a formal entry.* (1) *Articles not wholly the growth, product, or manufacture of a beneficiary country.* (i) *Declaration.* In a case involving an article covered by a formal entry for which duty-free treatment is claimed under the ATPA and which is not wholly the growth, product, or manufacture of a single beneficiary country as defined in § 10.202(a), the exporter or other appropriate party having knowledge of the relevant facts

in the beneficiary country as defined in § 10.202(a) where the article was produced or last processed shall be prepared to submit directly to the port director, upon request, a declaration setting forth all pertinent detailed information concerning the production or manufacture of the article. When requested by the port director, the declaration shall be prepared in substantially the following form:

ATPA DECLARATION

I, _____ (name), hereby declare that the articles described below (a) were produced or manufactured in _____ (country) by means of processing operations performed in that country as set forth below and were also subjected to processing operations in the other beneficiary country or countries (including the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and any CBI beneficiary country) as set forth below and (b) incorporate materials produced in the country named above or in any other beneficiary country or countries (including the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and any CBI beneficiary country) or in the customs territory of the United States (other than the Commonwealth of Puerto Rico) as set forth below:

Number and date of invoices	Description of articles and quantity	Processing operations performed on articles		Material produced in a beneficiary country or in the U.S.	
		Description of processing operations and country of processing	Direct costs of processing operations	Description of material, production process, and country of production	Cost or value of material

Date _____

Address _____

Signature _____

Title _____

(ii) *Retention of records and submission of declaration.* The information necessary for the preparation of the declaration shall be retained in the files of the party responsible for its preparation and submission for a period of 5 years. In the event that the port director requests submission of the declaration during the 5-year period, it shall be submitted by the appropriate party directly to the port director within 60 days of the date of the request or such additional period as the port director may allow for good cause shown. Failure to submit the declaration in a timely fashion will result in a denial of duty-free treatment.

(iii) *Value added after final exportation.* In a case in which value is added to an article in the Commonwealth of Puerto Rico or in the United States after final exportation of the article from a beneficiary country as defined in § 10.202(a), in order to ensure compliance with the value requirement under § 10.206(a), the declaration provided for in paragraph (b)(1)(i) of this section shall be filed by the importer or consignee with the entry summary. The declaration shall be completed by the party responsible for the addition of such value.

(2) *Articles wholly the growth, product, or manufacture of a beneficiary country.* In a case involving an article covered by a formal entry for which duty-free treatment is claimed under the ATPA and which is wholly the growth, product, or manufacture of a single beneficiary country as defined in § 10.202(a), a statement to that effect shall be included on the commercial invoice provided to Customs.

(c) *Shipments covered by an informal entry.* The normal procedure for filing a claim for duty-free treatment as set forth in paragraph (a) of this section need not be followed, and the filing of the declaration provided for in paragraph (b)(1)(i) of this section will not be required, in a case involving a shipment covered by an informal entry. However, the port director may require submission of such other evidence of entitlement to duty-free treatment as deemed necessary.

(d) *Evidence of direct importation.* (1) *Submission.* The port director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the articles were ''imported directly'', as that term is defined in § 10.204.

(2) *Waiver.* The port director may waive the submission of evidence of direct importation when otherwise satisfied, taking into consideration the kind and value of the merchandise, that the merchandise was, in fact, imported directly and that it otherwise clearly qualifies for duty-free treatment under the ATPA.

(e) *Verification of documentation.* The documentation submitted under this section to demonstrate compliance with the requirements for duty-free treatment under the ATPA shall be subject to such verification as the port director deems necessary. In the event that the port director is prevented from obtaining the necessary verification, the port director may treat the entry as fully dutiable.

§ 10.208 Duty reductions for certain products.

(a) *General.* Handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461–2466), are not eligible for duty-free treatment under the ATPA. However, any such article from a beneficiary country may be subject to a reduced rate of duty set forth in the Harmonized Tariff Schedule of the United States in the applicable ''Special'' subcolumn followed by the symbol ''J'' in parenthesis, provided the article is a product of any beneficiary country. For purposes of this section, an article is a ''product of'' a beneficiary country if the article is either:

(1) Wholly the growth, product, or manufacture of a beneficiary country; or

(2) A new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country.

(b) *Filing reduced-duty claim.* A claim for reduced-duty treatment under the ATPA may be made at the time of filing the entry summary or other entry document by placing thereon the symbol ''J'' as a prefix to the Harmonized Tariff Schedule of the United States subheading number applicable to each article for which reduced-duty treatment is claimed and

by placing thereon the reduced duty rate applicable to each such article.

(c) *Verification of reduced-duty claim*. Any claim for reduced-duty treatment under this section shall be subject to such verification as the port director deems necessary. In the event that the port director is prevented from obtaining the necessary verification, the port director may treat the entry as dutiable at the applicable non-ATPA rate.

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: December 24, 1997.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–2249 Filed 1–29–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE56

Endangered and Threatened Wildlife and Plants; Proposal To Determine the Pecos Pupfish (Cyprinodon pecosensis) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list the Pecos pupfish (*Cyprinodon pecosensis*) as an endangered species without critical habitat under authority of the Endangered Species Act of 1973, as amended (Act). The historical range of the Pecos pupfish included the mainstream Pecos River and various lakes, gypsum sinkholes, saline springs, and tributaries associated with the river from the vicinity of Roswell, Chaves County, New Mexico, downstream to the vicinity of Sheffield, Pecos County, Texas. The Pecos pupfish has been replaced by sheepshead minnow (*C. variegatus*) x Pecos pupfish hybrids throughout more than two-thirds of its historical range. The Pecos pupfish was declining prior to introduction of the sheepshead minnow, primarily as a result of competition and depredation by nonnative fish species, and habitat loss caused by such factors as water diversion, groundwater depletion, channelization, and watershed disturbance (Sublette et al. 1990, Minckley et al. 1991). This proposal, if made final, will implement Federal protection provided by the Act for the Pecos pupfish.

DATES: Comments from all interested parties must be received by March 31, 1998. Public hearing requests must be received by March 16, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Ecological Services Field Office, U.S. Fish and Wildlife Service, 2105 Osuna NE., Albuquerque, New Mexico 87113. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Fowler-Propst, Field Supervisor, Ecological Services Field Office (Albuquerque) (see **ADDRESSES** section) (telephone 505/761–4525).

SUPPLEMENTARY INFORMATION:

Background

The Pecos pupfish, described by Echelle and Echelle (1978), is a member of the family Cyprinodontidae. The taxonomic status of the Pecos pupfish had been uncertain for more than 30 years because of a previous description of a pupfish (*Cyprinodon bovinus*) from the Pecos River (Baird and Girard 1853). Type specimens from the Pecos River in the original series were lost or in poor condition, but were assumed to be the same as the Pecos pupfish until an extant population of *C. bovinus* was found at Leon Springs, Texas, and confirmed as different from the form in the Pecos River proper (Echelle and Miller 1974).

The Pecos pupfish is a small, deep-bodied (2.8 to 4.6 centimeter (cm) (1.1 to 1.8 inch (in.)) standard length) gray-to-brown fish. Male dorsal and anal fins are black almost to the margin with no yellow on the dorsal, anal, or caudal fins. The lateral bars on the female are typically broken into blotches ventrolaterally. The abdomen is generally naked (i.e., without scales) except for a few scales in front of the pelvic fins and a patch just behind the gill membrane isthmus. There are 20 to 21 gill rakers, and usually 3 or 4 preorbital pores on each side of the head (Echelle and Echelle 1978).

The Pecos pupfish is native to the Pecos River and its tributaries, and nearby lakes, sinkholes, and saline springs in New Mexico and Texas. The historical range of the species included the Pecos River from Bitter Lake National Wildlife Refuge and Bottomless Lakes State Park near Roswell, Chaves County, New Mexico, downstream approximately 650 km (404 mi) to the mouth of Independence Creek, southeast of Sheffield, Pecos County, Texas (Wilde and Echelle 1992). It was also found in gypsum sinkholes and saline springs at Bitter Lake National Wildlife Refuge (including the Salt Creek Wilderness Area); sinkholes and springs at Bottomless Lakes State Park (Brooks and Woods 1988); and in Salt Creek, Reeves County, Texas.

In Texas, genetically pure populations of the Pecos pupfish are now thought to occur only in the upper reaches of Salt Creek, Culberson and Reeves counties, Texas (Wilde and Echelle 1992) and, less probably, in 2 water-filled gravel pits owned by the Phipps Gravel Company, in Pecos County 10.8 km (6.7 mi) west of Grandfalls, Texas. In New Mexico, the species still occurs in the Pecos River from north of Malaga upstream to Bitter Lake National Wildlife Refuge. It continues to survive in the Salt Creek Wilderness Area (North Tract) of Bitter Lake National Wildlife Refuge, where it is found in sinkholes, springs and Salt Creek (Brooks and Woods 1988, Sublette et al. 1990, Hoagstrom and Brooks 1997). It is also found at Bottomless Lakes State Park. This range reduction represents a loss of more than two-thirds of the species' former range (Echelle and Connor 1989).

Previous Federal Actions

In both the December 30, 1982, Review of Vertebrate Wildlife, Notice of Review (47 FR 58454); and the September 18, 1985, Review of Vertebrate Wildlife, Notice of Review (50 FR 37958), the Pecos pupfish was included as a category 2 species. Category 2 candidates were those species for which the Service had information indicating that listing may be warranted but for which it lacked sufficient information on status and threats to support issuance of proposed listing rules. However, based on new information from more recent surveys, the Pecos pupfish was identified as a Category 1 candidate in the January 6, 1989, Animal Notice of Review (54 FR 554) and in the November 21, 1991, Animal Notice of Review (56 FR 58804). Category 1 candidates were those species for which the Service had on file sufficient information to support issuance of proposed listing rules. In the February 28, 1996, Candidate Notice of Review (61 FR 7596), the Service discontinued the designation of multiple categories of candidates, and only former category 1 species are now recognized as candidates for listing purposes. The Pecos pupfish remained as a candidate species in the February 28, 1996, Notice of Review (61 FR 7596) and in the September 19, 1997, Notice of Review (62 FR 49398).

Pre-proposal letters requesting comments and information were mailed to interested parties, including Federal, State, and local agencies, in June 1991 and again in March 1997. Responses were received to the 1991 request from three New Mexico State agencies, one Texas State agency, a national wildlife refuge, three Federal agencies, three scientific experts, and a county judge. One Federal agency, one State agency, two universities, and one environmental group responded to the 1997 request. Where appropriate, the comments received were included in this proposed rule. A presentation of the current known status of the species was made at the Annual Meeting of the Pecos River Compact Commission on April 17, 1997.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Pecos pupfish (*Cyprinodon pecosensis*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Historical habitat of the Pecos pupfish in New Mexico has been drastically altered or destroyed by human uses of the Pecos River and activities in its watershed. These alterations include: conversion of flowing waters into slack waters by impoundment; alteration of flow regimes (including conversion of perennial flow to intermittent or no flow, and the reduction, elimination, or modification of natural flooding patterns); alteration of silt and bed loads; loss of marshes and backwaters; increases or decreases in water temperatures; and alteration of stream channel characteristics from well-defined, surface level, heavily vegetated channels with a diversity of substrates and habitats, to deeply cut unstable arroyos with little riparian vegetation, uniform substrate, and little habitat diversity. Causes of such alterations include: water diversion, damming, channelization, channel down-cutting, excessive groundwater pumping with resultant lowering of water tables, destruction of riparian vegetation, and other watershed disturbances. These ongoing changes in habitat conditions, along with displacement of the species by hybrids, threaten the survival of the Pecos pupfish throughout its entire range (Wilde and Echelle 1992).

Low velocity floodplain habitats adjacent to the main channel of the Pecos River provide refugia for the small Pecos pupfish from high flows in the main channel. These habitats are also characterized by higher levels of productivity and more stable food sources for the omnivorous pupfish. However, channelization and stream incision of the Pecos River, exacerbated by encroachment and channel armoring by salt cedar, have eliminated extensive floodplain habitat along the Pecos River. Wetlands and marshes adjacent to the river, once regularly flooded by peak river flows, are now dry or are only sporadically wetted. Reduction of base flows also occurred as a result of dam construction and reservoir operation, greatly reducing the number and extent of these habitats linked to the main river channel. The continuing loss of these floodplain habitats is a significant threat to the Pecos pupfish.

Pecos pupfish living in sinkholes and springs are threatened by groundwater depletion. In southeastern New Mexico, groundwater is the primary water source for a variety of uses, including drinking water and irrigation. This dependence on groundwater has lowered the water tables, resulting in a decline in water levels in sinkholes and springs where Pecos pupfish live. When the water table was higher, water flowed between sinkholes; because the water table has been lowered, these sinkholes are no longer interconnected (Lee Marlatt, U.S. Fish and Wildlife Service, Bitter Lake National Wildlife Refuge, pers. comm. 1987). Because they are isolated from the river which is inhabited by sheepshead minnows, sinkhole populations of Pecos pupfish are more protected from the threat of hybridization than are river populations. Because sinkhole populations are more protected from the threat of hybridization, the loss of these populations would seriously affect the survival of the species.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The Service is unaware of threats to the species from these factors. Pecos pupfish may occasionally be collected as bait by anglers and as specimens for scientific study, but these uses probably have a negligible effect on total population numbers.

C. Disease or Predation

The Service is unaware of threats to the species from disease. Sinkholes that support introduced game fish have lower numbers of pupfish than sinkholes without game fish (Echelle and Echelle 1978). As the Pecos pupfish population is impacted by habitat loss and degradation and refugia become scarce, predation may become a more important threat.

D. The Inadequacy of Existing Regulatory Mechanisms

New Mexico State law provides limited protection for the Pecos pupfish. The State of New Mexico lists the Pecos pupfish as a threatened species. Threatened species, as defined by the State of New Mexico, are those species ''* * * whose prospects of survival or recruitment within the State are likely to be in jeopardy within the foreseeable future.'' This designation provides the protection of the New Mexico Wildlife Conservation Act (sections 17–2–37 through 17–2–46) and prohibits taking of such species except under the issuance of a scientific collecting permit. The State also has a limited ability to protect the habitat of the species through the Habitat Protection Act (sections 17–6–1 through 17–6–11) and through water quality statutes and regulations. The species' habitat is also protected tangentially through a provision of the Habitat Protection Act (section 17–4–14) which makes it illegal to de-water areas used by game fish.

New Mexico water law does not include provisions for the acquisition of instream water rights for protection of fish and wildlife and their habitat. Thus, there are no opportunities for protection of Pecos pupfish habitat in New Mexico through acquisition of water rights to maintain instream flows.

The Pecos pupfish was listed as threatened by the State of Texas on March 1, 1987. The State prohibits taking, possessing, and transporting State-listed species or goods made from such species (Texas Parks and Wildlife Code, section 68.015 (1975)). However, State-listing in Texas provides no protection for the habitat of listed species.

State regulations in New Mexico and Texas allow for the use of live bait in the Pecos River in areas containing the Pecos pupfish. This has encouraged the spread of detrimental species, specifically the sheepshead minnow, which replaces and/or hybridizes with the Pecos pupfish (see factor E).

Although both New Mexico and Texas provide protection against taking of the Pecos pupfish by virtue of State listing of the species, neither State provides sufficient protection to the aquatic habitat of the Pecos pupfish, and neither prohibits the introduction or spread of

such detrimental species as the sheepshead minnow.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The primary cause for the recent (post 1980) range reduction of Pecos pupfish is the introduction of the sheepshead minnow, a species once confined to shallow, brackish, coastal waters of the Gulf and Atlantic coasts of the continental United States. The two *Cyprinodon* species appear to have little in the way of premating isolating mechanisms and readily hybridize (Cokendolpher 1980). Hybridization with and/or replacement by the sheepshead minnow poses a major threat to the Pecos pupfish. The sheepshead minnow was introduced into the Pecos River, probably in the vicinity of Pecos, Texas, sometime between 1980 and 1984. Sheepshead minnow x Pecos pupfish hybrids have since moved upstream and downstream at a rapid pace despite the presence of six irrigation diversion dams. The spread of hybrids has occurred both naturally and presumably through ''bait bucket'' introductions.

By 1984, surveys at four sites along the Pecos River below Red Bluff Reservoir, Texas, revealed evidence of hybridization between the Pecos pupfish and sheepshead minnow (Echelle 1985). In the vicinity of Pecos, Texas, the Pecos pupfish had been entirely replaced by sheepshead minnow x Pecos pupfish hybrids. At sites ranging from 50 km (31 mi) further upstream to 250 km (156 mi) downstream, evidence of hybridization was still apparent, though less pronounced (Echelle and Connor 1989).

Surveys in 1986 found the presence of genetic markers for sheepshead minnows in pupfish from Red Bluff Reservoir, New Mexico (Wilde and Echelle 1992). The introduction of sheepshead minnows into Red Bluff Reservoir means that genetically pure populations of Pecos pupfish south of Malaga, New Mexico (including the entire Texas population in the Pecos River), have been or probably will be eliminated except in areas not connected to the river or where effective fish barriers prevent access to habitat now occupied by the pupfish. In 1995, hybrids were taken from the Pecos River near the Loving Bridge (Eddy County), New Mexico, which is upstream of the pure pupfish population at Malaga Bend (Hoagstrom and Brooks, 1995).

The purity of the pupfish populations in Salt Creek, Texas, and in the abandoned gravel pits near Grandfalls, Texas, is unknown. Both populations occur on privately owned lands, and surveys have not been conducted on these lands since 1989. Because the gravel pits are close to the Pecos River and because hybrids occur in that portion of the river, the gravel pit populations may not be genetically pure.

The northward expansion of sheepshead minnow x Pecos pupfish hybrids had reduced the range of the Pecos pupfish by approximately 60 percent by the late 1980's (Wilde and Echelle 1992). Subsequent expansion of the hybrids into the Pecos River upstream from Red Bluff Reservoir has further constricted the range of the pupfish. Genetically pure populations of Pecos pupfish may now occur only in off-channel habitats. The river populations are most susceptible to replacement by and/or hybridization with sheepshead minnow. However, the sinkhole populations are also considered vulnerable to hybridization due to the possibility of anglers releasing sheepshead minnows into sinkholes.

Sinkhole, lake, and spring populations may also be susceptible to introductions of exotic fish species during periods of river flooding. Flood waters have inundated sinkholes and springs and could allow exotic species, including the sheepshead minnow, to access these otherwise isolated sites.

Large scale fish kills caused by algal blooms occurred in the Pecos River, Texas, in 1985 and 1986 (Rhodes and Hubbs 1992). Such algal blooms may affect the Pecos pupfish (Rhodes and Hubbs 1992).

Other threats to the Pecos pupfish include nonnative fish introductions and piscicide applications. Anglers interested in developing sport fisheries in sinkholes apply piscicides to remove unwanted fish species prior to introducing sport fish. Such manipulation, although conducted in compliance with State laws, can adversely affect or eliminate Pecos pupfish populations.

Oil spills from pipelines into Salt Creek in Texas have occurred and represent an ongoing threat to water quality and Pecos pupfish habitats.

The Service has carefully reviewed the status of the species and assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Pecos pupfish as endangered. The species has experienced a large population decline and great reduction of its range. This species is in danger of becoming extinct throughout all or a significant portion of its range. Threatened status would not accurately reflect the population decline, vulnerability, and imminent threats to this species. Critical habitat is not being proposed for the reasons discussed below.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Pecos pupfish at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Critical habitat receives consideration under section 7 of the Act with regard to actions carried out, authorized, or funded by a Federal agency (see Available Conservation Measures section). As such, designation of critical habitat may affect activities on Federal lands and may affect activities on non-Federal lands where such a Federal nexus exists. Under section 7 of the Act, Federal agencies are required to ensure that their actions do not jeopardize the continued existence of a species or result in destruction or adverse modification of critical habitat. However, both jeopardizing the continued existence of a species and adverse modification of critical habitat have similar standards and thus similar thresholds for violation of section 7 of the Act. In fact, biological opinions that conclude that a Federal agency action is

likely to adversely modify critical habitat but not jeopardize the species for which the critical habitat has been designated are extremely rare. Also, the designation of critical habitat for the purpose of informing Federal agencies of the locations of occupied Pecos pupfish habitat is not necessary because the Service can inform Federal agencies through other means. For these reasons, the designation of critical habitat for the Pecos pupfish would provide no additional benefit to the species beyond that conferred by listing, and therefore, such designation is not prudent.

Occupied habitat for the Pecos pupfish occurs adjacent to and on the Bitter Lake National Wildlife Refuge and the Bureau of Land Management's (BLM) Bottomless Lakes Waterfowl Management Area. Because these occupied habitats are well known to the managers of these Federal lands, no adverse modification of this habitat is likely to occur without consultation under section 7 of the Act. Because of the small size of the species' current range, any adverse modification of the species' critical habitat would also likely jeopardize the species' continued existence. Designation of critical habitat for the Pecos pupfish on Federal land, therefore, is not prudent because it would provide no additional benefit to the species beyond that conferred by listing.

Because the aquatic habitat of the Pecos pupfish is considered ''waters of the United States'' under section 404 of the Clean Water Act, alteration of this habitat on private land may be regulated by the Army Corps of Engineers (COE) and may require consultation under section 7 of the Act. Certain other activities causing direct or indirect effects to habitat on private lands also may involve a Federal agency action. Although there may be COE or other Federal involvement requiring consultation for activities occurring in the species' habitat on private lands, because of the small size of the species' current range, any consultation which would result in a finding that the activity causes adverse modification of the species' critical habitat would also likely result in a finding that the activity jeopardizes the species' continued existence. Designation of critical habitat for the Pecos pupfish on private land, therefore, is not prudent because it would provide no additional benefit to the species beyond that conferred by listing.

Protection of the habitat of the Pecos pupfish will be addressed through the section 4 recovery process and the section 7 consultation process. The Service believes that activities involving a Federal action which may affect the Pecos pupfish can be identified without designating critical habitat by providing Federal agencies with information on the locations of occupied habitats and information on the kinds of activities which could affect the species. For the reasons discussed above, the Service finds that the designation of critical habitat for the Pecos pupfish is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Activities which may involve a Federal agency action and which may require conference and/or consultation as described in the preceding paragraph include: ground water pumping which can lower the water level in occupied sinkholes and springs; water diversion which dries streams; and other activities which cause habitat destruction or degradation including water quality degradation.

Lands along the Pecos River and tributaries are primarily privately owned. However, small areas of BLM land exist along the Pecos River between Fort Sumner and Roswell, New Mexico, and a short segment of the Pecos River flows through the Bitter Lake National Wildlife Refuge. Activities on private lands which may affect the Pecos pupfish or its habitat and which involve a Federal agency action require conference and/or consultation. Activities on BLM, Service, or other Federal lands which may affect the Pecos pupfish or its habitat also require conference and/or consultation.

Water use in the Pecos River basin is regulated by the States of New Mexico and Texas in accordance with the Pecos River Compact (Compact), a Congressionally approved agreement addressing allocation of water between New Mexico and Texas. The U.S. Bureau of Reclamation (BR) and the COE operate dams on the river, and thereby regulate flows, in accordance with the Compact. The operation of dams by the BR and COE requires conference and/or consultation.

Additionally, other Federal agency actions along the Pecos River that may require conference and/or consultation include: Environmental Protection Agency authorization of discharges under the National Pollutant Discharge Elimination System (NPDES) and registration and regulation of pesticides; Federal Highway Administration involvement in road and bridge construction and maintenance; BLM issuance of grazing permits and oil and gas leases; COE authorization of discharges of dredged or fill material into waters of the United States under section 404 of the Clean Water Act (e.g., authorization of oil, gas, and water pipeline construction); U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service programs (e.g., Rangeland Grasshopper Cooperative Management); USDA Natural Resources Conservation Service projects and technical assistance programs; USDA Farm Service Agency programs (e.g., financial assistance for certain irrigation projects); and the Department of Housing and Urban Development's Small Cities Community Development Block Grant program.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general trade prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot,

wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

It is the policy of the Service (July 1, 1994, 59 FR 34272) to identify to the maximum extent practicable those activities that would or would not constitute a violation of section 9 of the Act at the time of listing. The intent of this policy is to increase public awareness of the effect of listing on proposed or ongoing activities. The Service believes that, based on the best available information, the following actions will not result in a violation of section 9, provided these activities are carried out in accordance with any existing regulations and permit requirements:

1. Livestock grazing which does not destroy or significantly degrade occupied Pecos pupfish habitat.

2. Groundwater pumping in areas where the groundwater is not connected to riverine or sinkhole habitats occupied by Pecos pupfish.

3. Oil and gas exploration and drilling in areas where surface or groundwater is not connected to habitats occupied by Pecos pupfish.

The following activities would likely violate section 9 of the Act:

1. Livestock grazing which causes destruction or significant degradation of occupied Pecos pupfish habitat.

2. Stocking of piscivorous fish or introduction of sheepshead minnows into habitat occupied by Pecos pupfish or into waters which are connected to, or which during high flows become connected to, habitat occupied by Pecos pupfish.

3. Pumping of groundwater which causes a significant reduction in the quantity or quality of water in areas occupied by Pecos pupfish.

4. Channelization or other activities which cause dewatering of habitats occupied by the Pecos pupfish.

5. Activities which cause significant degradation of surface water or groundwater quality of habitat occupied by the Pecos pupfish.

The term ''significant degradation of habitat'' as used in the descriptions of activities above, is that amount of degradation which causes ''take'' of Pecos pupfish. Not all of the activities mentioned above will result in violation of section 9 of the Act; only those activities which result in ''take'' of Pecos pupfish are considered violations of section 9. Contacts have been identified to assist the public in determining whether a particular activity would be prohibited under section 9 of the Act. In New Mexico, contact the Field Supervisor, Ecological Services Field Office (Albuquerque) (see **ADDRESSES** section). In Texas, contact the Field Supervisor, Ecological Services Field Office, 10711 Bernet Road, Suite 200, Hartland Bank Building, Austin, Texas 78758, (512/490–0057).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities in the subject area and their possible impacts on this species, and;

(5) Any other information related to the status of, or threats to, the Pecos pupfish.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Ecological Services Field Office (Albuquerque) (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Service's Ecological Services Field Office (Albuquerque) (see **ADDRESSES** section).

Author: The primary author of this proposed rule is Jennifer Fowler-Propst (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend section 17.11(h) by adding the following, in alphabetical order under ''Fishes,'' to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
*	*	*	*	*	*	*	
Pupfish, Pecos	*Cyprinodon pecosensis.*	USA (NM, TX)	Entire	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: January 21, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–2273 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Request for Information and Recommendations on Species to Consider for Changes to the CITES Appendices

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for information.

SUMMARY: This notice solicits recommendations for amending Appendices I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The U.S. Fish and Wildlife Service invites information and comment from the public on animal or plant species that should be considered as candidates for U.S. proposals to amend Appendices I or II. Such amendments may concern the addition of species to Appendix I or II, the transfer of species from one Appendix to another, or the removal of species from Appendix I or II.

DATES: The Service will consider all information and comments received by March 31, 1998.

ADDRESSES: Correspondence concerning this request pertaining to species amendments should be sent to Chief, Office of Scientific Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, Room 750; Arlington, Virginia 22203. Comments and materials received will be available for public inspection by appointment from 8 a.m. to 4 p.m., Monday through Friday, at the Office of Scientific Authority.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Lieberman, Acting Chief, Office of Scientific Authority, phone 703–358–1708, fax 703–358–2276, e-mail susan__lieberman@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249 (hereinafter referred to as CITES or the Convention), is an international treaty designed to control and regulate international trade in certain animal and plant species that are now or potentially may be threatened with extinction. These species are listed in Appendices to CITES, copies of which are available from the Office of Scientific Authority at the above address or from the Service's World Wide Web site http://www.fws.gov/r9dia/applinks.html. Currently 143 countries, including the United States, are Parties to the Convention. CITES calls for biennial meetings of the Conference of the Parties, which review its implementation, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of CITES. Any country that is a Party to CITES may propose amendments to Appendices I and II for consideration by the other Parties.

This is the first in a series of **Federal Register** notices which, together with announced public meetings, provide an opportunity for the public to participate in the development of the United States' negotiating positions for the eleventh regular meeting of the Conference of the Parties to CITES (COP11). The Service's regulations governing this public process are found in 50 CFR 23.31–23.39.

The Service expects the eleventh meeting of the Conference of the Parties to be held in November 1999, in Indonesia.

Request for Information and Comments

One of the purposes of this notice is to solicit information that will help the Service identify species that are candidates for addition, removal, or reclassification in the CITES Appendices or to identify issues warranting attention by the CITES Nomenclature Committee. This request is not limited to species occurring in the United States. Although U.S. proposals submitted for recent Conferences of the Parties have focused on species native to the United States, any Party may submit proposals concerning animal or plant species occurring in the wild anywhere in the world. The Service encourages the submission of information on species for possible inclusion in the Appendices if these species are subject to international trade that may be detrimentally impacting the status of the species. Complete proposals are not being requested at this time, but rather we are asking interested persons to submit convincing information describing: (1) The status of the species, especially trend information; (2) conservation and management programs for the species, including the effectiveness of enforcement efforts; and (3) the level of domestic as well as international trade in the species, especially trend information. Any other relevant information can also be provided.

The term ''species'' is defined in CITES as ''any species, sub-species, or geographically separate population thereof.'' Each species for which trade is controlled is included in one of three Appendices, either as a separate listing or incorporated within the listing of a higher taxon. The basic standards for inclusion of species in the Appendices are contained in Article II of CITES. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species which, although not necessarily now threatened with extinction, may become so unless trade in them is strictly controlled.

Appendix II also lists species that must be subject to regulation in order that trade in those currently and potentially threatened species may be brought under effective control. Such listings frequently are required because of difficulty in distinguishing specimens of currently or potentially threatened

species from other species at ports of entry. Appendix III includes species that any Party country identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation and for which it needs the cooperation of other Parties to control trade. The present notice concerns only Appendices I and II.

CITES specifies that international trade in any readily recognizable part or derivative of animals listed in Appendix I or II, or plants listed in Appendix I, is subject to the same conditions that apply to trade in the whole organism. With certain standard exclusions formally approved by the Parties, the same applies to the readily recognizable parts and derivatives of most plant species listed in Appendix II. Parts and derivatives usually not included (i.e., not regulated) for Appendix II plants are: seeds, spores, pollen (including pollinia), and seedling or tissue cultures obtained *in vitro* and transported in sterile containers. Also see 50 CFR 23.23(d), and the October 6, 1995, **Federal Register** (60 FR 52450) and February 22, 1996, **Federal Register** (61 FR 6793) for further exceptions and limitations.

In 1994, the CITES Parties adopted new criteria for inclusion of species in Appendices I and II (in Resolution Conf. 9.24). These criteria apply to all future proposals and are available from the CITES Secretariat, the World Conservation Monitoring Centre's World Wide Web site, or upon request to the Office of Scientific Authority (see **ADDRESSES** section above). Resolution Conf. 9.24 also established a format for complete proposals.

However, for purpose of submitting information on species subject to international trade for possible listing in the Appendices, submitters of such information to the Service are asked to include as much of the following information as possible:

(1) Scientific name and common name;

(2) Population size estimates (including reference if available);

(3) Population trend information;

(4) Threats to species status (other than from trade);

(5) Level/trend of international trade (as specific as possible but without a request for new searches of Service records);

(6) Level/trend in total take from the wild (as specific as reasonable); and

(7) Short summary statement clearly presenting the rationale for inclusion in or delisting from one of the Appendices.

Persons wishing to submit more complete proposals for the United States to consider, should consult Resol. Conf. 9.24 for the format for proposals and a detailed explanation of each of the categories. Proposals to transfer a species from Appendix I to Appendix II, or to remove a species from Appendix II, must be consistent with the precautionary measures described in Annex 4 of Resol. Conf. 9.24.

Persons having information and comments on species that are potential candidates for CITES proposals are urged to contact the Service's Office of Scientific Authority.

Species Being Considered

The Service is considering proposing to transfer the North American population of the gyrfalcon (*Falco rusticolus*) from Appendix I to Appendix II. The gyrfalcon is circumpolar in distribution, including arctic and subarctic regions of Alaska, Canada, Greenland, and Iceland. The Service is not aware of any evidence that the North American gyrfalcon population has ever been threatened due to habitat loss, nest robbing, or trade. European range States have expressed concern in the past about enforcement problems that could arise if the North American population of this bird were downlisted. However, husbandry techniques have been developed for breeding the species in captivity, and the trade in North American gyrfalcons would not appear to pose a significant threat to the European gyrfalcon populations.

The Service is also considering proposing to include the timber rattlesnake (*Crotalus horridus*) in Appendix II. The timber rattlesnake occurs in 27 of the States, from New Hampshire and Minnesota south to Texas and Florida, having been extirpated from Maine and Rhode Island. Populations of timber rattlesnakes have declined greatly over much of their range. They are listed as endangered in many northern States, but commercial utilization is occurring for the pet trade, and for meat and leather products.

Draft proposals on the North American population of the gyrfalcon and on the timber rattlesnake are available from the Office of Scientific Authority for review and comment. Additional information on biological status and trade levels is solicited.

Furthermore, the CITES Animals Committee as part of its responsibilities under Resolution Conf. 9.1 (Rev.) Annex 2 to conduct periodic reviews of the Appendices, has noted that the Sonoran green toad (*Bufo retiformis*) and the orange-throated whiptail lizard (*Cnemidophorus hyperythrus*) have not been reported to be in international trade, and the United States and Mexico should consider proposing to remove them from the Appendices. Therefore the Service solicits biological and trade information on these two species.

At its November 1997 meeting, the CITES Plants Committee in accord with its responsibilities under Resolution Conf. 9.1 (Rev.) Annex 3, committed to conducting a review of all plant species or other taxa included in the Appendices before COP5 in 1985 (except for the higher-taxon listings of cycads, and the family listings of tree ferns, orchids, and cacti in Appendix II [which are supported by Resol. Conf. 9.18 (Rev.)]), and will seek to assess whether the rest of the taxa are appropriately listed on the basis of the criteria in Resol. Conf. 9.24 (adopted in 1994). In addition, the Parties at COP10 agreed to a review of all the timber tree species (see Decision 10.87). As part of the general review process, the Secretariat on December 19, 1997, in Notification No. 1009 advised the Parties that range States for the taxa under review may be contacted by co-ordinators mentioned therein for information and advice with regard to the assessment. The Secretariat, in consultation with the Chair of the Plants Committee (who is the general co-ordinator for the whole review), will extract a base of information on the tree species from a report due by April 1998 and send it to the range States and relevant organizations, asking for their opinions (and the extracted summaries will be available from the Service on request). Preferably using the categories in Resol. Conf. 9.24, the Service would appreciate receiving comments by the date due (see **DATES** section above) (including any additional comments soon after receiving the tree species synopses), on status or trade regarding those plant species or other taxa native to the United States and included in the CITES Appendices through 1983 (COP4) and the other native tree species, and is particularly interested in information that might warrant a change for any separately listed species or subspecies.

Finally, the Service notes that it is discussing with State wildlife agency representatives the appropriateness of listing some native species in Appendix III. This possibility includes some species originally proposed for inclusion in Appendix II in June 1997 at COP10, which is the most recent regular meeting of the Conference of the Parties. Any preliminary decisions to include species in Appendix III would be announced and comments solicited in a **Federal Register** notice. Furthermore, any proposal to include species in Appendix III would be made

following the procedure outlined in Resol. Conf. 9.25 (copies available on request).

Future Actions

The next regular meeting of the Conference of the Parties (COP11) is expected to be held in November 1999 in Indonesia, and a tentative U.S. schedule has been developed to prepare for that meeting. Any proposals to amend Appendix I or II must be submitted by the United States to the CITES Secretariat 150 days prior to the start of COP11 (i.e., in June 1999). In order to fully accommodate the schedule's deadlines, the Service plans to expand its discussions with the States comprising the United States. Therefore, the Service is initiating this request for status and trade information on species earlier than in past years, because it is seeking greater involvement of the State wildlife agencies in the review process. Thus, after this initial request for species to consider, the State animal and plant conservation agencies will be asked for specific status and management information on those native species that are being considered. After review of any information received, the Service may make some preliminary decisions and may seek assistance in developing more complete proposals during the summer and fall of 1998.

The Service intends to publish a **Federal Register** notice in December 1998 to announce tentative species proposals to be submitted by the United States and to solicit further information and comments on them, as well as providing summary comment on information provided in response to this notice. In January 1999, a public meeting will be held to allow for additional input. All CITES Parties within the geographic range of species proposed for amendments to the Appendices will be consulted by March 1999, so that final proposals will have the benefit of their consideration and comments, in accord with Resol. Conf. 8.21. Another **Federal Register** notice in about June 1999 will announce the Service's final decisions and those species proposals submitted by the United States to the CITES Secretariat. The deadline for submission of the proposals to the Secretariat is expected to be in June 1999, as COP11 is currently being planned to take place in November 1999.

Through a series of additional notices in advance of COP11, the Service will solicit recommendations for possible agenda items and resolutions designed to improve the implementation of the Convention, inform the public about preliminary and final negotiating positions on resolutions and amendments to the Appendices proposed by other Parties for consideration at COP11, and explain how observer status is obtained for non-governmental organizations that plan to attend. The Service will also publish announcements of public meetings expected to be held in January 1999 and August 1999, to receive public input on its positions regarding COP11 issues.

Authors: This notice was prepared by Dr. Charles W. Dane and Dr. Bruce MacBryde, Office of Scientific Authority, under the authority of the U.S. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*, 87 Stat. 884, as amended).

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, and Treaties.

Dated: January 23, 1998.

Jamie Rappaport Clark,

Director.

[FR Doc. 98–2388 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 971230317-7317-01; I.D. No. 120197A]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on Petition To Revise Critical Habitat for Snake River Spring/Summer Chinook Salmon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of determination.

SUMMARY: NMFS announces a 12-month determination of how it intends to proceed on a petition to revise critical habitat for Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*), pursuant to the Endangered Species Act (ESA) of 1973. After a review of the best available scientific information, NMFS determines the petitioned action is not warranted.

DATES: The determination announced in this notice was signed on January 26, 1998.

ADDRESSES: Requests for information concerning this action should be submitted to Chief, Protected Resources Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232; internet (jim.lynch@noaa.gov).

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Protected Resources Division, Northwest Region, (503) 231–2005 or Joe Blum, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 1991, NMFS proposed the listing of Snake River spring/summer chinook salmon as a threatened species under the Endangered Species Act (ESA) (56 FR 29542). The final determination listing Snake River spring/summer chinook salmon as a threatened species was published on April 22, 1992 (57 FR 14653) and corrected on June 3, 1992 (57 FR 23458). Critical habitat was designated on December 28, 1993 (58 FR 68543). In the December 28, 1993 notice, NMFS designated all river reaches presently or historically accessible to listed spring/summer chinook salmon (except river reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) in various hydrologic units as critical habitat (58 FR 68543). Napias Creek, the area in question, occurs within one of these designated hydrologic units (Middle Salmon-Panther, USGS Hydrologic Unit 17060203).

On January 6, 1997, the Secretary of Commerce (Secretary) received a petition from Meridian Gold Company (Meridian) to revise critical habitat for Snake River spring/summer chinook salmon in Napias Creek, a tributary to the Salmon River, located near Salmon, Idaho. In accordance with section 4(b)(3)(D) of the ESA, NMFS issued a determination on April 28, 1997, that the petition presented substantial scientific information indicating that a revision may be warranted (62 FR 22903). In that notice of finding, NMFS solicited information and comments from interested parties concerning the petitioned action (62 FR 22903). The comment period on the petitioned action closed on June 27, 1997 (62 FR 22903).

On June 23, 1997, NMFS received a request from Meridian requesting NMFS to extend the deadline for new information and comments until September 15, 1997. In its request for extension, Meridian stated that additional time was needed to complete studies to support the petitioned action. By a letter dated July 16, 1997, NMFS declined to extend the official comment period for the petitioned action. In this letter, NMFS concluded that an extension was not warranted since the original comment period was 30 days

longer than that required by law and only one comment had been received during the original public comment period (NMFS, 1997a).

While NMFS declined to extend the public comment period for the petitioned action, NMFS stated in its July 16, 1997, response to Meridian that it would consider any pertinent information prior to making a determination (NMFS, 1997a). NMFS' willingness to consider pertinent information was communicated to the State of Idaho and to the only commenter, the Sierra Club Legal Defense Fund (SCLDF).

On September 16, 1997, Meridian submitted additional information in support of its petition. Specifically, Meridian submitted three new reports entitled: (1) ''Ability of Salmon and Steelhead to Pass Napias Creek Falls''; (2) ''Investigation of Physical Conditions at Napias Creek Falls''; and (3) ''Historical and Ethnographic Analysis of Salmon Presence in the Leesburg Basin, Lemhi County, Idaho.'' This new information was added to the administrative record and was considered by NMFS in its 12-month determination. Copies of this information are available upon request (see **ADDRESSES**).

Summary of Comments Received on the Petitioned Action

One comment was received on the petitioned action during the 60-day public comment period. The commenter, SCLDF, contends the that petitioned action is not supported by available evidence and that Meridian's studies do not address the question of historic passability of Napias Creek (SCLDF, 1997). SCLDF further states that Meridian's desire to revise the critical habitat designation is to avoid measures necessary to mitigate its adverse modification of critical habitat (SCLDF, 1997). SCLDF ultimately recommends that NMFS deny Meridian's petition (SCLDF, 1997).

NMFS believes that SCLDF's views of Meridian's motivation for pursuing this action is not relevant for the purposes of determining the merits of Meridian's petition. While SCLDF provides no new information concerning the historic accessibility of this area to listed chinook salmon, NMFS considers the merits of available scientific information below.

Definition of Critical Habitat

Critical habitat is defined in section 3(5)(A) of the ESA as ''(i) the specific areas within the geographical area occupied by the species * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species * * * upon a determination by the Secretary of Commerce (Secretary) that such areas are essential for the conservation of the species'' (see 16 U.S.C. 1532(5)(A)). The term ''conservation,'' as defined in section 3(3) of the ESA, means '' * * * to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary'' (see 16 U.S.C. 1532(3)).

In designating critical habitat, NMFS considers the following requirements of the species: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, or rearing of offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of this species (see 50 CFR § 424.12(b)). In addition to these factors, NMFS also focuses on the known physical and biological features (primary constituent elements) within the designated area that are essential to the conservation of the species and may require special management considerations or protection. These essential features may include, but are not limited to, spawning sites, food resources, water quality and quantity, and riparian vegetation (see 50 CFR § 424.12(b)).

Analysis of Available Information and Comments

Meridian presents two main arguments in support of its petition to remove areas of Napias Creek, above Napias Creek Falls, from designated Snake River chinook salmon critical habitat. First, Meridian contends that, currently, Napias Creek Falls is a complete migration barrier to listed Snake River chinook salmon as evidenced by recent hydrologic studies. Second, Meridian contends that habitat above Napias Creek Falls has historically been inaccessible to chinook salmon as evidenced by historical research. These issues are discussed here.

Current Passage Conditions at Napias Creek Falls

Meridian conducted several studies to determine the ability of chinook salmon to migrate above Napias Creek Falls. One study evaluated the geomorphology of the falls, while another study assessed the potential for fish passage using the methods of Powers and Orsborn (P&O) as described in ''Analysis of Barriers to Upstream Fish Migration'' (Bonneville Power Administration (BPA), 1984). A third study entitled ''Ability of Salmon and Steelhead to Pass Napias Creek Falls'' analyzed information and conclusions of the preceding two studies and concluded that ''Napias Creek Falls is an absolute barrier to upstream migration of salmon and steelhead in Napias Creek.'' (Meridian, 1997). NMFS has reviewed all information and studies submitted by Meridian regarding this issue. Further, NMFS conducted several on-site inspections of Napias Creek Falls to independently assess the potential for chinook salmon passage in this area. Based on an assessment of information contained in the petition, and on an independent assessment of physical conditions at Napias Creek Falls, NMFS concludes that chinook salmon can migrate past Napias Creek Falls during certain flow conditions (NMFS, 1997b). The following paragraphs summarize NMFS' analysis and conclusions.

First, conceding that the swimming capability of the anadromous fish that may have occupied Napias Creek can not be precisely determined, the swimming burst velocity (V_f) chosen for Napias Creek Falls in Meridian's petition, which is about 16.8 feet per second (fps) (5.12 meters per second (mps)) for Napias Creek Falls, was used by NMFS in its analysis. Based on a V_f of 16.8 fps (5.12 mps), Meridian uses the methods of P&O to calculate a potential jump height (H_j) of 4.3 feet(ft) (1.31 m) However, the P&O report states ''Aaserude noted that to determine the true leaping height above the water surface, the length of the fish should be added to equation (6) (clarification - the projectile motion equation) because the fish uses its full propulsive power up until the point the fish's tail leaves the water * * *'' (BPA, 1984). Therefore, the length of the fish should be added to the height of the jump. Since a small adult chinook salmon might measure 2 ft (.61 m) in length, adding this length to H_j yields a total potential jump height (H_t) of 6.3 ft (1.92 m).

Using data from Meridian's petition, the height of Napias Creek Falls is 9 ft (2.74 m) when streamflow is 49 cfs (1.37

cubic meters per second (cms)), and the water velocity at the crest of the falls is 7 fps (2.13 mps). After water drops 2.7 ft (.82 m) from the falls crest, gravity accelerates the water velocity to 11.7 fps (3.57 mps) (V_h) at the fish landing point, as calculated using the equations given in Meridian's petition. Since this velocity is below the burst velocity of a chinook salmon, the fish should be able to swim for 5 to 10 seconds at a V_f of 16.8 seconds (Bell, 1991). Swimming at a net velocity (V_f -V_h) of 5.1 fps (1.55 mps) for 5 seconds, a fish can travel a distance of 25.5 ft (7.77 m), much further than what would be required to pass the crest of the falls.

According to Meridian's petition, at 49 cfs (1.37 cms) the pool below Napias Creek Falls is 6 ft. deep (1.83 m), which is of sufficient depth for a fish to stage and leap at the falls. The P&O report states:

> From a research project the author participated in observing fish leaping over weirs at John's Creek Fish Hatchery, near Shelton, Washington (Aasrude 1984), it was concluded that two conditions should be satisfied to provide optimum leaping conditions in plunge pools: (1) depth of penetration of falling water should be less than the depth in the plunge pool, and (2) depth of the plunge pool must be on the order of, or greater than the length of the fish attempting to pass (BPA 1984).

Information from Meridian's petition shows that the pool below the uppermost falls at Napias Creek satisfies both of these conditions.

Finally, the issue of aerated two-phase (air-water) flow is discussed in Meridian's petition as a condition that further impedes the swimming and leaping ability of the fish. No data are given to reveal the extent of aeration at Napias Creek Falls and this is very difficult to measure in situ. Based on basic fluid drag equations that relate to the forces exerted by and on a moving submerged object, such as a fish, the drag force is directly proportional to the unit weight of water. Since the drag forces involved with the movement of a fish include propulsion by fins and friction drag produced by water velocity passing over the shape of a fish, the reduction of the unit weight of water due to aeration has force components that both increase and decrease the fish's swimming ability. This is an area that has not been specifically studied in bio-mechanical tests. However, it is reasonable to assume that, in the case of Napias Creek Falls, flowing at 49 cfs (1.37 cms), aeration will have an effect on the leaping ability of the fish, either positive or negative depending on the percent aeration of the flow. Data reported in the U.S. Bureau of Reclamation's Engineering Monograph No. 41, ''Air-Water Flow in Hydraulic Structures'' show that entrained air concentration decreases to near zero at the channel bottom of the receiving pool of a 15–degree slope chute to around 7 percent at mid-depth, with higher concentrations only nearer to the water surface. In the context of a fish's jumping ability, the majority of the water column produces only a slight decrease (some fraction of 0 percent to 7 percent) in the swimming speed reached before the jump commences. Noting that flow over most (if not all) falls is aerated, aeration of flow does not or did not preclude passage over Tumwater, Sherars, Celilo, and Willamette Falls. Presumably, this would also be the case at Napias Creek Falls.

Based on its analysis of data from the reports and from observation of Napias Creek Falls, NMFS concludes that chinook salmon could pass the current configuration of the falls at river flows of about 50 cfs (1.4 cms).

Historical Passage Conditions at Napias Creek Falls

Meridian conducted two studies to determine if, historically, chinook salmon were observed above Napias Creek Falls. The first study reviewed historical accounts of chinook salmon occurring above Napias Creek Falls. Meridian states that reviews of historical and independent ethnographic research document that salmon or steelhead were not observed or caught above Napias Creek Falls and, therefore, the fish were not historically present in this area. A second study reviews the genesis of Napias Creek Falls and concludes that the falls are a natural feature and, therefore, historically impassable to chinook salmon.

While the studies provided by Meridian tend to indicate that Napias Creek Falls may have been a historic barrier to salmon passage, this conclusion is called into question by comments from a United States Forest Service fishery biologist (Forest). In a report dated February 8, 1996, Bruce Smith, Salmon and Challis National Forest Fisheries Biologist, concludes that Napias Creek historically contained chinook salmon (Smith, 1996a). Furthermore, Smith states that areas above Napias Creek Falls currently contain relict indicator species, specifically bull trout and rainbow trout (Smith, 1996a), indicating pre-historic accessibility of this area to anadromous salmon species such as chinook (Smith, 1996b).

In its petition, Meridian provides a letter from George Matejko, Forest Supervisor, Salmon and Challis National Forests, dated April 30, 1996, to William Stelle, Jr., Regional Administrator, Northwest Region, NMFS, concerning the Smith reports. This letter states ''it is the Forest Service's opinion that the Upper Napias Creek Watershed above Napias Creek Falls is not historic chinook salmon habitat'' and ''the minority opinion submitted to your office by Bruce Smith does not reflect the official Forest position on this issue'' (Matejko, 1996).

While NMFS understands the Smith reports may not constitute the official position of the Forest on whether Upper Napias Creek is historical chinook salmon habitat, NMFS believes these reports provide relevant scientific information worthy of consideration.

Furthermore, while the Forest questions NMFS' use and interpretation of scientific information contained in the Smith reports, the Forest does not seek to refute all aspects of these reports (e.g., the presence of relict indicator species above the falls), nor does it provide new scientific information that would call into question conclusions contained in these reports.

Smith concluded that based on historical, ethnobiological, and biological evidence, it is likely chinook salmon historically occurred in Napias Creek, including areas above Napias Falls (Smith, 1996a; Smith, 1996b). Meridian attempts to prove that Napias Falls is a historic barrier to chinook salmon migration based on historic, ethnographic, and geologic studies of the area in question. NMFS concludes that the evidence contained in the Smith reports is not overcome by the evidence presented by Meridian or the Forest, and is persuasive on the question of the historical presence of chinook salmon in Upper Napias Creek.

While NMFS concludes it is likely that historically, chinook salmon and steelhead occurred above Napias Creek Falls, the issue of historical use of this area may in fact be moot since NMFS concludes chinook salmon can now migrate above Napias Creek Falls, (i.e., the area above Napias Creek Falls is within the current range of chinook salmon).

Essential Features of Habitat

NMFS' ESA implementing regulations state that it ''shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species'' (50 CFR § 424.12(e)). Therefore, in the

event that areas outside a species' current range contain unique biological features that would aid in the conservation of the species, NMFS may designate such areas as critical habitat.

Documents submitted by Meridian indicate that habitat above Napias Creek Falls is of high quality and that this habitat may therefore be desirable for recovery of listed chinook salmon. In an undated report from Idaho Department of Fish and Game (IDFG) submitted by Meridian, the State concludes that ''excellent spawning areas exist in the upper half of the stream'' (IDFG, undated). This conclusion is supported by a recent NMFS assessment of this habitat (NMFS, 1997c). NMFS' recent habitat assessment is summarized here.

In assessing the quality of habitat in Napias Creek, NMFS' fishery biologists conducted onsite habitat evaluations and reviewed available scientific literature regarding the area. The portion of Napias Creek above Napias Creek Falls from approximately River Mile (RM) 3 to RM 10 has a lower gradient and often meanders through a more open floodplain. This stream stretch contains a high proportion of low gradient riffles, along with glides, runs, plunge pools, main channel pools, and lateral scour pools that create important spawning and rearing habitat for anadromous fishes (Thurow and Overton, 1993). Gravel and rubble tend to dominate the existing substrate, and occasional deep pools exist. Some portions of this stream reach may be considered pristine, although there is also some evidence of historical mining (ACZ Inc., 1990).

Napias Creek is an important source of high-quality dilution water within the Panther Creek system. Any degradation of dilution flows from Napias Creek would negatively impact efforts to reestablish anadromous fisheries in Panther Creek (ACZ Inc., 1990). According to Smith (1990), the dilution effect on Panther Creek creates a ''habitat window'' with natural benthic and fisheries values for about six miles downstream, to the confluence with Big Deer Creek, where Blackbird Mine drainage becomes a problem. Napias Creek water is also considered to have extremely low hardness (approximately 10 mg/l $CaCO_3$) relative to Panther Creek water (approximately 30 mg/l $CaCO_3$).

In most years, spring/summer chinook salmon should be able to navigate through Napias Creek Falls between late-June to mid-July when streamflows and water levels are more favorable (NMFS, 1997b). This time window will be more selective for early arriving adult chinook salmon. Historically, the Panther Creek system likely maintained an early migration of adult spring/summer chinook salmon (Parkhurst, 1950). The early spawning run and the low hardness factor may expand the genetic variability of listed Snake River chinook salmon, thereby enhancing the survival characteristics of the entire Snake River chinook salmon ESU.

Based on its own independent scientific analysis, NMFS concludes that areas above Napias Creek Falls contain a significant amount of high quality chinook salmon habitat. Given its assessment of habitat above Napias Creek Falls, NMFS believes that habitat above Napias Creek Falls contains unique features that will aid in the conservation and recovery of listed salmonid species. Therefore, if future studies indicate areas above Napias Creek Falls are outside the current range of listed chinook salmon, it is possible that such habitat areas may be found essential for conservation and recovery of listed salmonid species.

Determination

NMFS has reviewed Meridian's petition to revise critical habitat for Snake River spring/summer chinook salmon in Napias Creek, a tributary to the Salmon River, located near Salmon, Idaho. Based on its assessment of the best available scientific information, NMFS concludes that the petitioned action is not warranted.

References

A complete list of references is available upon request (see **ADDRESSES**).

Authority: 16 U.S.C. § 1531 *et seq.*

Dated: January 26, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–2368 Filed 1–29–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 970527125–8016–03; I.D. 122297D]

RIN: 0648–AJ95

Appointment of Members to the Regional Fishery Management Councils

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would amend guidelines contained at 50 CFR 600.215 that affect the nomination of obligatory and at-large members appointed by the Secretary of Commerce (Secretary) to the eight Regional Fishery Management Councils (RFMCs).

DATES: Comments must be received by March 2, 1998.

ADDRESSES: Comments should be sent to Dr. Gary C. Matlock, F/SF, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Loretta E. Williams, F/SF5, NMFS, 301–713–2337.

SUPPLEMENTARY INFORMATION:

Background

Section 302(b)(2)(C) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) establishes procedures for the nomination and appointment of RFMC members. On October 11, 1996, President Clinton signed into law the Sustainable Fisheries Act which, in pertinent part, amended the Magnuson-Stevens Act by adding a new seat on the Pacific Fishery Management Council (Council). The seat is to be held by a representative from an Indian tribe with federally recognized fishing rights from the States of California, Oregon, Washington, or Idaho (section 302(b)(5)(A)). On September 10, 1997, NMFS issued a final rule (62 FR 47584) to revise the regulations contained at 50 CFR 600.215. The final rule introduced into § 600.215 new procedures applicable to the nomination and appointment of a tribal Indian representative to the Council. This proposed revision reorganizes text contained in the final rule into more a logical order and makes editorial changes for readability. It also reemphasizes the requirement for each RFMC constituent State Governor, tribal Indian governments, and each RFMC nominee to comply with the March 15 nomination deadline, by which time each completed nomination package is to be received by the NMFS Assistant Administrator.

Obligatory seats for which completed nomination packages are not received by March 15 will remain unfilled until the nominators and nominees have furnished all required information. If complete nomination packages for at-large seats are not received by March 15, they will be returned and will not be processed further; the appointments will be made from among nominees

whose complete packages were received by the deadline.

Classification

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This proposed rule would (1) reorganize procedures and improve readability of procedures affecting the nomination and appointment of RFMC members, and (2) clarify and emphasize guidelines that relate to the compliance by RFMC constituent State Governors, appropriate tribal Indian governments, and each RFMC nominee for the submission of complete nomination packages by the March 15 deadline identified in the section. Because this rule is procedural only, it will not have an economic impact on the fishing industry or on small entities operating in the fishery.

This rule restates collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). They have been approved under OMB Control Number 0648–0314. The total public reporting burden for nominations submitted by state Governors, tribal Indian Governments, and nominees is estimated to be 120 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on these or any other aspects of the collection of information to the Office of Sustainable Fisheries (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB Control Number.

This rule has been determined to be not significant for the purposes of E.O. 12866.

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: January 26, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR 600 is proposed to be amended as follows:

PART 600–MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et. seq.*

2. Section 600.215 is revised to read as follows:

§ 600.215 Council nomination and appointment procedures.

(a) *General.* (1) Each year, the 3-year terms for approximately one-third of the appointed members of the Councils expire. New members will be appointed, or seated members will be reappointed to another term, by the Secretary of Commerce (Secretary) to fill the seats being vacated.

(2) There are two categories of seats to which voting members are appointed: ''Obligatory'' and ''at-large.''

(i) Obligatory seats are state-specific. Each constituent state is entitled to one seat on the Council on which it is a member, except that the State of Alaska is entitled to five seats, and the State of Washington is entitled to two seats on the North Pacific Fishery Management Council. When the term of a state's obligatory member is expiring or when that seat becomes vacant before the expiration of its term, the Governor of that state must submit the names of at least three qualified individuals to fill that Council seat.

(ii) The Magnuson-Stevens Act also provides for appointment, by the Secretary, of one treaty Indian tribal representative to the Pacific Fishery Management Council (Pacific Council). To fill that seat, the Secretary solicits written nominations from the heads of governments of those Indian Tribes with federally recognized fishing rights from the States of California, Oregon, Washington, or Idaho. The list of nominees must contain a total of at least three individuals who are knowledgeable and experienced regarding the fishery resources under the authority of the Pacific Council. The Secretary will appoint one tribal Indian representative from this list to the Pacific Council for a term of 3 years and rotate the appointment among the tribes.

(iii) At-large seats are regional. When the term of an at-large member is expiring or when that seat becomes vacant before the expiration of a term, the Governors of all constituent states of that Council must each submit the names of at least three qualified individuals to fill the seat.

(b) *Responsibilities of State Governors.* (1) Council members are selected by the Secretary from lists of nominees submitted by Governors of the constituent states pursuant to section 302(b)(2)(C) of the Magnuson-Stevens Act. For each applicable vacancy, a Governor must submit the names of at least three nominees who meet the qualification requirements of the Magnuson-Stevens Act. A Governor must provide a statement explaining how each of his/her nominees meet the qualification requirements, and must also provide appropriate documentation to the Secretary that each nomination was made in consultation with commercial and recreational fishing interests of that state; and that each nominee is knowledgeable and experienced by reason of his or her occupational or other experience, scientific expertise, or training in one or more of the following ways related to the fishery resources of the geographical area of concern to the Council:

(i) Commercial fishing or the processing or marketing of fish, fish products, or fishing equipment;

(ii) Fishing for pleasure, relaxation, or consumption, or experience in any business supporting fishing;

(iii) Leadership in a state, regional, or national organization whose members participate in a fishery in the Council's area of authority;

(iv) The management and conservation of natural resources, including related interactions with industry, government bodies, academic institutions, and public agencies. This includes experience serving as a member of a Council, Advisory Panel, Scientific and Statistical Committee, or Fishing Industry Advisory Committee;

(v) Representing consumers of fish or fish products through participation in local, state, or national organizations, or performing other activities specifically related to the education or protection of consumers of marine resources; or

(vi) Teaching, journalism, writing, consulting, practicing law, or researching matters related to fisheries, fishery management, and marine resource conservation.

(2) To assist in identifying qualifications, each nominee must furnish to the appropriate Governor's office a current resume, or equivalent, describing career history—with particular attention to experience related to the criteria in paragraph (b)(1)

of this section. Nominees may provide such information in any format they wish.

(3) A constituent State Governor must determine the state of residency of each of his/her nominees. A Governor may not nominate a non-resident of that state for appointment to a Council seat obligated to that state. A Governor may nominate residents of another constituent state of a Council for appointment to an at-large seat on that Council.

(4) If, at any time during a term, a member changes residency to another state that is not a constituent state of that Council, or a member appointed to an obligatory seat changes residency to any other state, the member may no longer vote and must resign from the Council. For purposes of this paragraph, a state resident is an individual who maintains his/her principal residence within that constituent state and who, if applicable, pays income taxes to that state and/or to another appropriate jurisdiction within that state.

(5) When the terms of both an obligatory member and an at-large member expire concurrently, the Governor of the state holding the expiring obligatory seat may indicate that the nominees who were not selected for appointment to the obligatory seat may be considered for appointment to an at-large seat. The Secretary may select from any of the nominees for such obligatory seat and from the nominees for any at-large seat submitted by the Governor of that state, provided that the resulting total number of nominees submitted by that Governor for the expiring seats is no fewer than six. If a total of fewer than six nominees is submitted by the Governor, each of the six will be considered for the expiring obligatory seat, but not for the expiring at-large seat.

(c) *Responsibilities of eligible tribal Indian governments.* The tribal Indian representative on the Pacific Council will be selected by the Secretary from a list of no fewer than three individuals submitted by the tribal Indian governments with federally recognized fishing rights from California, Oregon, Washington, and Idaho, pursuant to section 302(b)(5) of the Magnuson-Stevens Act. To assist in assessing the qualifications of each nominee, each head of an appropriate tribal Indian government must furnish to the Assistant Administrator a current resume, or equivalent, describing the nominee's qualifications, with emphasis on knowledge and experience related to the fishery resources affected by recommendations of the Pacific Council. Prior service on the Pacific Council in a different capacity will not disqualify nominees proposed by tribal Indian governments.

(d) *Nomination deadlines.* Nomination letters and completed kits must be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15. For appointments outside the normal cycle, a different deadline for receipt of nominations will be announced.

(1) *Obligatory seats.* The Governor of the state for which the term of an obligatory seat is expiring must submit the names of at least three qualified individuals to fill that seat by the March 15 deadline. The Secretary will appoint to the Pacific Council a representative of an Indian tribe from a list of no fewer than three individuals submitted by the tribal Indian governments. If the nominator fails to provide a nomination letter and at least three complete nomination kits by March 15, the obligatory seat will remain vacant until all required information has been received and processed and the Secretary has made the appointment.

(2) *At-large seats.* (i) If a Governor chooses to submit nominations for an at-large seat, he/she must submit lists that contain at least three different qualified nominees for each vacant seat. A nomination letter and at least three complete nomination kits must be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator.

(ii) Nomination packages that are incomplete as of March 15 will be returned to the nominating Governor and will not be processed further. At-large members will be appointed from among the nominations submitted by the Governors who complied with the nomination requirements and the March 15 deadline.

(e) *Responsibilities of the Secretary.* (1) The Secretary must, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries in the Council's area of authority. Further, the Secretary must take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries in the Council's area of authority are fairly represented as voting members on the Councils.

(2) The Secretary will review each list submitted by a Governor or the tribal Indian governments to ascertain whether the individuals on the list are qualified for the vacancy. If the Secretary determines that a nominee is not qualified, the Secretary will notify the appropriate Governor or tribal Indian government of that determination. The Governor or tribal Indian government shall then submit a revised list of nominees or resubmit the original list with an additional explanation of the qualifications of the nominee in question. The Secretary reserves the right to determine whether nominees are qualified.

(3) The Secretary will select the appointees from lists of qualified nominees provided by the Governors of the constituent Council states or the tribal Indian governments that are eligible to nominate candidates for that vacancy.

(i) For Governor-nominated seats, the Secretary will select an appointee for an obligatory seat from the list of qualified nominees submitted by the Governor of the state. In filling expiring at-large seats, the Secretary will select an appointee(s) for an at-large seat(s) from the list of all qualified candidates submitted. The Secretary will consider only complete slates of nominees submitted by the Governors of the Council's constituent states. When an appointed member vacates his/her seat prior to the expiration of his/her term, the Secretary will fill the vacancy for the remainder of the term by selecting from complete nomination letters and kits that are timely and contain the required number of candidates.

(ii) For the tribal Indian seat, the Secretary will solicit nominations of individuals for the list referred to in paragraph (c) of this section only from those Indian tribes with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The Secretary will consult with the Bureau of Indian Affairs, Department of the Interior, to determine which Indian tribes may submit nominations. Any vacancy occurring prior to the expiration of any term shall be filled in the same manner as described in paragraphs (d)(1) and (2) of this section, except that the Secretary may use the list referred to in paragraph (b)(1) of this section from which the vacating member was chosen. The Secretary shall rotate the appointment among the tribes, taking into consideration:

(A) The qualifications of the individuals on the list referred to in paragraph (c) of this section;

(B) The various rights of the Indian tribes involved, and judicial cases that set out the manner in which these rights are to be exercised;

(C) The geographic area in which the tribe of the representative is located; and

(D) The limitation that no tribal Indian representative shall serve more than three consecutive terms in the Indian tribal seat.

[FR Doc. 98–2283 Filed 1–29–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 20
Friday, January 30, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–075N]

HACCP; Opportunity for Early Implementation

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) announces that federally inspected meat and poultry slaughter and processing establishments may, upon request, implement and receive inspection under the new Hazard Analysis and Critical Control Point (HACCP) regulations prior to the mandatory implementation date. FSIS expects to be able to make early implementation available to most interested establishments beginning in spring 1998.

DATES: Written comments must be received on or before March 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. William Smith, Acting Assistant Deputy Administrator, Inspection Operations, Room 4437 South Building, Washington, DC 20250; (202) 720–3697.

SUPPLEMENTARY INFORMATION:

Background

The Hazard Analysis and Critical Control Points (HACCP) regulations set forth in 9 CFR part 417 become mandatory in all federally inspected meat and poultry slaughter and processing establishments during the period between January 26, 1998, and January 25, 2000 (61 FR 38806; July 25, 1996). The mandatory implementation date for large establishments (500 or more employees) is January 26, 1998; for small establishments (10 to 499 employees), it is January 25, 1999; and for very small establishments (fewer than 10 employees), it is January 25, 2000.

Some small and very small establishments have expressed interest in implementing the HACCP regulations set forth in 9 CFR part 417 before the mandatory date. Because the implementation of HACCP will likely reduce the risk of food borne illness from meat and poultry products, the Food Safety and Inspection Service (FSIS) will make every effort to accommodate requests for early HACCP implementation.

FSIS has expedited the training of inspectors, and expects by March 1998 to have a sufficient number of HACCP-trained inspectors available to respond positively to most requests. However, because the agency cannot project the actual number of requests, the granting of requests will be contingent on the availability of HACCP-trained inspectors.

Establishments that desire to be subject to the HACCP regulations before the mandatory date should submit a letter to this effect to the District Manager for the area in which the establishment is located. The letter should contain: (1) The establishment number; (2) the date that the establishment requests HACCP inspection to begin; and (3) an acknowledgment that the establishment cannot revert to traditional inspection once HACCP inspection is provided. Interested establishments should understand that early HACCP implementation means advancing the effective date of the HACCP regulations for them and that FSIS will enforce the HACCP regulatory requirements. FSIS will acknowledge receipt of the request and address the practicability of the requested implementation date, based on the availability of HACCP trained inspectors in a return letter. Because of the resource requirements involved in accommodating an establishment's request for early HACCP implementation, once the exchange of letters with FSIS confirming the agreement to implement HACCP on a given date is complete, the establishment will not be able to alter or withdraw from that agreement.

Done at Washington, DC, on: January 26, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–2298 Filed 1–29–98; 8:45 am]

BILLING CODE 3410–DM–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a commodity and services previously furnished by such agencies.

EFFECTIVE DATE: March 2, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 3, November 28, December 5 and 12, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (62 FR 51827, 63314, 64352 and 65411) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Office and Miscellaneous Supplies (Requirements for the Marine Corps Air Station, Yuma, Arizona)
Office and Miscellaneous Supplies (Requirements for the Marine Corps Air Station, Beaufort, South Carolina)

Knife, Kitchen 7340–00–205–3335

7340–00–223–7771
7340–00–488–7950
7340–00–680–2758
7340–00–488–7939
7340–00–197–1271

Services

Janitorial/Custodial, Federal Building, 648 Mission, Ketchikan, Alaska
Janitorial/Custodial, for the following Grand Rapids, Michigan locations: VA Outpatient Clinic, 3019 Coit Avenue, Special Mental Health Clinic, 3000 Monroe Street
Janitorial/Custodial, U.S. Army Reserve Center, 443 Route 119 N, Indiana, Pennsylvania
Janitorial/Custodial, Johnstown Aviation Support Facility, Airport Road #2, Johnstown, Pennsylvania
Janitorial/Grounds Maintenance, West Los Angeles Federal Building & U.S. Post Office, 11000 Wilshire Boulevard, Los Angeles, California
Mailroom Operation, U.S. Army Corps of Engineers, Humphreys Engineer Center Support Activity, Kingman Building, Telegraph and Leaf Road, Fort Belvoir, Virginia

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodity and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodity and services are hereby deleted from the Procurement List:

Commodity

Remover, Floor Polish
7930–00–045–6923

Services

Grounds Maintenance, U.S. Army Reserve Center, 2000 North New Road, Waco, Texas
Grounds Maintenance, U.S. Army Reserve Center, 6401 Imperial Drive, Waco, Texas
Janitorial/Custodial, U.S. Army Reserve Center, 200 North New Road, Waco, Texas
Janitorial/Custodial, U.S. Army Reserve Center, 6401 Imperial Drive, Waco, Texas.

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–2372 Filed 1–29–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 2, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Grounds Maintenance, Aliamanu Military Reservation, Oahu, Hawaii, NPA: Lanakila Rehabilitation Center, Honolulu, Hawaii
Janitorial/Custodial, U.S. Army Reserve Center, San Bernadino & Bell, California, NPA: Lincoln Training Center & Rehabilitation Workshop, South El Monte, California
Janitorial/Custodial for the following locations: Schroeder Hall U.S. Army Reserve Center, 3800 Willow Street, Long Beach, California
Patton Hall U.S. Army Reserve Center, 5340 Bandini Boulevard, Bell,

California, NPA: Goodwill Industries of Southern California, Los Angeles, California

Janitorial/Custodial, U.S. Coast Guard, CGC Eagle (WIX–327), 15 Mohegan Avenue, New London, Connecticut, NPA: CW Resources, Inc., New Britain, Connecticut

Janitorial/Grounds Maintenance, Pactola Harney Ranger District Recreation Areas, Black Hills National Forest, Custer, South Dakota, NPA: Southern Hills Developmental Services, Inc., Hot Springs, South Dakota

Laundry Service, Medical Clinics (BMC NS, NAS), San Diego, California, NPA: Job Options, Inc., San Diego, California

Library Services, Travis Air Force Base, California, NPA: PRIDE Industries, Roseville, California.

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–2373 Filed 1–29–98; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–825]

Oil Country Tubular Goods From Korea; Extension of Time Limit for Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limit for antidumping duty administrative review of oil country tubular goods from Korea.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the ongoing antidumping duty administrative review of the antidumping order on oil country tubular goods from Korea. This review covers one manufacturer and exporter of the subject merchandise: SeAH Steel Corporation, Ltd. The period of review is August 1, 1996 through July 31, 1997.

EFFECTIVE DATE: January 30, 1998.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian or Steven Presing, AD/CVD Enforcement Group III—Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230, telephone (202) 482–0162 or 482–0194, respectively.

SUPPLEMENTARY INFORMATION: The Department initiated this review in the **Federal Register** on September 25, 1997 (62 FR 50292). Currently, the preliminary results for this review are due May 3, 1998. However, due to the complexity of the issues involved in this case, including further manufacturing, multiple layers in the U.S. sales process, and the need to use third country market sales as the basis for normal value and for the Department's recently initiated cost investigation, the Department has determined that it is not practicable to complete this review within the time limits set forth by section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act. Therefore, the Department is extending the time limit for the preliminary results of the aforementioned review to August 31, 1998. This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994 (19 U.S.C. 1675(a)(3)(A)). *See* memorandum from Joseph A. Spetrini to Robert S. LaRussa, which is on file in Room B–099 at the Department's headquarters.

Dated: January 23, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 98–2359 Filed 1–29–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012398B]

Magnuson Act Provisions; Effects of Fishing on Essential Fish Habitat; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting.

SUMMARY: NMFS will hold a public meeting to brief the Pacific Fishery Management Council's (PFMC) Groundfish Management Team and interested parties on the results of a synthesis of available scientific information on fishing gear impacts on habitat entitled: *The Indirect Effects of Fishing* by Peter J. Auster and Richard W. Langton. Following a presentation there will be an opportunity for questions and comments. NMFS requests that comments be limited to those concerning the adequacy of the synthesis, i.e., what scientific studies are missing, and any disagreements with the scientific conclusions.

DATES: The meeting will be held February 9, 1998. See **SUPPLEMENTARY INFORMATION** for specific location, and time.

ADDRESSES: Requests for copies of the draft report and additional information should be addressed to Office of Habitat Conservation, Attention: Gear Impacts, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282; telephone: 301/713–2325.

FOR FURTHER INFORMATION CONTACT: Jim Thomas, NMFS, 301/713–2325.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act of 1996, requires that the Councils minimize, to the extent practicable, adverse effects of fishing on habitat. The Magnuson-Stevens Act further stipulates that fishers and other interested parties be involved in this process. This process begins with a synthesis that surveys and assesses all available information through the scientific literature concerning adverse effects of fishing. The draft synthesis is being presented and discussed at this public meeting. The final synthesis document will be available to all of the Councils and to other interested parties for use in addressing adverse impacts from fishing gear within fishery management plans. NMFS is hosting a series of meetings to inform the Councils and to involve interested parties early in the process of addressing the effects of fishing on habitat. Information on the locations of the other meetings was provided in an earlier notice (63 FR 2217, January 14, 1998) and will not be repeated here. The meeting announced in this notice will provide an opportunity for members of the PFMC's Groundfish Management Team, West Coast fishers, and the public an opportunity to comment on the draft synthesis document.

Public Meeting

Monday, February 9, 1998, from 7:00 p.m. to 10:00 p.m. PST at the Doubletree Downtown Hotel, Multnomah Falls Room, 310 SW Lincoln, Portland, OR 97201; telephone 503/221–0450.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Jim Thomas (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 26, 1998.

James P. Burgess,

Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 98–2279 Filed 1–26–98; 4:44 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012398F]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) will hold a work session which is open to the public.

DATES: The meeting will begin at 10 a.m. on Tuesday, February 17, 1998, and continue from approximately 8 a.m. to 5 p.m. each day through Friday, February 20, 1998.

ADDRESSES: The meeting will be held at the Council office in Portland, OR.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dr. John Coon, Salmon Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting, which is primarily a work session of the STT, is to draft the stock status report, ''Preseason Report 1: Stock Abundance Analysis for 1998 Ocean Salmon Fisheries.'' The final report will be distributed to the public and reviewed by the Council at its March 1998 meeting in Millbrae, CA.

Although other issues not contained in this agenda may come before this Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Team action during this meeting. Team action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Eric Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: January 26, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–2370 Filed 1–29–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012398G]

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Law Enforcement Committee and Advisory Panel.

DATES: The meeting will be held from February 19-20, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Unison Insurance Building, One Southpark Circle, Suite 306, Charleston, SC 29407-4699 (Council headquarters); telephone: (803) 571-4366.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520; email: susan.buchanan@noaa.gov

SUPPLEMENTARY INFORMATION:

Meeting Dates

February 19, 1998, 1:30 p.m. to 5:00 p.m.

The Committee and Advisory Panel will hear a report on the status and scope of the NMFS/South Carolina cooperative enforcement agreement and discuss the potential for other states' participation in the future, and hear a report on the NMFS Enforcement fishing vessel monitoring systems.

February 20, 1998, 8:30 a.m. to 5:00 p.m.

The Committee and Advisory Panel will discuss the consolidated regulations for the Southeast region, specifically the development of an index for the consolidated regulations and recommendations for revisions to the consolidated regulations; discuss standardization of measurements used for enforcement; hear the status of the NOAA General Counsel penalty schedule and summary settlement policy; review proposed management measures in Amendment 9 to the Fishery Management Plan for the Coastal Migratory Pelagics Resource; develop recommendations for targeting areas for recreational violations; discuss potential content and merits of a national marine law enforcement workshop; discuss how implementation of Amendment 8 to the Fishery Management Plan for Coastal Migratory Pelagics Resources will affect enforcement of illegal mackerel netting on the east coast of Florida; and discuss other business.

Although other issues not contained in this agenda may come before this Committee/Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Committee/Panel action during the meeting. Committee/Panel action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by February 12, 1998.

Dated: January 26, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–2371 Filed 1–29–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012398A]

Marine Mammals; Permit No. 926 (P562)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Robin Baird, Department of Biology, Dalhousie University, Halifax, Nova Scotia, Canada B3H 4J1, has requested an amendment to Permit No. 926.

DATES: Written comments must be received on or before March 2, 1998.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA (206/526–6150);

Regional Administrator, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221); and

Regional Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

Written data or views, or requests for a public hearing on this request should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, National Marine Fisheries Service, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The Permit Holder is currently authorized to: (1) radio tag via suction cup attachment up to 25 killer whales (*Orcinus orca*) and up to 100 Dall's porpoise (*Phocoenoides dalli*) annually in waters off Washington State, over a five year period; and (2) harass up to 300 killer whales and 200 Dall's porpoise annually during the conduct of the tagging activities. The purpose of the research is to study the behavior and ecology of these species. The Holder is now requesting that the Permit be amended to expand the geographic coverage of the research to include the waters of southeast Alaska, Oregon, and California.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 23, 1998.

Ann D. Terbush, Chief,

Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–2367 Filed 1–29–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Public information Collection Requirement Submitted to the Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of submission of information collection #3038–0047—Contract market transactions.

SUMMARY: The Commodity Futures Trading Commission has submitted Information Collection 3038–0047, Contract Market Transactions, to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1995, (Pub. L. 104–13). On October 2, 1995, pursuant to section 4(c) of the Commodity Exchange Act (''Act''), 7 U.S.C. § 6(c)(1994), the Commission published final rules in the **Federal Register** which exempted certain contract market transactions from specified requirements of the Act and Commission regulations thereunder (60 FR 51323). The information collected pursuant to this rule is required in order to assist the Commission in its determination that the exempted transaction will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the Act, and that the exemption would be consistent with the public interest and the purposes of the Act.

DATES: Comments must be received on or before March 2, 1998.

ADDRESS: Persons wishing to comment on this information collection should contact the Desk Officer, CFTC, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the submission are available from the Agency Clearance Officer, (202) 418–5160.

Title: Contract Market Transactions.

Control Number: 3038–0047.

Action: Extension.

Respondents: Contract Markets.

Estimated Annual Burden: 5,033.

Respondents	Regulation (17 CFR)	Estimated no. of respondents	Annual responses	Estimated average hours per response
Contract	36.5	100	100	0.33
Markets	36.7	200	2,000	2.50

Issued in Washington, DC, on January 26, 1998.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 98–2338 Filed 1–29–98; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATES: Thursday, February 5, 1998, 6:00 p.m.–9:30 p.m.

ADDRESS: Westminster City Hall, Lower-level Multi-purpose Room, 4800 West 92nd Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB—Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. There will be a discussion and follow-up questions from the first annual State of the Flats meeting. At the

State of the Flats meeting on January 28, Rocky Flats managers will share with the community cleanup accomplishments from 1997 and plans for 1998.

2. The board will discuss comments it will submit to DOE regarding the Environmental Impact Statement for the treatment of certain plutonium residues currently at the site.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 a.m. and 4:00 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on January 26, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–2383 Filed 1–29–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation.

DATES: Wednesday, February 4, 1998, 6:00 p.m.–9:30 p.m.

ADDRESS: Ramada Inn, 420 South Illinois Avenue, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Marianne Heiskell, Ex-Officio Officer, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–0314.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: A business meeting will be conducted with no technical presentation provided.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Marianne Heiskell at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Marianne Heiskell, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–0314.

Issued at Washington, DC on January 26, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–2384 Filed 1–29–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah Gaseous Diffusion Plant.

DATES: Thursday, February 19, 1998, 5:00 p.m.–10:00 p.m.

ADDRESS: Executive Inn, McKinley Room, 1 Executive Boulevard, West Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: Carlos Alvarado, Site-Specific Advisory Board Coordinator, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (502) 441–6804.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The meeting will include administrative plans for the board at the beginning of the meeting; Environmental Management and Enrichment Facilities (EMEF) Project updates; a review of the SSAB Draft Work Plan; updates on Waste Area Groupings (WAGs) 6 and 22 (if regulatory comments have been received).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Carlos Alvarado at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the

meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments as the first item on the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8:00 a.m. and 5:00 p.m. on Monday through Friday, or by writing to Carlos Alvarado, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, or by calling him at (502) 441–6804.

Issued at Washington, DC on January 26, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–2386 Filed 1–29–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford Site.

DATES: Thursday, February 5, 1998, 8:30 a.m.–6:00 p.m.; Friday, February 6, 1998, 8:30 a.m.–5:00 p.m.

ADDRESS: Radisson Hotel Seatac Airport, 17001 Pacific Highway South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Ph: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: There will be a Tank Waste Remediation System Workshop on Thursday, February 5 and on the morning of Friday, February 6. The Board will also receive information on and discuss issues related to: the FY2000 Budget and Spent Nuclear Fuel on Friday, February 6.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling him at (509) 376–9628.

Issued at Washington, DC on January 26, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–2387 Filed 1–29–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER94–1045–009 and ER96–688–006]

Kansas City Power & Light Company and Northeast Power Marketing Company, L.L.C.; Notice of Filing

January 26, 1998.

Take notice that on November 18, 1997, Kansas City Power & Light Company (KCP&L), and Northeast Power Marketing Company, L.L.C. tendered for filing an errata to its notice filed on November 17, 1998, relating to limitations on affiliate sales under their respective market rate authority pursuant to the Commission's policies requiring merging companies to consider one another as affiliates pending consummation of their merger.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 5, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–2306 Filed 1–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL96–57–000]

City of Needles v. Nevada Power Company; Notice of Filing

January 26, 1998.

Take notice that on September 19, 1997, the City of Needles tendered for filing a request to withdraw its complaint in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 6, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–2305 Filed 1–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–9–000]

Puget Sound Energy, Inc., Notice of Filing

January 26, 1998.

Take notice that on January 15, 1998, Puget Sound Energy, Inc. (PSE), submitted for filing a request to withdraw its Amendment No. 1, to Power Exchange Agreement with British Columbia Power Exchange Corporation filed October 2, 1997, and to terminate this docket.

PSE has provided copies of the filing to all parties appearing on the official service list for the above proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 5, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–2309 Filed 1–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4082–000]

The Washington Water Power Company; Notice of Filing

January 26, 1998.

Take notice that on December 10, 1997, the Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission an amendment in the above-referenced docket.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 6, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–2307 Filed 1–29–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5957–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NESHAP for Equipment Leaks (Fugitive Emission Sources)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP for Equipment Leaks (Fugitive Emission Sources), 2060–0068, expiration date March 31, 1998. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 2, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No.1153.06.

SUPPLEMENTARY INFORMATION: Title: NESHAP for Equipment Leaks (Fugitive Emission Sources), 2060–0068, ICR 1153.06,expiring March 31, 1998. This ICR is a request for extension of a currently approved collection.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Equipment Leaks (Fugitive Emission Sources) were proposed on January 5, 1981 and promulgated on June 6, 1984. These standards apply to fugitive emissions from equipment sources operating in volatile hazardous air pollutant (VHAP) service (containing or contacting fluids with at least 10% VHAP by weight): Affected facilities are those which own and/or operates pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, flanges and other connectors, product accumulator vessels, and control devices or systems in VHAP service. This information is being collected to assure compliance with 40 CFR part 61, subpart V.

Owners or operators of the affected facilities described must make one-time-only notifications including: notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate, notification of the initial performance test, including information necessary to determine the conditions of the performance test, and performance test measurements and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to the NESHAPs.

Monitoring requirements specific to the Equipment Leaks (Fugitive Emission Sources) NESHAP provides information on leak detection. Owners or operators are also required to submit semiannual reports of the number of valves, pumps, and compressors for which leaks were detected, and explanations for any leak repair delays.

Any owner or operator subject to the provisions of this part shall maintain a file of these reports and retain the file for at least two years following the date of such records.

Approximately 75 sources are currently subject to the standard, and no new sources are expected in the next three years. However, approximately two modified, reconstructed, or new process units are expected per year. According to OAQPS' Emission Standard Division, the number of affected sources is expected to decline

during the next three years. Therefore, the number of affected sources by this standard will remain unchanged from the previous submittal.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 20, 1997, and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 337 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Facilities using pumps, compressors and various devices/systems in volatile hazardous air pollutant service.

Estimated Number of Respondents: 77.

Frequency of Response: 2.

Estimated Total Annual Hour Burden: 57,495 hours.

Estimated Total Annualized Cost Burden: $19,327.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for reducing a respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1153.06 and OMB Control No. 2060–0068 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: January 26, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–2360 Filed 1–29–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5488–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 12, 1998 Through January 16, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the OFFICE OF FEDERAL ACTIVITIES AT (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 11, 1997 (62 FR 16154).

Draft EISs

ERP No. D–BLM–K65275–CA Rating EO2, Fourmile Hill Geothermal Development Project, Construction, Operation and Maintenance, 49.9 megawatt (MW) Geothermal Power Plant, Federal Geothermal Leases CA–21924 and CA–21926, Glass Mountain Known Geothermal Resource Area, Klamath and Modoc National Forests, Siskiyou and Modoc Counties, CA.

Summary: EPA has expressed objections to the significance of potential environmental impacts to the freshwater system and indicated that insufficient data was provided regarding the applied conceptual hydrogeologic model. EPA also expressed objection because the proposed action could establish a precedent for future action with significant effects. EPA also recommended that a second proposed project be included in the same EIS because it is a similiar action. ERP No. D–USA–B11022–MA Rating EU3, Massachusetts Military Reservation Facilities Upgrade, Implementation, 10 Projects, Towns of Bourne, Sandwich, Falmouth and Mashpee, Barnstable County, MA.

Summaey: EPA deemed the draft EIS inadequate because it lacked essential information relating to the environmental impacts of past, current and future training activities at the training range and impact area at the military reservation. EPA commented that the most critical deficiency of the DEIS was its failure to address adequately the contamination of Cape Cod's sole source aquifer as the result of past military operations and the potential for future contamination from current and proposed training activities. EPA called for the substantial revision and reissuance of the DEIS as a SEIS in order to provide a basis for understanding the baseline environmental conditions and potential impacts of the expansion of the training ranges.

ERP No. DS–FHW–B40071–CT Rating EC2, I–95 at New Haven Harbor Crossing (Quinnipac River Bridge) Updated Information for Seven Alternatives on (Q-Bridge) Study, Funding, COE Section 404 Permit, U.S. Coast Guard Bridge Permit, New Haven, East Haven, Branford, Madison and Clinton, CT.

Summary: EPA commented that additional information with regard to wetland and air quality impacts should be provided to fully evaluate the environmental acceptability of various alternatives. EPA also indicated that it is crucial for the final EIS to demonstrate that funding can and will be secured for the transit features of the project. Additionally, EPA asked CTDOT/FHWA to demonstrate the affirmative and effective steps to assure that TSM and transit incentive components will be implementated for the project.

Final EISs

ERP No. F–AFS–L65267–AK Helicopter Landings within Wilderness, Implementation, Tongass National Forest, Chatham, Stikine and Ketchikan Area, AK.

Summary: Review of the final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. FA–DOE–A22076–NM Waste Isolation Pilot Plant Disposal Phase, Updated Information, Disposal of Transuranic Waste, Carlsbad, NM.

Summary: EPA has no further comment to offer on the NEPA process. Final approval for operation of the WIPP facility will be based upon EPA's completion of the certification process conducted by EPA's Office of Radiation and Indoor Air and the RCRA permit

review and approval process conducted by the New Mexico Environment Department.

Dated: January 27, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–2376 Filed 1–29–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5488–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed January 19, 1998 Through January 23, 1998 Pursuant to 40 CFR 1506.9.

EIS No. 980012, DRAFT EIS, COE, CA, Santa Clara River and Major Tributaries Project, Approval of 404 Permit and 1603 Streambed Alteration Agreement, City Santa Clarita, Los Angeles County, CA, Due: March 25, 1998, Contact: Bruce Henderson (805) 641–1128.

EIS No. 980013, DRAFT EIS, FHW, NM, Paseo del Volcon Corridor, Acquisition of Right-of-Way and Construction of Roadway, from the Intersection of I–40 to Intersection of NM–44 near the Town of Bernalillo, Bernalillo and Sandoval Counties, NM, Due: March 16, 1998, Contact: Gregory D. Rawlings (505) 820–2027.

EIS No. 980014, DRAFT EIS, AFS, OR, Nicore Mining Project, Implementation, Plan-of-Operations, Mining of Four Sites, Road Construction, Reconstruction, Hauling and Stockpiling of Ore, Rough and Ready Creek Watershed, Illinois Valley Ranger District, Siskiyou National Forest, Medford District, Josephine County, OR, Due: March 16, 1998, Contact: Rochelle Desser (541) 592–2166.

EIS No. 980015, FINAL SUPPLEMENT, COE, PA, Lower Monogahela River Navigation System, Locks and Dam Nos 2, 3 and 4 Improvement, Additional Documentation, Disposal and Dredge and Excavated Material, Funding, Allegheny, Washington and Westmoreland Counties, PA, Due: March 02, 1998, Contact: James Purdy (412) 395–7224.

Dated: January 27, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–2377 Filed 1–29–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[PF–788; FRL–5766–2]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–788, must be received on or before March 2, 1998.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch (7502C), Information Resources and Services Division, Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Joanne Miller (PM 23) ...	Rm. 237, CM #2, 703–305–6224, e-mail: miller.joannes@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Cynthia Giles-Parker (PM 22).	Rm. 229, CM #2, 703–305–7740, e-mail: giles-parker.cynthia@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–788] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by

the docket control number [PF–788] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 22, 1998.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. FMC Corporation

PP 7F4795

EPA has received a pesticide petition (PP 7F4795) from FMC Corporation, 1735 Market Street, Philadelphia, PA 19103, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of carfentrazone-ethyl in or on the raw agricultural commodities (RAC) cereal grain at 0.1 parts per million (ppm), 0.3 ppm in or on hay; 0.2 ppm in or on straw; 1.0 ppm in or on forage; 0.15 ppm in or on stover and 0.1 ppm in or on sweet corn, K + CWHR (kernels plus cob with husk removed) and in or on the RACs soybeans and soybean seed at 0.1 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of carfentrazone-ethyl in plants is adequately understood. Corn, wheat, and soybean metabolism studies with carfentrazone-ethyl have shown uptake of material into plant tissue with no significant movement into grain or seeds. All three plants extensively metabolized carfentrazone-ethyl and exhibited a similar metabolic pathway. The residues of concern are the combined residues of carfentrazone-ethyl and carfentrazone-ethyl-chloropropionic acid.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of carfentrazone and its metabolites in or on food with a limit of quantitation (LOQ) that allows monitoring of food with residues at or above the levels set in the tolerances. The analytical method for carfentrazone-ethyl involves separate analyses for parent and its metabolites. The parent is analyzed by GC/ECD. The metabolites are derivatized with boron trifluoride and acetic anhydride for analysis by GC/MSD using selective ion monitoring.

3. *Magnitude of residues*. Carfentrazone-ethyl 50DF was applied postemergent to 28 wheat trials, 24 corn trials, and 22 soybean trials in the appropriate EPA regions. The RACs were harvested at the appropriate growth stages and subsequent analyses determined that the residues of carfentrazone-ethyl and its metabolites will not exceed the proposed tolerances of 1.0, 0.3, 0.2, and 0.1 ppm for wheat forage, hay, straw, and grain, respectively; 0.1 ppm each for corn forage, fodder, and grain; and 0.1 ppm for soybean seed. Residue data from a cow feeding study demonstrated that no accumulation of carfentrazone-ethyl or its metabolites occurred in milk or tissues.

B. Toxicological Profile

1. *Acute toxicity*. Carfentrazone-ethyl demonstrates low oral, dermal and inhalation toxicity. The acute oral LD_{50} value in the rat was greater than 5,000 milligram/kilograms (mg/kg), the acute dermal LD_{50} value in the rat was greater than 4,000 mg/kg and the acute inhalation LC_{50} value in the rat was greater than 5.09 mg/L/4h. Carfentrazone-ethyl is non-irritating to rabbit skin and minimally irritating to rabbit eyes. It did not cause skin sensitization in guinea pigs. An acute neurotoxicity study in the rat had a systemic No observed adverse effect level (NOAEL) of 500 mg/kg based on clinical signs and decreased motor activity levels; the NOAEL for neurotoxicity was greater than 2,000 mg/kg (highest dose tested); (HDT) based on the lack of neurotoxic clinical signs or effects on neuropathology.

2. *Genotoxicity*. Carfentrazone-ethyl did not cause mutations in the Ames assay with or without metabolic activation. There was a positive response in the Chromosome Aberration assay without activation but a negative response with activation. The Mouse Micronucleus assay (an *in vivo* test which also measures chromosome damage), the CHO/HGPRT forward mutation assay and the Unscheduled DNA Synthesis assay were negative. The overwhelming weight of the evidence supports the conclusion that Carfentrazone-ethyl is not genotoxic.

3. *Reproductive and developmental toxicity*. Carfentrazone-ethyl is not considered to be a reproductive or a developmental toxin. In the 2-generation reproduction study, the No observed effect level (NOEL) for reproductive toxicity was greater than 4,000 ppm (greater than 323 to greater than 409 mg/kg/day). In the developmental toxicity studies, the rat and rabbit maternal NOELs were 100 mg/kg/day and 150 mg/kg/day, respectively. The developmental NOEL for the rabbit was greater than 300 mg/kg/day which was the highest dose tested and for the rat the NOEL was 600 mg/kg/day based on increased litter incidences of thickened and wavy ribs at 1,250 mg/kg/day. These two findings (thickened and wavy ribs) are not considered adverse effects of treatment but related delays in rib development which are generally believed to be reversible.

4. *Subchronic toxicity*. Ninety-day feeding studies were conducted in mice, rats and dogs with Carfentrazone-ethyl. The NOEL for the mouse study was 4,000 ppm (571 mg/kg/day), for the rat study was 1,000 ppm (57.9 mg/kg/day for males; 72.4 mg/kg/day for females) and for dogs was 150 mg/kg/day. A 90-day subchronic neurotoxicity study in the rat had a systemic NOEL of 1,000 ppm (59.0 mg/kg/day for males; 70.7 mg/kg/day for females) based on decreases in body weights, body weight gains and food consumption at 10,000 ppm; the neurotoxicity NOEL was greater than 20,000 ppm (1,178.3 mg/kg/day for males; 1,433.5 mg/kg/day for females) which was the highest dose tested.

5. *Chronic toxicity*. Carfentrazone-ethyl is not carcinogenic to rats or mice. A 2-Year Combined Chronic Toxicity/Oncogenicity study in the rat was negative for carcinogenicity and had a chronic toxicity NOEL of 200 ppm (9 mg/kg/day) for males and 50 ppm (3 mg/kg/day) for females based on red fluorescent granules consistent with porphyrin deposits in the liver at the 500 and 200 ppm levels, respectively.

An 18 Month Oncogenicity study in the mouse had a carcinogenic NOEL that was greater than 7,000 ppm (>1,090 mg/kg/day for males; >1,296 mg/kg/day for females) based on no evidence of carcinogenicity at the highest dose tested. A 1-Year Oral Toxicity study in the dog had a NOEL of 50 mg/kg/day based on isolated increases in urine porphyrins in the 150 mg/kg/day group (this finding was not considered adverse).

Using the Guidelines for Carcinogen Risk Assessment, carfentrazone-ethyl should be classified as Group ''E'' for carcinogenicity -- no evidence of carcinogenicity -- based on the results of carcinogenicity studies in two species. There was no evidence of carcinogenicity in an 18-month feeding study in mice and a 2-year feeding study in rats at the dosage levels tested. The doses tested are adequate for identifying a cancer risk. Thus, a cancer risk assessment is not necessary.

6. *Animal metabolism*. The metabolism of carfentrazone-ethyl in animals is adequately understood. Carfentrazone-ethyl was extensively metabolized and readily eliminated following oral administration to rats, goats, and poultry via excreta. All three animals exhibited a similar metabolic pathway. As in plants, the parent chemical was metabolized by hydrolytic mechanisms to predominantly form carfentrazone-ethyl-chloropropionic acid which was readily excreted.

7. *Endocrine disruption*. An evaluation of the potential effects on the endocrine systems of mammals has not been determined; however, no evidence of such effects were reported in the chronic or reproductive toxicology studies described above. There was no observed pathology of the endocrine organs in these studies. There is no evidence at this time that carfentrazone-ethyl causes endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure*— i. *Acute dietary*. The Agency has determine that there is no concern for an acute dietary risk assessment since the available data do not indicate any evidence of significant toxicity from a 1-day or single event exposure by the oral route (**Federal Register**: September 30, 1997, 62 FR 51032-51038). Thus an acute dietary risk assessment is not necessary.

ii. *Chronic dietary*. Based on the available toxicity data, the EPA has established a provisional Reference Dose (RfD) for carfentrazone-ethyl of 0.06 mg/kg/day. The RfD for carfentrazone-ethyl is based on a 90-day feeding study in rats with a threshold NOEL of 57.9 mg/kg/day and an uncertainty factor of 100, with an additional modifying factor of 10 to account for the fact that the chronic studies have not yet been reviewed by the EPA. For purposes of assessing the potential chronic dietary exposure, a Tier 1 dietary risk assessment was conducted based on the Theoretical Maximum Residue Contribution (TMRC) from the proposed tolerances for carfentrazone-ethyl on soybeans at 0.1 ppm, wheat at 0.2 ppm and corn (field) at 0.15 ppm. (The TMRC is a ''worse case'' estimate of dietary exposure since it is assumed that 100% of all crops for which tolerances are established are treated and that pesticide residues are present at the tolerance levels.) At this time the dietary exposure to residues of carfentrazone-ethyl in or on food will be limited to residues on soybeans, wheat and corn. There are no other established U.S. tolerances for carfentrazone-ethyl, and there are no registered uses for carfentrazone-ethyl on food or feed crops in the U.S. In conducting this exposure assessment, the following very conservative assumptions were made-- 100% of soybeans, wheat and corn will contain carfentrazone-ethyl residues and those residues would be at the level of the tolerance which result in an overestimate of human exposure.

2. *Food*. Dietary exposure from the proposed uses would account for 1.3% or less of the RfD in subpopulations (including infants and children).

3. *Drinking water*. Studies have indicated that carfentrazone-ethyl will not move into groundwater, therefore water has not been included in the dietary risk assessment.

4. *Non-dietary exposure*. No specific worker exposure tests have been conducted with carfentrazone-ethyl. The potential for non-occupational exposure to the general population has not been fully assessed. No specific worker exposure tests have been conducted with carfentrazone-ethyl.

D. Cumulative Effects

EPA is also required to consider the potential for cumulative effects of carfentrazone-ethyl and other substances that have a common mechanism of toxicity. EPA consideration of a common mechanism of toxicity is not appropriate at this time since EPA does not have information to indicate that toxic effects produced by carfentrazone-ethyl would be cumulative with those of any other chemical compounds; thus only the potential risks of carfentrazone-ethyl are considered in this exposure assessment.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described and based on the completeness and reliability of the toxicity data, the aggregate exposure to carfentrazone-ethyl will utilize 0.61% of the RfD for the U.S. population. EPA generally has no concern for exposures below 100% of the RfD. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, there is a reasonable certainty that no harm will result from aggregate exposure to residues of carfentrazone-ethyl, including all anticipated dietary exposure and all other non-occupational exposures.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of carfentrazone-ethyl, EPA considers data from developmental toxicity studies in the rat and rabbit and the 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to effects on the reproductive capacity of males and females exposed to the pesticide. Developmental toxicity was not observed in developmental toxicity studies using rats and rabbits. In these studies, the rat and rabbit maternal NOELs were 100 mg/kg/day and 150 mg/kg/day, respectively. The developmental NOEL for the rabbit was greater than 300 mg/kg/day which was the highest dose tested and for the rat was 600 mg/kg/day based on increased litter incidences of thickened and wavy ribs. These two findings are not considered adverse effects of treatment but related delays in rib development which are generally believed to be reversible.

In a 2-generation reproduction study in rats, no reproductive toxicity was observed under the conditions of the study at 4,000 ppm which was the highest dose tested.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database relative to pre- and post-natal effects for children is complete and an additional uncertainty factor is not warranted. Therefore at this time, the provisional RfD of 0.06 mg/kg/day is

appropriate for assessing aggregate risk to infants and children.

3. *Reference dose (RfD).* Using the conservative exposure assumptions described above, the percent of the RfD that will be utilized by aggregate exposure to residues of carfentrazone-ethyl for non-nursing infants (<1 year old) would be 0.28% and for children 1-6 years of age would be 1.37% (the most highly exposed.

F. International Tolerances

There are no Codex Alimentarius Commission (Codex) Maximum Residue Levels (MRLs) for carfentrazone-ethyl on any crops at this time. However, MRLs for small grains in Europe have been proposed which consist of carfentrazone-ethyl and carfentrazone-ethyl-chloropropionic acid. (PM 23)

2. Rohm and Haas Company

PP 2F4127 2F4135, 3F4194, 3H5663, 7F4887, and 7F4900

EPA has received six pesticide petitions (PP 2F4127, 2F4135, 3F4194, 3H5663, 7F4887, and 7F4900) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106-2399, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing permanent tolerances for almond, apple, and grapefruit and time-limited tolerances for wheat and animal commodities for residues of [alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile (fenbuconazole) in or on the raw agricultural commodities (RAC) almond nuts at 0.05 parts per million (ppm); almond hulls at 3.0 ppm; apples at 0.4 ppm; apple pomace, wet at 1.0 ppm; grapefruit at 1.0 ppm; citrus oil (grapefruit) at 35.0 ppm; grapefruit pulp, dried at 4.0 ppm; sugar beet root at 0.2 ppm; sugar beet top at 9.0 ppm; sugar beet pulp, dried at 1.0 ppm; sugar beet molasses at 0.4 ppm; wheat grain at 0.05 ppm; wheat straw at 10.0 ppm; fat of cattle, hogs, horses, goats, and sheep at 0.05 ppm; and liver of cattle, hogs, horses, goats, and sheep at 0.3 ppm. The analytical method involves soxhlet extraction, partitioning, redissolving, clean-up, and analysis by gas-liquid chromatography using nitrogen specific thermionic detection. EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

A. Residue Chemistry

The tolerance expression for fenbuconazole residues in or on almond nuts or hulls, apples or apple process fractions, grapefruit and all related commodities, sugar beets, and wheat grain or straw is α-(2-(4-chlorophenyl)-ethyl)-α-phenyl-(1*H*-1,2,4-triazole-1-propanenitrile, plus cis-5-(4-chlorophenyl) dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-)-2(3*H*)-furanone, plus trans-5-(4-chlorophenyl) dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-)-2(3*H*)-furanone. Residues of these compounds are combined and expressed as parent compound to determine the total residue in or on almond nuts or hulls, apples or apple process fractions, grapefruit and all related commodities, sugar beets and all related commodities, and wheat grain or straw.

The tolerance expression for fenbuconazole residues in or on animal fat is α-(2-(4-chlorophenyl)-ethyl)-α-phenyl-(1*H*-1,2,4-triazole-1-propanenitrile, plus 4-chloro-α-(hydroxymethyl)-α-phenyl-benzenebutanenitrile. Residues of these compounds are combined and expressed as parent compound to determine the total residue.

The tolerance expression for fenbuconazole residues in or on animal liver is α-(2-(4-chlorophenyl)-ethyl)-α-phenyl-(1*H*-1,2,4-triazole-1-propanenitrile, plus cis-5-(4-chlorophenyl) dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-)-2(3*H*)-furanone, plus trans-5-(4-chlorophenyl) dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-)-2(3*H*)-furanone, plus 4-chloro-α-(hydroxymethyl)-α-phenyl-benzenebutanenitrile. Residues of these compounds are combined and expressed as parent compound to determine the total residue.

Analytical methods to measure the components of the residue in or on almond nuts and almond hulls, apples, apple process fractions, grapefruit, sugar beets, wheat grain and wheat straw, and animal commodities have been validated and accurately quantify residues of fenbuconazole. The residues of fenbuconazole will not exceed the proposed Permanent Tolerances in/on apples or apple process fractions, in/on almonds or related commodities, in/on grapefruit or related commodities following foliar treatment, on sugar beets or related commodities, or in/on wheat or related commodities following foliar or seed treatment.

1. *Analytical method.* Fenbuconazole residues (parent plus lactones) are measured at an analytical sensitivity of 0.01 mg/kg in apples, and wheat grain and straw by soxhlet extraction of samples in methanol, partitioning into methylene chloride, redissolving in toluene, clean-up on silica gel, and gas-liquid chromatography (GLC) analysis using nitrogen specific thermionic detection. Fenbuconazole residues are measured at an analytical sensitivity of 0.01 mg/kg in fat and liver in essentially the same manner except that one of the analytes in these matrices, 4-chloro-α-(hydroxymethyl)-α-phenyl-benzenebutanenitrile, is measured at a sensitivity of 0.05 ppm.

2. *Magnitude of residues*— i. *Wheat.* Residue studies have been conducted in accordance with the geographic distribution mandated by the EPA for wheat. In the wheat grain, the raw agricultural commodity, the fenbuconazole residues ranged from no detectable residue (NDR < LOQ = 0.01 mg/kg) to approximately 0.01 ppm. In wheat straw the fenbuconazole residues ranged from approximately 0.05 ppm to approximately 4.5 ppm. Residues were measured in processed fractions of wheat including cleaned grain, bread, patent flour, flour, red dog, bran, shorts/germ, and middlings. The EPA concluded that no concentration above the residue levels in the RAC occurred so no tolerances for any of these commodities were required. Tolerances of 0.05 ppm in wheat grain and 10 ppm in wheat straw are proposed based on these data.

Feeding studies in the cow, goat, and hen indicated that the only animal commodities which require tolerances are fat and liver. There were no significant residues in eggs or milk at any dose level. In cows there were residues in fat only at the 10x level in one animal at 0.06 mg/kg. Liver contained quantifiable residues in all dose groups and the magnitude of the residue correlated closely with the dose level. At study day 28 the 1 x livers averaged 0.08 mg/kg. Residues declined significantly during the depuration period. In the fat and liver one of the components of the fenbuconazole tolerance expression has a LOQ = 0.05 mg/kg. Because there were detectable residues only in liver, not fat, at the 1x level, the LOQ of the least sensitive component drives the fat tolerance. Tolerances of 0.05 ppm in fat and 0.3 ppm in liver are proposed based on the animal data.

Tolerances for wheat process fractions and wheat rotation crops are not required because no concentration of residues occurs in process fractions of wheat and no residues occur in rotation crops.

ii. *Apples.* Residue studies have been conducted in accordance with the geographic distribution mandated by the EPA for apples. In the apples, the raw agricultural commodity (RAC), the fenbuconazole residues ranged from approximately 0.1 mg/kg to approximately 0.3 mg/kg. Residues were measured in process fractions of apples, apple juice, and apple pomace. Concentration above the residue levels in the RAC occurred only in the pomace at approximately two-fold. Thus, no tolerance for juice is required, but a tolerance for pomace is required.

Seven field trials on apples were carried out in 1990 in six states: Pennsylvania, Washington, North Carolina, Michigan, Virginia, and West Virginia. Two application rates were used in each of the studies, the anticipated maximum application rate of 0.14 kg ai/ha and a 2x exaggerated rate of 0.28 kg ai/ha. A total of eight to ten applications were made at the normal timing in each trial, and the fruit was harvested at 0, 7, and 13 or 14 days after the final application. All samples were frozen immediately after they were harvested and were kept frozen until analysis, or shipped fresh immediately after harvest and processed and frozen immediately upon receipt and kept frozen until analysis. Samples were analyzed using the residue analytical method for RH-7592 parent and metabolites in stone fruit, and residues were corrected for average fortification recoveries. As would be expected, the residue levels were seen to increase with decreased PHI and increased application rate. The average half-life of residue decline for six studies was 11.9 days. The average parent residue at 13-14 PHI at the 0.14 kg ai/ha rate was 0.086 mg/kg.

Formulation bridging studies were conducted on apples in 1993. Apples grown in Washington and Pennsylvania were treated, in separate plots, with the 2F and 75 WP formulations of fenbuconazole at a rate of 0.14 kg ai/ha/application. A total of ten or twelve applications were made using an airblast sprayer at the normal timing of each trial, and the fruit was harvested at 14 days after the final application (14 day Pre-Harvest Interval or PHI). Samples were shipped fresh immediately after harvest and frozen immediately upon receipt and kept frozen until processing and subsequent analysis. Samples were analyzed using the residue analytical method for RH-7592 parent and metabolites in stone fruit, but residues were not corrected for average fortification recoveries. Total residues from the two trials were 0.226 and 0.135 mg/kg in the 2F formulation, and 0.184 and 0.162 mg/kg in the 75WP formulation. There were no significant differences in apparent residues found from the use of the two formulations, and residues due to parent compound constituted greater than 85% of the total residues found on the fruit.

Seven field residue trials were conducted on apples in 1995, in California, Colorado, Michigan, New York, Ohio, Oregon, and Washington. Apples were treated with dilute (0.014 kg ai/hl) and concentrate (0.035 kg ai/hl) sprays of the 2F formulation of fenbuconazole at a 0.14 kg ai/ha. A total of eight to ten applications were made using airblast sprayers, with first application at early bud break and subsequent applications on a 10-14 day schedule through bloom and a 14 to 21 day schedule in the cover sprays until harvest. The apples were harvested by hand at a PHI of 14 days. Residue samples were analyzed using the residue analytical method for RH-7592 parent and metabolites in stone fruit, but residues were not corrected for average fortification recoveries. Samples from three sites were also analyzed using the residue analytical method for metabolite RH-7905. Metabolite RH-7905 was not detected in any of the samples. The total residues from the concentrate sprays ranged from 0.015 to 0.274 mg/kg and averaged 0.137 mg/kg. The total residues from the dilute sprays ranged from 0.019 to 0.295 mg/kg and averaged 0.139 mg/kg. There is not a significant difference in the magnitude of the residues between dilute and concentrate spray volumes of the 2F formulation of fenbuconazole.

An additional residue study was conducted on apples grown in Pennsylvania in 1994 and the fruit was used for a processing study. The apples received nine foliar applications of the 2F formulation of fenbuconazole at the normal timing at a rate of 0.14 kg ai/ha/application. The fruit was harvested 14 days after the last treatment. The RAC samples were shipped fresh and either immediately processed or frozen for storage. All RAC and processed samples were analyzed within a less than 30 day period, eliminating the need for generation of storage stability data. The apples were processed at the Food Research Laboratory of Cornell University using methodology simulating commercial apple processing. Briefly, the processing consisted of washing the apples in water, grinding in a hammer mill to apple mash, and pressing of the mash to form both fresh apple juice and wet pomace. The juice was either canned (sampled as unpasteurized juice) or canned and pasteurized (sampled as pasteurized juice). The wet pomace (moisture content 69%) was also sampled. All samples were frozen on generation and stored frozen until analysis. Samples were analyzed using the residue analytical method for RH-7592 and metabolites in stone fruit, and residues were not corrected for average fortification recovery. The average total residues for each component, and its concentration factor, were as follows: unwashed fruit 0.065 mg/kg NA, washed fruit 0.070 mg/kg NA, wet pomace 0.159 mg/kg 2.46, unpasteurized juice 0.004 mg/kg 0.06, pasteurized juice 0 mg/kg 0.00. No concentration of residues was seen in the human diet component, i.e. apple juice. Concentration of residues of approximately 2-fold was seen in wet pomace, which is not a component of the human diet.

Feeding studies in the cow, goat, and hen indicated that the only animal commodities which require tolerances are fat and liver. There were no significant residues in eggs or milk at any dose level. Residues in animals declined significantly during the depuration period. In the fat and liver one of the components of the fenbuconazole tolerance expression has a LOQ = 0.05 mg/kg. Because there were detectable residues only in liver, not fat, the LOQ of the least sensitive component drives the fat tolerance. Tolerances of 0.05 ppm in fat and 0.3 ppm in liver were proposed based on the animal data.

Tolerances for other apple process fractions and for rotation crops are not required because no concentration of residues occurs in other process fractions of apples and rotation crops are not a concern for perennial crops.

iii. *Almonds.* Residue studies have been conducted in accordance with the geographic distribution mandated by the EPA for almonds. There are no process fractions of almonds. Six field trials in almonds were carried out at five sites in California in 1987. In all of the studies, the anticipated maximum application rate of 0.11 kg ai/ha and a 2X exaggerated rate of 0.22 kg ai/ha. A total of three applications were made at the normal timing in all trials, and the almonds were harvested at maturity, 127-200 days after the final application. Samples were shipped fresh or frozen. Hulls were separated from the nuts and processed in a Hobart food processor with dry ice or in a Wiley Mill without dry ice. Nuts were shelled and the nutmeat homogenized in a Waring food processor with dry ice. The processed samples were stored frozen until analysis. Samples were analyzed using the residue analytical method for RH-

7592 and metabolites. No residue in any nutmeat sample at the 1x application rate reached 0.01 mg/kg. Residues in the hull at the 1x rate ranged from 0.1 to 1.5 mg/kg. One nutmeat sample treated at the 2x rate had a quantifiable residue of 0.027 mg/kg. The remainder had no detectable residue. Hull sample residues from the 2x rate ranged from 0.5 to 6.6 mg/kg.

Feeding studies in the cow, goat, and hen indicated that the only animal commodities which require tolerances are fat and liver. There were no significant residues in eggs or milk at any dose level. Residues in animals declined significantly during the depuration period. In the fat and liver one of the components of the fenbuconazole tolerance expression has a LOQ = 0.05 mg/kg. Because there were detectable residues only in liver, not fat, the LOQ of the least sensitive component drives the fat tolerance. Tolerances of 0.05 ppm in fat and 0.3 ppm in liver were proposed based on the animal data.

Tolerances for almond process fractions and rotational crops are not required because there are no process fractions of almonds and rotational crops are not a concern for perennial crops.

iv. *Grapefruit.* Trials included both grapefruit and orange, so the following text covers the residue results for both. Six residue trials were conducted in 1993 on grapefruit and oranges grown in Texas, Florida and California (one grapefruit and one orange trial at each site). Three airblast sprayer applications of the 2F formulation of fenbuconazole at the rate of 0.28 kg ai/ha/application were made at the normal timing, and the fruit was harvested by hand at Pre-Harvest Intervals (PHIs) of 0 days (all trials), and approximately 15, 30 and 60 days (three trials). The whole fruit was analyzed using the residue analytical method for RH-7592 parent and metabolites in stone fruit and residues were not corrected for average fortification recoveries. The average total residue in whole grapefruit at 0 day PHI was 0.344 mg/kg, with a range of 0.190 - 0.499 mg/kg. The average total residue in whole oranges at 0 day PHI was 0.438 mg/kg, with a range of 0.339 - 0.528 mg/kg. For both fruits, the 0 day PHI residues were >97% parent. In the three trials which measured residue decline, the average total residue value had decreased to about 40% of the original value by 60 PHI.

Residue trials were conducted in 1993 and 1994 on grapefruit and oranges grown in seven different locations. Sites with both grapefruit and orange trials were in Texas (2) and Florida (3), and in California there was one site for oranges and another for grapefruit. Three airblast sprayer applications of the 2F formulation of fenbuconazole at the rate of 0.28 kg ai/ha/application were made at the normal timing, and the fruit was harvested by hand on the day of the final application (for a 0 day Pre-Harvest Interval). The fruit was processed in two different ways: as whole fruit, or as pulp only with the peel discarded. Samples were analyzed using the residue analytical method for RH-7592 parent and metabolites in stone fruit, and residues were not corrected for average fortification recoveries. Six of the RAC samples were also analyzed using the residue analytical method for metabolite RH-7905 (the glucoside conjugate). No detectable residues of RH-7905 were found in any sample. Average total residue for whole oranges was 0.238 mg/kg, and 0.0082 mg/kg for orange pulp. Average total residue for whole grapefruit was 0.141 mg/kg, and 0.0078 mg/kg for grapefruit pulp. Nearly all of the fenbuconazole residues lie on the peel, and [NDR] no detectable residue to LOQ levels are seen in the edible portion of the fruit, i.e. the pulp.

Feeding studies in the cow, goat, and hen indicated that the only animal commodities which require tolerances are fat and liver. There were no significant residues in eggs or milk at any dose level. Residues in animals declined significantly during the depuration period. In the fat and liver one of the components of the fenbuconazole tolerance expression has a LOQ = 0.05 mg/kg. Because there were detectable residues only in liver, not fat, the LOQ of the least sensitive component drives the fat tolerance. Tolerances of 0.05 ppm in fat and 0.3 ppm in liver were proposed based on the animal data. Tolerances for rotational crops are not required for tree fruits.

v. *Sugar beets.* Residue studies have been conducted in accordance with the geographic distribution mandated by the EPA for sugar beets. Following full season foliar treatment, the residues of fenbuconazole were higher in the sugar beet tops than in the root. Combined residues in root averaged 0.415 mg/kg. Residues in tops were more variable, and ranged from 0.56-8.89 mg/kg. In a formulation bridging study the residues were higher in the sugar beet tops compared to the root. Total root residues in the 75WP formulation ranged from 0.0061 to 0.268 mg/kg and averaged 0.0616 mg/kg. Total root residues in the 2F formulation ranged from 0.0223 to 0.0523 mg/kg and averaged 0.0328 mg/kg. Total top residues averaged 2.15 mg/kg in the 75WP formulation, and 2.69 mg/kg in the 2F formulation. There was no significant difference in residues between formulations of fenbuconazole. In a processing study the concentration factor for each component was: root - 1.0X, dry pulp - 5.39X, molasses - 1.82X, and refined sugar - 0.1X. Compared to raw roots, a reduction of residues was seen in the human diet component, sugar. Concentration of residues was seen in molasses and dry pulp, neither of which is a component of the human diet.

Tolerances for rotational crops are not required because EPA determined under the wheat petition that rotational crops are not a concern for fenbuconazole.

B. Toxicological Profile

The toxicology of fenbuconazole is summarized in the following sections. There is no evidence to suggest that human infants and children will be more sensitive than adults, that fenbuconazole will modulate human endocrine systems at anticipated dietary exposures, or cause cancer in humans at the dietary exposures anticipated for this fungicide. While the biochemical target for the fungicidal activity of members of the DMI class is shared, it cannot be concluded that the mode of action of fenbuconazole which produces phytotoxic effects in plants or toxic effects in animals is also common to a single class of chemicals.

1. *Acute toxicity*. Fenbuconazole is practically nontoxic after administration by the oral, dermal and respiratory routes. The acute oral LD_{50} in mice and rats is >2,000 mg/kg. The acute dermal LD_{50} in rats is >5,000 mg/kg. Fenbuconazole was not significantly toxic to rats after a 4-hour inhalation exposure, with an LD_{50} value of >2.1 mg/L. Fenbuconazole is classified as not irritating to skin (Draize score = 0), inconsequentially irritating to the eyes (mean irritation score = 0), and it is not a sensitizer. No evidence exists regarding differential sensitivity of children and adults to acute exposure.

2. *Mutagenicity*. Fenbuconazole has been adequately tested in a variety of *in vitro* and *in vivo* mutagenicity tests. It is negative in the Ames test, negative in *in vitro* and *in vivo* somatic and germ cell tests, and did not induce unscheduled DNA synthesis (UDS). Fenbuconazole is not genotoxic.

3. *Reproductive and developmental toxicity*. These conclusions were extracted from the **Federal Register** of May 24, 1995 (60 FR 27419). Fenbuconazole is not teratogenic. The maternal no observable effect level (NOEL) in rabbits was 10 mg/kg/day and

30 mg/kg/day in rats. The fetal NOEL was 30 mg/kg/day in both species. The parental NOEL was 4.0 mg/kg/day (80 ppm) in a 2-generation reproduction study in rats. The reproductive NOEL in this study was greater than 40.0 mg/kg/day (800 ppm; highest dose tested). Fenbuconazole had no effect on male reproductive organs or reproductive performance at any dose. The adult lowest observed effect level (LOEL) was 40.0 mg/kg/day (800 ppm; highest dose tested). Systemic effects of decreased body weight gain; maternal deaths; and hepatocellular, adrenal, and thyroid follicular cell hypertrophy were observed. No effects on neonatal survival or growth occurred below the adult toxic levels. Fenbuconazole does not produce birth defects and is not toxic to the developing fetus at doses below those which are toxic to the mother.

4. *Subchronic toxicity*. In a 21-day dermal toxicity study in the rat, the NOEL was greater than 1,000 mg/kg/day, with no effects seen at this limit dose.

5. *Chronic toxicity*. In 2-year combined chronic toxicity/oncogenicity studies in rats, the NOEL was 80 ppm (3.03 mg/kg/day for males and 4.02 mg/kg/day for females) based on decreased body weight, and liver and thyroid hypertrophy. In a 1-year chronic toxicity study in dogs, the NOEL was 150 ppm (3.75 mg/kg/day) based on decreased body weight, and increased liver weight. The LOEL was 1,200 ppm (30 mg/kg/day). In a 78-week oncogenicity study in mice, the NOEL was 10 ppm (1.43 mg/kg/day). The LOEL was 200 ppm (26.3 mg/kg/day, males) and 650 ppm (104.6 mg/kg/day, females) based on increased liver weights and histopathological effects on the liver. These effects were consistent with chronic enzyme induction from high dose dietary exposure.

A Reference Dose (RfD) for systemic effects at 0.03 mg/kg/day was established by EPA in 1995 based on the NOEL of 3.0 mg/kg/day from the rat chronic study. This RfD adequately protects both adults and children.

6. *Carcinogenicity*. Twenty-four-month rat chronic feeding/carcinogenicity studies with fenbuconazole showed effects at 800 and 1,600 ppm. Fenbuconazole produced a minimal, but statistically significant increase in the incidence of combined thyroid follicular cell benign and malignant tumors. These findings occurred only in male rats following life-time ingestion of very high levels (800 and 1,600 ppm in the diet) fenbuconazole. Ancillary mode-of-action studies demonstrated that the increased incidence of thyroid tumors was secondary to increased liver metabolism and biliary excretion of thyroid hormone in the rat. This mode of action is a nonlinear phenomenon in that thyroid tumors occur only at high doses where there is an increase in liver mass and metabolic capacity of the liver. At lower doses of fenbuconazole in rats, the liver is unaffected and there is no occurrence of the secondary thyroid tumors. Worst-case estimates of dietary intake of fenbuconazole in human adults and children indicate effects on the liver or thyroid, including thyroid tumors, will not occur, and there is a reasonable certainty of no harm.

In support of the findings above, EPA's Science Advisory Board has approved a final thyroid tumor policy, confirming that it is reasonable to regulate chemicals on the basis that there exists a threshold level for thyroid tumor formation, conditional upon providing plausible evidence that a secondary mode of action is operative. This decision supports a widely-held and internationally respected scientific position.

In a 78-week oncogenicity study in mice there was no statistically significant increase of any tumor type in males. There were no liver tumors in the control females and liver tumor incidences in treated females just exceeded the historical control range. However, there was a statistically significant increase in combined liver adenomas and carcinomas in females at the high dose only (1,300 ppm; 208.8 mg/kg/day). In ancillary mode-of-action studies in female mice, the increased tumor incidence was associated with changes in several parameters in mouse liver following high doses of fenbuconazole including: an increase in P450 enzymes (predominately of the CYP 2B type), an increase in cell proliferation, an increase in hepatocyte hypertrophy, and an increase in liver mass (or weight). Changes in these liver parameters as well as the occurrence of the low incidence of liver tumors were nonlinear with respect to dose (i.e., were observed only at high dietary doses of fenbuconazole). Similar findings have been shown with several pharmaceuticals, including phenobarbital, which is not carcinogenic in man. The nonlinear relationship observed with respect to liver changes (including the low incidence of tumors) and dose in the mouse indicates that these findings should be carefully considered in deciding the relevance of high-dose animal tumors to human dietary exposure.

The Carcinogenicity Peer Review Committee (PRC) of the Health Effects Division (HED) classified fenbuconazole as a Group C tumorigen (possible human carcinogen with limited evidence of carcinogenicity in animals). The PRC used a low-dose extrapolation model. The $Q1^*$ risk factor applied (1.06×10^{-2} $(mg/kg/day)^{-1}$) was based on the rat oncogenicity study and surface area was estimated by $(\text{body weight})^{3/4}$.

Since the PRC published the above estimate they have agreed that low-dose extrapolation for fenbuconazole, based on rat thyroid tumors, is inappropriate given the EPA's policy regarding thyroid tumors and the data which exist for fenbuconazole. The PRC agrees that the more appropriate dataset for the low-dose extrapolation and risk factor estimate is the mouse. From these data a $Q1^*$ of (0.36×10^{-2} $(mg/kg/day)^{-1}$) is calculated when surface area is estimated by $(\text{body weight})^{3/4}$. All estimates of dietary oncogenic risk are based on this risk factor.

Since fenbuconazole will not leach into groundwater (see below) there is no increased cancer risk from this source. Neither is fenbuconazole registered for residential use, so there is no risk from non-occupational residential exposure either. All estimates of excess risk to cancer are from dietary sources.

7. *Endocrine effects*. The mammalian endocrine system includes estrogen and androgens as well as several other hormone systems. Fenbuconazole does not interfere with the reproductive hormones. Thus, fenbuconazole is not estrogenic or androgenic.

While fenbuconazole interferes with thyroid hormones in rats by increasing thyroid hormone excretion, it does so only secondarily and only above those dietary levels which induce metabolism in the liver. These effects are reversible in rats, and humans are far less sensitive to these effects than rats. The RfD protects against liver induction because it is substantially below the animal NOEL. As noted previously, maximal human exposures are far below the RfD level, and effects on human thyroid will not occur at anticipated dietary levels.

We know of no instances of proven or alleged adverse reproductive or developmental effects to domestic animals or wildlife as a result of exposure to fenbuconazole or its residues. In fact, no effects should be seen because fenbuconazole has low octanol/water partition coefficients and is known not to bioaccumulate. Fenbuconazole is excreted within 48 hours after dosing in mammalian studies.

C. Aggregate Exposure

1. *Dietary exposure— Food.* i. *Wheat.* For wheat, children 1 to 6 years old, not infants, are the highest consumers (g/kg bw/d basis). For children 1-6 the dietary TMRC for existing tolerances utilizes only 5% of the RfD. The dietary TMRC for wheat in this group is estimated to be 0.00016 mg/kg/day and uses 0.52% of the RfD. Additional dietary exposure (TMRC) to fenbuconazole from residues which might be transferred to animal fat and liver from treated wheat is estimated to be 0.00006 mg/kg/day and uses 0.22% of the RfD. No residues occur in animal meats, milk, or eggs. Thus, the TMRC, the worst-case exposure, in the two most sensitive subpopulations of consumers, non-nursing infants less than one year old and children 1 to 6 years old, still utilizes less than 18% and less than 6%, respectively, of the fenbuconazole RfD. The dietary TMRCs for other children and for adults utilize less than this.

The calculated additional cancer risk for wheat ($Q1^* = 0.36 \times 10^{-2}$ (mg/kg/day)$^{-1}$) has an upper-bound of 0.2×10^{-6}. The calculated additional cancer risk for animal fat and liver has an upper-bound of 0.1×10^{-6}. The upper bound estimate on excess cancer risk for all uses including wheat is 0.7×10^{-6}. The estimate shows that the TMRC, the worst-case exposure, for consumers to fenbuconazole presents a reasonable certainty of no harm. The actual residue contribution is anticipated to be significantly less than this estimate.

ii. *Apples.* The EPA used the DRES model to estimate consumer dietary exposure to fenbuconazole residues for the most recently approved tolerance in bananas (memorandum of E.A. Doyle, February 8, 1995). (memorandum of E.A. Doyle, 8 February 1995). The EPA used the Theoretical Maximum Residue Contribution (TMRC) for pecans and bananas, and adjusted the TMRC for the stone fruit crop group by excluding plums/prunes and limiting sales volume to 12.8% of the available stone fruit market. From this EPA calculated an upper-bound risk of 0.9 x 10-6 for additional cancer risk ($Q1^* = 1.06 \times 10^{-2}$ (mg/kg/day)-1). (**Federal Register** of May 24, 1995 (60 FR 27419)). This estimate does not reflect the change in $Q1^*$, the use of the DEEM database, the percent crop treated for all crops, or average residues. When these factors are included the aggregate lifetime exposure for consumers to fenbuconazole has an upper bound risk estimate of 0.18×10^{-6} for apples and 0.28×10^{-6} for all pending and approved uses combined. The theoretical maximum estimated exposure to the most sensitive subpopulation, non-nursing infants less than one year old, for this same scenario utilizes no more than 0.89% of the RfD. Thus, the addition of fenbuconazole use on apples meets the EPA criterion of reasonable certainty of no harm.

iii. *Almonds.* The consumer dietary exposure to fenbuconazole residues was estimated for the most recently approved tolerance in bananas (memorandum of E.A. Doyle, 8 February 1995). The EPA used the Theoretical Maximum Residue Contribution (TMRC) for pecans and bananas, and adjusted the TMRC for the stone fruit crop group by excluding plums/prunes and limiting sales volume to 12.8% of the available stone fruit market. From this EPA calculated an upper-bound risk of 0.9×10^{-6} for additional cancer risk ($Q1^* = 1.06 \times 10^{-2}$ (mg/kg/day)$^{-1}$). (**Federal Register** of May 24, 1995 (60 FR 27419)). This estimate does not reflect the change in $Q1^*$, the use of the DEEM database, the percent crop treated for all crops, or average residues. When these factors are included the aggregate lifetime exposure for consumers to fenbuconazole has an upper bound cancer risk estimate of 7.5×10^{-11} for almonds and 0.28×10^{-6} for all pending and approved uses combined. The theoretical maximum estimated exposure to the most sensitive subpopulation, non-nursing infants less than one year old, for this same scenario utilizes no more than 0.89% of the RfD. Thus, the addition of fenbuconazole use on almonds meets the EPA criterion of reasonable certainty of no harm.

This estimate shows that the estimated exposure for consumers to fenbuconazole presents a reasonable certainty of no harm. The actual dietary residue contribution will likely be less than this estimate.

iv. *Grapefruit.* The consumer dietary exposure to fenbuconazole residues was estimated for the most recently approved tolerance in bananas (memorandum of E.A. Doyle, 8 February 1995). The EPA used the Theoretical Maximum Residue Contribution (TMRC) for pecans and bananas, and adjusted the TMRC for the stone fruit crop group by excluding plums/prunes and limiting sales volume to 12.8% of the available stone fruit market. From this EPA calculated an upper-bound risk of 0.9×10^{-6} for additional cancer risk ($Q1^* = 1.06 \times 10^{-2}$ (mg/kg/day)$^{-1}$). (**Federal Register** of May 24, 1995 (60 FR 27419)). This estimate does not reflect the change in $Q1^*$, the use of the DEEM database, the percent crop treated for all crops, or average residues. When the new $Q1^*$ of (0.36×10^{-2} (mg/kg/day)$^{-1}$) and surface area estimated by (body weight)$^{3/4}$ plus the other factors are included, the aggregate lifetime exposure to consumers to fenbuconazole has an upper bound risk estimate of 7.0×10^{-8} for grapefruit and 0.17×10^{-6} for all pending and approved uses combined. The theoretical maximum estimated exposure to the most sensitive subpopulation, non-nursing infants less than one year old, for this same scenario utilizes no more than 0.39% of the RfD. Thus, the addition of fenbuconazole use on grapefruit meets the EPA criterion of reasonable certainty of no harm.

This estimate shows that the estimated exposure for consumers to fenbuconazole presents a reasonable certainty of no harm. The actual dietary residue contribution will likely be less than this estimate.

v. *Sugar beets.* The consumer dietary exposure to fenbuconazole residues was estimated for the most recently approved tolerance in bananas (memorandum of E.A. Doyle, 8 February 1995). The EPA used the TMRC for pecans and bananas, and adjusted the TMRC for the stone fruit crop group by excluding plums/prunes and limiting sales volume to 12.8% of the available stone fruit market. From this EPA calculated an upper-bound risk of 0.9×10^{-6} for additional cancer risk ($Q1^* = 1.06 \times 10^{-2}$ (mg/kg/day)$^{-1}$). (**Federal Register** of May 24, 1995 (60 FR 27419)). This estimate does not reflect the change in $Q1^*$, the use of the DEEM database, the percent crop treated for all crops, or average residues. When the new $Q1^*$ of (0.36×10^{-2} (mg/kg/day)$^{-1}$)) and surface area estimated by (body weight)$^{3/4}$ plus the other factors are included the aggregate lifetime exposure for consumers to fenbuconazole has an upper bound cancer risk estimate of 1.0×10^{-8} for sugar beets and 0.17×10^{-6} for all pending and approved uses combined. The theoretical maximum estimated exposure to the most sensitive subpopulation, non-nursing infants less than one year old, for this same scenario utilizes no more than 0.01% of the RfD for sugar beets and 0.39% of the RfD for all crops combined. Thus, the addition of fenbuconazole use on sugar beets meets the EPA criterion of reasonable certainty of no harm.

2. *Drinking water.* Fenbuconazole has minimal tendency to contaminate groundwater or drinking water because of its adsorptive properties on soil, solubility in water, and degradation rate. Data from laboratory studies and field dissipation studies have been used in the USDA PRZM/GLEAMS computer model to predict the movement of fenbuconazole. The model predicts that fenbuconazole will not leach into groundwater, even if heavy rainfall is simulated. The modeling predictions are

consistent with the data from environmental studies in the laboratory and the results of actual field dissipation studies. There are no data on passage of fenbuconazole through water treatment facilities and there are no State water monitoring programs which target fenbuconazole.

3. *Non-dietary exposure.* Fenbuconazole has no veterinary applications and is not approved for use in swimming pools. It is not labeled for application to residential lawns or for use on ornamentals, nor is fenbuconazole applied to golf courses or other recreational areas. Therefore, there are no data to suggest that these exposures could occur. Any acute exposures to children would come from dietary exposure or inadvertent dermal contact. As previously discussed, fenbuconazole is neither orally or dermally acutely toxic. Thus, there is a reasonable certainty that no exposure would occur to adults, infants or children from these sources.

D. Cumulative Effects

The toxicological effects of fenbuconazole are related to the effects on rodent liver. These are manifest in rats and mice differently. Fenbuconazole causes liver toxicity in rats and mice in the form of hepatocyte enlargement and enzyme induction. In rats the liver enzyme induction causes increased biliary removal of thyroxin and the hepatotoxicity leads to elevated thyroid stimulating hormone levels with subsequent development of thyroid gland hyperplasia and tumors. This process is reversible and demonstrates a dose level below which no thyroid gland stimulation can be demonstrated in rats. Liver toxicity in the mouse is manifest by hepatocyte enlargement, enzyme induction, and hepatocellular hyperplasia (cell proliferation). These processes are associated with the appearance of a small number of liver tumors. In both cases, rats and mice, the initiating event(s) do not occur below a given dose, i.e., the effects are nonlinear, and the processes are reversible. Therefore, since the tumors do not occur at doses below which hepatocyte enlargement and enzyme induction occur, the RfD protects against tumors because it is substantially below the NOEL for liver effects and maximal human exposures are below the RfD. Effects on human thyroid will not occur at anticipated dietary levels. The mode of action data should be carefully considered in deciding the relevance of these high-dose animal tumors to human dietary exposure.

Extensive data are available on the biochemical mode of action by which fenbuconazole produces animal tumors in both rats and mice. However, there are no data which suggest that the mode of action by which fenbuconazole produces these animal tumors or any other toxicological effect is common to all fungicides of this class. In fact, the closest structural analog to fenbuconazole among registered fungicides of this class is not tumorigenic in animals even at maximally tolerated doses and has a different spectrum of toxicological effects.

E. Safety Determination

1. *U.S. population*— i. *Wheat.* The Rohm and Haas Company estimates the risk to the U.S. adult population from use of fenbuconazole on wheat as utilizing approximately 0.36% of the RfD. Using the EPA low dose extrapolation model and the risk factor based on the mouse data (0.36 x 10-6 $(mg/kg/day)^{-1}$) the excess cancer risk from dietary sources for fenbuconazole use on wheat and the associated animal commodities is estimated at 0.3×10^{-6}. The upper bound estimate on excess cancer risk for all uses including wheat is 0.7×10^{-6}.

This assumes that all of the wheat consumed in the U.S. will contain residues of fenbuconazole (in actuality a small fraction of the total crop is likely to be treated). The combined risk for wheat plus registered uses will not exceed either the dietary risk standard established by the Food Quality Protection Act (FQPA) for the US population, (one x 10^{-6}), or the RfD.

The sole acute risk would be for women of childbearing age. The EPA/OREB calculated that the worst-case Margin of Exposure (MOE) for fenbuconazole measured against the developmental LOEL would be greater than 30,000. This is clearly adequate. The MOE would be even higher for consumer dietary exposure from any source. Thus, there is adequate safety for this group and there is a reasonable certainty that no harm will result from fenbuconazole use on wheat.

ii. *Apples.* When the DEEM database is used and the assumptions in the above calculations the Rohm and Haas Company estimates the risk to the U.S. adult population from use of fenbuconazole on apples as utilizing approximately 0.17% of the RfD. The calculated upper bound estimate on excess cancer risk for all uses (apples, apricots, almonds, bananas, cherries, nectarines, peaches, pecans, and wheat, plus the associated processing and animal commodities) is 0.28×10^{-6}.

The combined risk for apples plus registered uses plus almonds and wheat will not exceed the dietary risk standards established by the FQPA for the US population (one x 10^{-6} excess cancer risk, or the RfD).

The sole acute risk would be for women of childbearing age. The EPA/OREB calculated that the worst-case Margin of Exposure (MOE) for fenbuconazole measured against the developmental LOEL would be greater than 30,000. This is clearly adequate. The MOE would be even higher for consumer dietary exposure from any source. Thus, there is adequate safety for this group and there is a reasonable certainty that no harm will result from fenbuconazole use on apples.

iii. *Almonds.* When the DEEM database is used and the assumptions in the above calculations the Rohm and Haas Company estimates the risk to the U.S. adult population from use of fenbuconazole on almonds as utilizing approximately 0.00007% of the RfD. The calculated upper bound estimate on excess cancer risk for all uses (apples, apricots, almonds, bananas, cherries, nectarines, peaches, pecans, and wheat, plus the associated processing and animal commodities) is 0.28×10^{-6}.

The combined risk for almonds plus registered uses plus apples and wheat will not exceed the dietary risk standards established by the FQPA for the US population (one x 10^{-6} excess cancer risk, or the RfD).

The sole acute risk would be for women of childbearing age. The EPA/OREB calculated that the worst-case Margin of Exposure (MOE) for fenbuconazole measured against the developmental LOEL would be greater than 30,000. This is clearly adequate. The MOE would be even higher for consumer dietary exposure from any source. Thus, there is adequate safety for this group and there is a reasonable certainty that no harm will result from fenbuconazole use on almonds.

iv. *Grapefruit.* When the DEEM database is used and the assumptions in the above calculations the Rohm and Haas Company estimates the risk to the U.S. adult population from use of fenbuconazole on grapefruit as utilizing approximately 0.06% of the RfD. The calculated upper bound estimate on excess cancer risk for all uses (apples, apricots, almonds, bananas, cherries, grapefruit, nectarines, peaches, pecans, sugar beets, and wheat, plus the associated processing and animal commodities) is 0.17×10^{-6}.

The combined risk for grapefruit plus registered and pending uses will not exceed the dietary risk standards established by the FQPA for the U.S.

population (one x 10-6 excess cancer risk, or the RfD).

The sole acute risk would be for women of childbearing age. The EPA/OREB calculated that the worst-case Margin of Exposure (MOE) for fenbuconazole measured against the developmental LOEL would be greater than 30,000. This is clearly adequate. The MOE would be even higher for consumer dietary exposure from any source. Thus, there is adequate safety for this group and there is a reasonable certainty that no harm will result from fenbuconazole use on grapefruit.

v. *Sugar beets.* When the DEEM database is used and the assumptions in the above calculations the Rohm and Haas Company estimates the risk to the U.S. adult population from use of fenbuconazole on sugar beets as utilizing approximately 0.009% of the RfD. The calculated upper bound estimate on excess cancer risk for all uses (apples, apricots, almonds, bananas, cherries, grapefruit, nectarines, peaches, pecans, sugar beets, and wheat, plus the associated processing and animal commodities) is 0.17 x 10^{-6}. Therefore, the combined risk for sugar beets plus registered and pending uses will not exceed the dietary risk standards established by the FQPA for the U.S. population (one x 10^{-6} excess cancer risk, or the RfD).

The sole acute risk would be for women of childbearing age. The EPA/OREB calculated that the worst-case Margin of Exposure (MOE) for fenbuconazole measured against the developmental LOEL would be greater than 30,000. This is clearly adequate. The MOE would be even higher for consumer dietary exposure from any source. Thus, there is adequate safety for this group and there is a reasonable certainty that no harm will result from fenbuconazole use on sugar beets.

2. *Infants and children*— i. *Wheat.* The reproductive and developmental toxicity data base for fenbuconazole is complete. There is no selective increase in toxicity to developing animals. Thus, there is no evidence that prenatal and postnatal exposure would present unusual or disproportionate hazard to infants or children. Therefore, there is no need to impose an additional uncertainty factor to protect infants and children.

The EPA calculated the dietary risk to infants and children for existing tolerances. The estimated dietary exposure (TMRC) for this subpopulation is 0.00522 mg/kg/day which represents only 17% of the RfD; no other subgroup used in excess of 17% of the RfD. The EPA estimated lifetime oncogenic risk in the range of one in a million at 0.9 x 10^{-6}, using ($Q1^* = 1.06 \times 10^{-2}$ (mg/kg/day)$^{-1}$). (**Federal Register** of May 24, 1995 (60 FR 27419)).

For the wheat use the most sensitive subgroup is children 1 to 6 years old and the estimated risk to this subgroup is less than 18% of the RfD. Utilizing the risk factor ($Q1^* = 0.36 \times 10^{-2}$ (mg/kg/day)$^{-1}$), the estimated excess cancer risk for the U.S. population is less than 1 x 10^{-6}. Therefore the wheat use is safe within the meaning of the FQPA and there is a reasonable certainty that no harm will result to infants or children from the approval of fenbuconazole use on wheat.

ii. *Apples and almonds.* The reproductive and developmental toxicity data base for fenbuconazole is complete. There is no selective increase in toxicity to developing animals. Thus, there is no evidence that prenatal and postnatal exposure would present unusual or disproportionate hazard to infants or children. Therefore, there is no need to impose an additional uncertainty factor to protect infants and children. The dietary exposure estimate for children utilizes only 0.89% of the RfD.

iii. *Grapefruit and sugar beets.* The reproductive and developmental toxicity data base for fenbuconazole is complete. There is no selective increase in toxicity to developing animals. Thus, there is no evidence that prenatal and postnatal exposure would present unusual or disproportionate hazard to infants or children. Therefore, there is no need to impose an additional uncertainty factor to protect infants and children. The dietary exposure estimate for children utilizes only 0.39% of the RfD.

F. Environmental Fate

Fenbuconazole has little to no mobility in soil (Koc = 4425). It is stable to hydrolysis and aqueous photolysis in buffered solutions, but does degrade photolytically in natural waters and soil (half-life 87 and 79 days, respectively). Laboratory soil metabolism half-lives or DT50 values for fenbuconazole range from 29 to 532 days under terrestrial conditions and from 442 to 906 days in soil exposed to aquatic conditions. Field-trial soil dissipation studies had half-lives ranging from 157 to 407 days and indicated no significant downward movement of residues. These field trials show fenbuconazole degrades more rapidly outdoors than in laboratory metabolism studies. When material was applied in a single application, fenbuconazole degraded to about 50% of the applied material in less than 60 days. In wheat the DT50 in green heads was measured as 18 days and in green wheat stalks the DT50 was 84.4 days. These results only reflect foliar dissipation in wheat at the particular growth stage(s) during the study and not at all stages of wheat. The results of residue decline analyses in a number of environmental media support the EPA conclusion that there is no environmental hazard associated with the proposed agricultural use of this chemical.

G. International Tolerances

There are no Codex Maximum Residue Levels (MRLs) for fenbuconazole, but the fenbuconazole database will be evaluated by the WHO and the FAO Expert Panels at the Joint Meeting on Pesticide Residues (JMPR) in September 1997. An Allowable Daily Intake (ADI (RfD)) of 0.03 mg/kg/day is proposed and a total of 36 Codex MRLs are proposed in the data submission. (PM 22)

[FR Doc. 98–2363 Filed 1–29–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2250]

Petitions For Reconsideration and Clarification of Action in Rulemaking Proceedings

January 27, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed February 17, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed by February 24, 1998.

Subject: Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States (IB Docket No. 96–111).

Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations (CC Docket No. 93–23, RM–7931).

Communication Satellite Corporation

Request for Waiver of Section 25.131(j)(1) of the Commission's Rules As it Applies to Services Provided via the Intelsat K Satellite (File No. ISP–92–007).

Number of Petitions filed: 5.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–2329 Filed 1–29–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:03 a.m. on Tuesday, January 27, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, supervisory, and resolution activities.

In calling the meeting, the Board determined, on motion of Director Joseph H. Neely (Appointive), seconded by Ms. Julie Williams, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Director Ellen S. Seidman (Director, Office of Thrift Supervision), and Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: January 27, 1998.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–2446 Filed 1–28–98; 10:56 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 17, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. JNV Limited Partnership II, Arlington, Virginia; to acquire voting shares of United Financial Banking Companies, Inc., Vienna, Virginia, and thereby indirectly acquire The Business Bank, Vienna, Virginia.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. James Michael Adcock, and David Wesley Schubert, both of Shawnee, Oklahoma, and George N. Cook, Jr., Kansas City, Missouri; to acquire voting shares of United Oklahoma Bankshares, Inc., Del City, Oklahoma, and thereby indirectly acquire United Bank, Del City, Oklahoma.

2. James Michael Adcock, and David Wesley Schubert, both of Shawnee, Oklahoma, as Trustees of the Don Bodard 1995 Revocable Trust; to acquire voting shares of Ameribank Corporation, Shawnee, Oklahoma, and thereby indirectly acquire American National Bank & Trust Company, Shawnee, Oklahoma.

Board of Governors of the Federal Reserve System, January 27, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–2349 Filed 1–29–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 25, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Deposit Guaranty Corp., Jackson, Mississippi; to merge with Victory Bancshares, Inc. (formerly Cordova Bancshares, Inc.), Cordova, Tennessee, and thereby indirectly acquire Victory Bank and Trust Company, Cordova, Tennessee.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Hometown Bancshares, Inc., Carthage, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Hometown Bank, N.A., Carthage, Missouri.

2. First Place Financial Corporation, Farmington, New Mexico; to acquire 100 percent of the voting shares of Capital Bank, Albuquerque, New Mexico.

Board of Governors of the Federal Reserve System, January 27, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–2348 Filed 1–29–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 25, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Magna Group, Inc., St. Louis, Missouri; to acquire Charter Financial, Inc. Sparta, Illinois, and thereby indirectly acquire Charter Bank, S.B., Sparta, Illinois, and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 27, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–2350 Filed 1–29–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. (EST) February 9, 1998.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the January 12, 1998, Board member meeting.

2. Thrift Savings Plan activity report by the Executive Director.

3. Review of investment policy.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: January 27, 1998.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 98–2418 Filed 1–27–98; 4:07 pm]

BILLING CODE 6760–01–M

FEDERAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10:00 a.m., Thursday, February 19, 1998.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Toys ''R'' Us, Docket 9278.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in Toys ''R'' Us, Docket 9278.

CONTACT PERSON FOR MORE INFORMATION: Victoria Streitfeld, Office of Public Affairs: (202) 326–2180, Recorded Message: (202) 326–2711.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98–2441 Filed 1–28–98; 10:32 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of a Cooperative Agreement With the Congress of National Black Churches

The Office of Minority Health (OMH), Office of Public Health and Science, announces that it will enter into an umbrella cooperative agreement with The Congress of National Black Churches, Inc. (CNBC). This cooperative agreement will establish the broad programmatic framework within which specific projects can be funded as they are identified during the project period.

The purpose of this cooperative agreement is to assist this national association in expanding and enhancing its activities relevant to education, health promotion, disease prevention, and family and youth violence prevention with the ultimate goal of improving the health status of minorities and disadvantaged people, especially within the African American community. The OMH will provide consultation, including administrative and technical assistance as needed, for the execution and evaluation of all aspects of this cooperative agreement. The OMH will also participate and/or collaborate with the awardee in any workshops or symposia to exchange current information, opinions, and research findings.

Authorizing Legislation

This cooperative agreement is authorized under Section 1707(d)(1) of the Public Health Service Act.

Background

Assistance will be provided only to CNBC. No other applications are solicited. CNBC is the only organization capable of administering this cooperative agreement because it has:

1. Developed, expanded, and managed an infrastructure to coordinate and implement various educational programs within local communities, organizations, and local and national churches that deal with racial and ethnic minorities, especially African Americans. CNBC has been actively involved and instrumental in providing a vehicle for coalition building between the church and community-based organizations, and in providing leadership for health promotion strategy and dissemination of prevention information in the African community. The association established 9 national initiatives; Affiliate Relations, Church Rebuilding and Arson Prevention, Institutional Advancement, National

Anti-Drug/Violence Program, National Voter Education Program, Children and Family Development, Economic Development Program, Leadership Development Program, and the National Health Program. All of these programs provide a foundation upon which to develop, promote, and manage education and health-related programs aimed at preventing and reducing unnecessary morbidity and mortality rates among African Americans, as well as, improving the quality of life for African Americans.

2. Established itself and its members as a national association with numerous clergy and professionals who serve as leaders and experts in planning, developing, implementing, and promoting educational policy campaigns (locally and nationally) aimed at reducing adverse health behaviors and improving the African American community's overall educational and social well being.

3. Developed a national association whose membership consist of 8 historic black denominations with established linkages to 65,000 African American churches and 19 million people.

4. Developed a base of critical knowledge, skills, and abilities related to serving African Americans with a range of health and social problems. Through the collective efforts of various diverse groups; special institutions, governmental agencies, businesses, legislative and judicial bodies, media and other parts of the community. CNBC has demonstrated (1) the ability to form successful partnerships on mutual education, research, and health endeavors relating to the goal of health promotion and disease prevention in African Americans, (2) leadership necessary to attract minority students into public service and health careers, and (3) the leadership needed to assist health care professionals to work more effectively with African American clients and communities.

This cooperative agreement will be awarded in FY 1998 for a 12-month budget period within a project period of 5 years. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this project, contact Ms. Georgia Buggs, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852 or telephone (301) 443–5084.

The Catalogue of Federal Domestic Assistance number is 93.004.

Dated: December 2, 1997.

Clay E. Simpson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 98–2326 Filed 1–29–98; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of National AIDS Policy

Notice of Meeting of the Presidential Advisory Council on HIV/AIDS and its Subcommittees

Pursuant to P.L. 92–463, notice is hereby given of the meeting of the Presidential Advisory Council on HIV/AIDS on March 15–18, 1998, at the Madison Hotel, Washington, DC. The meeting of the Presidential Advisory Council on HIV/AIDS will take place on Sunday, March 15, Monday, March 16, Tuesday, March 17, and Wednesday, March 18 from 8:30 am to 5:30 pm at the Madison Hotel, Fifteenth and M Streets, NW, Washington, DC 20005. The meetings will be open to the public.

The purpose of the subcommittee meetings will be to finalize any recommendations and assess the status of previous recommendations made to the Administration. The agenda of the Presidential Advisory Council on HIV/AIDS may include presentations from the Council's seven committees, Research, Services, Prevention, International, Discrimination, Communities for African and Latino Descent, and Prison Issues.

Daniel C. Montoya, Executive Director, Presidential Advisory Council on HIV and AIDS, Office of National AIDS Policy, 808 17th Street, N.W., Suite 820, Washington, D.C. 20006, Phone (202) 632–1090, Fax (202) 632–1096, will furnish the meeting agenda and roster of committee members upon request. Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ann Borlo at (301) 986–4870 no later than February 15, 1998.

Dated: January 23, 1998.

Daniel C. Montoya,

Executive Director, Presidential Advisory Council on HIV and AIDS, Office of National AIDS Policy.

[FR Doc. 98–2327 Filed 1–29–98; 8:45 am]

BILLING CODE 3195–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–98–1]

Fiscal Year 1998 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications to carry out the functions of a National Long-Term Care Ombudsman Resource Center.

SUMMARY: The Administration on Aging announces that it will hold a cooperative agreement/grant award competition under this program announcement for a National Long-Term Care Ombudsman National Resource Center. The deadline date for the submission of applications is March 16, 1998. Public and/or nonprofit agencies, organizations, and institutions are eligible to apply under this program announcement. To be considered for funding, however, Center applicants must demonstrate a proven track record of experience with the operation and organization of the Long-Term Care Ombudsman Program at national, state, and local levels, as well as a thorough command of the history and current status of the program and the policy considerations bearing on its future development.

Application kits are available by writing to the Department of Health and Human Services, Administration on Aging, Office of Elder Rights Protection, 330 Independence Avenue, SW., Room 4254, Washington, DC 20201, or by calling 202/619–7585.

Jeanette C. Takamura,

Assistant Secretary for Aging.

[FR Doc. 98–2313 Filed 1–29–98; 8:45 am]

BILLING CODE 4150–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Hanford Thyroid Morbidity Study Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Hanford Thyroid Morbidity Study Advisory Committee.

Time and Date: 9 a.m.-5 p.m., February 13, 1998.

Place: Doubletree Hotel, 18740 Pacific Highway South, Seattle, Washington 98188, telephone 206/246–8600, fax 206/431–8687.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing advice and guidance to the Director, CDC, regarding the scientific merit and direction of the Hanford Thyroid Morbidity Study. The Committee will review development of the study protocol and recommend changes of scientific merit to CDC, and advise on the conduct of a full-scale epidemiologic study using the approved protocol. During the conduct of the full-scale epidemiologic study, the Committee will advise CDC on the design and conduct of the study and analysis of the results.

Matters to be Discussed: The Committee will discuss the progress and updates on the status of various components of the Hanford Thyroid Disease Study being conducted by the Fred Hutchinson Cancer Research Center. Agenda items include: National Center for Environmental Health (NCEH) activities on the progress of current studies, an update on the Native American component, and public involvement activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Mike Donnelly, Public Health Advisor, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Dated: January 23, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–2437 Filed 1–29–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84N–0102]

Cumulative List of Orphan Drug and Biological Designations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a cumulative list of designated orphan drugs and biologics as of December 31, 1997. FDA has announced the availability of previous lists, which are brought up-to-date monthly, identifying the drugs and biologicals granted orphan-drug designation under the Federal Food, Drug, and Cosmetic Act (the act).

ADDRESSES: Copies of the list of current orphan-drug designations and of any future lists are or will be available from the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, and the Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3666.

FOR FURTHER INFORMATION CONTACT: Erica K. McNeilly, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0983.

SUPPLEMENTARY INFORMATION: FDA's Office of Orphan Products Development (OPD) reviews and takes final action on applications submitted by sponsors seeking orphan-drug designation under section 526 of the act (21 U.S.C. 360bb). In accordance with this section of the act, which requires public notification of designations, FDA maintains a list of designated orphan drugs and biologicals. This list is made current on a monthly basis and is available upon request from OPD (contact identified above). At the end of each calendar year, the agency publishes an up-to-date cumulative list of designated orphan drugs and biologicals, including the names of designated compounds, the specific disease or condition for which the compounds are designated, and the sponsors' names and addresses. The cumulative list of compounds receiving orphan-drug designation through 1988 was published in the **Federal Register** of April 21, 1989 (54 FR 16294). This list is available on request from FDA's Dockets Management Branch (address above). Those requesting a copy should specify the docket number found in brackets in the heading of this notice.

The list that is the subject of this notice consists of designated orphan drugs and biologicals through December 31, 1997, and, therefore, brings the March 13, 1997 (62 FR 11900) publication up to date.

The orphan-drug designation of a drug or biological applies only to the sponsor who requested the designation. Each sponsor interested in developing an orphan drug or biological must apply for orphan-drug designation in order to obtain exclusive marketing rights. Any request for designation must be received by FDA before the submission of a marketing application for the proposed indication for which designation is requested. (See 53 FR 47577, November 23, 1988.) Copies of the regulations (see 57 FR 62076, December 29, 1992) for use in preparing an application for orphan-drug designation may be obtained from the OPD (address above).

The names used in the cumulative list for the drug and biological products that have not been approved or licensed for marketing may not be the established or proper names approved by FDA for these products if they are eventually approved or licensed for marketing. Because these products are investigational, some may not have been reviewed for purposes of assigning the most appropriate established proper name.

Dated: January 21, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–2265 Filed 1–29–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98M–0039]

NIC Ltd.; Premarket Approval of NiC1800 Needle Disposal System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application submitted by NIC Ltd., Half Moon Bay, CA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of NiC1800 Needle Disposal System. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 26, 1997, of the approval of the application.

DATES: Petitions for administrative review by March 2, 1998.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION: On August 8, 1997, NIC Ltd., Half Moon Bay, CA 94019, submitted to CDRH an application for premarket approval of the NiC1800 Needle Disposal System. The device is a needle destruction

device and is indicated for the disposal of standard plastic syringe-mounted hypodermic needles (19 through 28 gauge, up to 2 inches in length) in patient treatment and clinical laboratory settings.

In accordance with the provisions of section 515(c)(2) of the act (21 U.S.C. 360e(c)(2)) as amended by the Safe Medical Devices Act of 1990, this premarket approval application (PMA) was not referred to the General Hospital and Personal Uses Panel of the Medical Devices Advisory Committee, an FDA advisory committee, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel.

On September 26, 1997, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 2, 1998, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: January 5, 1998.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 98–2272 Filed 1–29–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–2082]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Statistical Report on Medical Care: Eligibles, Recipients, Payments and Services; *Form No.:* HCFA–2082 (OMB# 0938–0345); *Use:* State data are reported either on the hard copy HCFA–2082 or by the Federally mandated electronic process, known as the Medicaid Statistical Information System (MSIS). These data are the basis of actuarial forecasts for Medicaid service utilization, costs of analysis, cost savings estimates and responding to requests for information from HCFA components, the Department, Congress and other customers.; Frequency: Quarterly and Annually; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 53; *Total Annual Responses:* 212; *Total Annual Hours:* 6,808.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room C2–26–17 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Date: January 22, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–2304 Filed 1–29–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–75]

Notice of Proposed Information Collection for Public Comments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is

soliciting public comments on the subject proposal.

DATES: Comments due: March 31, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642. extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on hose who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g. permitted electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Requisition for Partial Payment of Annual Contributions, Supporting Data for Annual Contributions, Voucher for Payment.

OMB Control Number: 2577–0149.

Description of the need for the information and proposed use: Housing Agencies (HAs) administering the Section 8 Rental Voucher, Rental Certificate and Moderate Rehabilitation Programs are required to maintain financial reports in accordance with accounting standards to permit timely and effective audits. The financial forms estimate the HA's annual contributions requirements; assure that program costs do not exceed the amount of contract authority authorized in the Annual Contributions contract (ACC); requisition the advance of annul contributions; and report annual receipts and expenditures under the ACC. The authority for the collection of this information is the Housing and Community Development Act of 1987.

Agency form numbers, if applicable: HUD–52263, HUD–52672, HUD–52673, HUD–52681.

Members of affected public: State, Local or Tribal Governments.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 6,200 respondents, seven responses per respondent, 1.4 hour average per response, 62,000 hours total reporting burden.

Status of the proposed information collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 23, 1998.

Kevin Emanuel Marchman,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Suggested Format for
Requisition for Partial Payment of Annual Contributions
Section 8 Housing Assistance Payments Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0149 (Exp. 1/30/98)

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless that collecton displays a valid OMB control number. Authority for this collection of information is the Housing and Community Development Act of 1987. Housing Agencies (HAs) required to maintain financial reports in accordance with accepted accounting standards too permit timely and effective audits. The financial records identify the amount of annual contributions that are received and disbursed by HAs. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Date of Requisition	2. No. of Months in 1st FY	4. Public Housing Agency (HA) (Name and Address)
3. Project No.		
5. Housing Program Type (Mark one) ☐ (a) Moderate Rehabilitation ☐ (c) Rental Vouchers ☐ (b) Rental Certificates		6. HA Fiscal Year Ending Date (Mark one box and complete year) ☐ (a) March 31, ☐ (b) June 30, ☐ (c) September 30, ☐ (d) December 31, 19:

7. Number of Units Under Lease to Eligible Families as of Date of Requisition	8. Average Monthly Housing Assistance Payment Per Unit as of Date of Requisition	9. Estimated Number of Units to be Under Lease at End of Requested Year	10. Unit Months Under Lease Year to Date	11. Average Monthly Housing Assistance Payment Per Unit Year to Date

	Funds Required for Requested Year
12. Preliminary Administrative and General Expense	
13. Estimated Housing Assistance Payments (Account 4715)	
14. Estimated Ongoing Administrative Fee	
15. Estimated Hard-to-House Fee (Existing Housing Certificates and Housing Vouchers Only)	
16. Independent Public Accountant Audit Costs (Section 8 Only)	
17. Total Funds Required to End of Requested Year (Sum of Lines 12 through 16)	
18. Payments Previously Approved for the Fiscal Year (applicable only to revised requisition)	
19. Adjustment to Requisition (Difference of Line 17 and Line 18. **Do not** use brackets)	
20. Total Payment Requirement For Requested Year (Line 18 plus or minus adjustment on Line 19 if revised requisition. Total must equal Line 17)	

21. ☐ Paid in Equal Installments (Original Requisition Only) ☐ Paid in Unequal Installments

22. Installment	1	2	3	4	5	6
HA Total						
HUD Revision						
Installment	7	8	9	10	11	12
HA Total						
HUD Revision						

23a. Total (HA) $	23b. Total (HUD) $	24. Revised Monthly Installments Begin Month Of:

I Certify that (1) housing assistance payments have been or will be made only in accordance with Housing Assistance Payments Contracts or Housing Voucher contracts in the form prescribed by HUD and in accordance with HUD regulations and requirements; (2) units have been inspected by the HA in accordance with HUD regulations and requirements; and (3) this requisition for annual contributions has been examined by me and to the best of my knowledge and belief is true, correct and complete.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Title of Authorized HA Official		Title of Authorized HUD Approving Official	
Signature	Date	Signature	Date

Previous editions are obsolete

form **HUD-52663** (9/94)
ref Handbook 7420.7

Supporting Data for Annual Contributions Estimates

Section 8 Housing Assistance Payments Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0149 (Exp. 1/30/98)

Public reporting burden for this collection of information is estimated to average 40 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless that collecton displays a valid OMB control number. Authority for this collection of information is the Housing and Community Development Act of 1987. Housing Agencies (HAs) required to maintain financial reports in accordance with accepted accounting standards too permit timely and effective audits. The financial records identify the amount of annual contributions that are received and disbursed by HAs. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Public Housing Agency (Name and Address)	2. Project No.
	3. Submission ☐ Original ☐ Revision No.
	4. No. of Dwelling Units / 5. No. of Unit Months

Part I Estimate of Annual Housing Assistance Payments Required

	Bedroom Size of Dwelling Units	Number of Dwelling Units	Monthly Gross Rent/Payment Standard	Amount Payable by Family Toward Gross Rent	Monthly Housing Assistance Payments	Unit Months Under Lease	Annual Housing Assistance Payments
6.	0 BR						
7.	1 BR						
8.	2 BR						
9.	3 BR						
10.	4 BR						
11.							
12.							
13.							
14.							
15.	Total						$

Part II Calculation of Estimated Ongoing Administrative Fee

	Unit Months (a)	HUD Published 2-BR Fair Market Rent x (b)	Product of Columns (a) x (b) = (c)	Allowable Percent x (d)	Administrative Fee = (e)
16.	0 BR				
17.	1 BR				
18.	Total				

Part III Calculation of Estimated Hard- to- House (Existing Housing Certificates and Housing Vouchers Only)

		Estimated Number of Families (a)	Fee Per Family x (b)	Total Hard-to-House Fee = (c)
19.				

Part IV Calculation of Estimated Preliminary Expense

		Requested Amount	
		Requested Amount	HUD Modifications
Administrative Expenses	20. Administrative Salaries		
	21. Employee Benefit Contributions		
	22. Legal Expense		
	23. Travel Expense		
	24. Sundry		
	25. Office Rent		
	26. Accounting and Auditing Fees		
	27. Total Administrative Expenses		
Non-Expendable Equipment Expenses	28. Office Equipment		
	29. Office Furnishings		
	30. Automotive		
	31. Other		
	32. Total Non-Expendable Equipment Expenses		
General Expenses	33. Maintenance and Operation (Non-Expend. Equip. Only)		
	34. Insurance		
	35. Sundry		
	36. Total General Expense		
Total Preliminary Expenses	37. Sum of Lines 27, 32, and 36		

Submit three copies
Previous editions are obsolete

form **HUD-52672** (2/85)
ref Handbook 7420.7

Estimate of Total Required Annual Contributions

Section 8 Housing Assistance Payments Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0149 (Exp.1/30/98)

Public reporting burden for this collection of information is estimated to average 40 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless that collecton displays a valid OMB control number. Authority for this collection of information is the Housing and Community Development Act of 1987. Housing Agencies (HAs) required to maintain financial reports in accordance with accepted accounting standards too permit timely and effective audits. The financial records identify the amount of annual contributions that are received and disbursed by HAs. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Public Housing Agency (Name and Address)

2. Project No.

3. Submission

☐ Original ☐ Revision No. ☐

4. Annual Contributions Contract No.	5. HUD Field Office	6. HUD Regional Office	7. No. Dwelling Units	8. No. Units Months

9. Housing Program Type (Mark One)

☐ (a) New Construction ☐ (b) Substantial Rehabilitation ☐ (c) Moderate Rehabilitation ☐ (d) Existing Housing Certificates ☐ (e) Housing Vouchers

10. PHA Fiscal Year Ending Date (Mark one and complete year)

☐ (a) March 31, ☐ (b) June 30, ☐ (c) September 30, ☐ (d) December 31, 19: ☐

I. Maximum Annual Contributions	PHA Estimate (Housing Vouchers Only)			HUD Approved (Housing Vouchers Only)		
	Housing Payments	PHA Fee	PHA Estimate Total	Housing Payments	PHA Fee	HUD Approved Total
11. Maximum Annual Contributions Commitment						
12. Prorata Maximum Annual Contributions Applicable to a Period in Excess of 12 Months						
13. Maximum Annual Contributions for Fiscal Year (Line 11 plus Line 12)						
14. Project Account-Estimated or Actual Balance at Beginning of Requested Fiscal Year						
15. Total Annual Contributions Available—Estimated or Actual (Line 13 plus Line 14)						

II. Maximum Annual Contributions	PHA Estimate (Housing Vouchers Only)			HUD Approved (Housing Vouchers Only)		
	Housing Payments	PHA Fee	PHA Estimate Total	Housing Payments	PHA Fee	HUD Approved Total
16. Estimated Annual Housing Assistance Payments (form HUD-52672, Line 15)						
17. Estimated Ongoing Administrative Fee (form HUD-52672, Line 18)						
18. Estimated Hard-to-House Fee (form HUD-52672, Line 19)						
19. Estimated Independent Public Accountant Audit Costs						
20. Estimated Preliminary Administrative and General Expense (form HUD-52672, Lines 27 and 36)						
21. Carryover of Preliminary Administrative and General Expense not Expended in the Previous FY Ending: (/ /)						
22. Estimated Non-Expendable Equipment Expense (form HUD-52672, Line 32)						
23. Carryover of Non-Expendable Equipment Expense not Expended in the Previous FY Ending: (/ /)						
24. Total Annual Contributions Required—Requested Fiscal Year (Lines 16 through 23)						
25. Deficit at End of Current Fiscal Year—Estimated or Actual						
26. Total Annual Contributions Required (Line 24 plus Line 25)						
27. Estimated Project Account Balance at End of Requested Fiscal Year (Line 15 minus Line 26)						
28. Provision for Project Account—Requested Fiscal Year Increase (decrease) (Line 27 minus Line 14)						
III. Annual Contributions Approved						
29. Total Annual Contributions Approved—Requested Fiscal Year (Line 26 plus increase, if any, on Line 28)						
30. Source of Total Contributions Approved—Requested Fiscal Year: **(a)** Requested Fiscal Year Maximum Annual Contributions Commitment (Line 13 or Line 29, whichever is smaller)						
(b) Project Account (Line 29 minus Line 30(a))						

Signature, Name and Title of PHA Approving Official (and date)	Signature, Name and Title of Approving HUD Field Office Official (and date)

Previous editions are obsolete
Submit an Original and 2 copies

form **HUD-52673** (2/85)
ref Handbook 7420.7

Year-End Settlement Statement

Suggested Format

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0149 (Exp. 1/30/98)

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless that collecton displays a valid OMB control number. Authority for this collection of information is the Housing and Community Development Act of 1987. Housing Agencies (HAs) required to maintain financial reports in accordance with accepted accounting standards too permit timely and effective audits. The financial records identify the amount of annual contributions that are received and disbursed by HAs. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Public Housing Agency (HA) (name and address)	2. Project Number	3. Annual Contributions Contract Number
	4. Housing Program Type: ☐ Rental Certificate ☐ Rental Voucher ☐ Moderate Rehab. ☐ Section 23	
	5. HA Fiscal Year Ending Date: (mark one and complete the year) ☐ March 31, _____ ☐ June 30, _____ ☐ Sept. 30, _____ ☐ December 31, _____	

6. Number of Unit Months under Lease by Bedroom Size: 1BR	2BR	3BR	4BR	5BR	Other

7. Average Tenant Contribution	8. Portability Accounts Payable _____ Accounts Receivable _____

Request is hereby made for the payment of annual contributions pursuant to the terms and conditions of the above numbered Annual Contributions Contract for the project and fiscal year shown above.

Part I. Request for Payment	Approved Budget Estimates (a)	HA Actuals Total (b)	HUD Approved Total (c)
Maximum Annual Contributions Available			
9. Maximum Annual Contributions Commitment (per ACC)			
10. Prorata Maximum Annual Contributions applicable to a Period of less than Twelve Months			
11. Contingency Reserve, ACC Program Reserve			
12. Total Annual Contributions Available (sum of lines 9, 10, and 11)			
Annual Contributions Required 13. 4715 Housing Assistance Payments			
14. Security and Utility Deposit Fund (Section 23 Only)			
15. Ongoing Administrative Fees Earned			
16. Hard-to-House Fees Earned (Rental Certificates, Rental Vouchers, and Moderate Rehabilitation units converted to Rental Certificates)			
17. Actual Independent Public Accountant Audit Costs			
18. Total Preliminary Fees Earned			
19. Total Funds Required (sum of lines 13 thru 18)			
20. Deficit at End of Preceding Fiscal Year			
21. Program Receipts Other than Annual Contributions (3610, 3690, 7530, and Section 23 Security and Utility Deposits Repaid)			
22. Ongoing Fee Reduction			
23. Total Annual Contributions Required (line 19 plus line 20 minus line 21 minus line 22)			

	Approved Budget Estimates (a)	HA Actuals Total (b)	HUD Approved Total (c)
Balance of Annual Contributions Available 24. ACC Program Reserve Balance (Amount by which line 12 exceeds line 23)			
25. Deficit (amount by which line 23 exceeds line 12)			
26. Provision for ACC Program Reserve a) Increase (Amount by which line 24 exceeds line 11)			
b) Decrease (amount by which line 11 exceeds line 24)			
Year End Settlement 27. Annual Contributions due for Fiscal Year (line 23 minus line 25)			
28. Total Partial Payments Approved by HUD for Fiscal Year			
29. Underpayment due HA (amount by which line 27 exceeds line 28)			
30. Overpayment due HUD (amount by which line 28 exceeds line 27)			
Part II. Operating Receipts 31. 3300 Interest Earned on Operating Reserve			
32. 3300P Administrative Fee Income - Portable Certificates and Vouchers			
33. 3610 Interest Earned on General Fund Investment			
34. 3690 Other Income			
35. 7530 Receipts from Non-Expendable Equipment not Replaced			
36. Total Annual Contributions Required (line 23)			
37. Total Receipts (sum of lines 31 thru 36)			
Part III. Operating Expenditures 38. 4715 Housing Assistance Payments			
39. Independent Public Accountant Costs (Section 8 only)			
40. Total Ongoing Administrative Expenses			
41. Total Preliminary Fees Earned			
42. Total Expenditures (sum of lines 38 thru 41)			
Prior Year Adjustments 43. Affecting Residual Receipts (or Deficit) for Debit (Credit)			
44. Total Operating Expenses (line 42 plus line 43)			
45. Net Income (or Deficit) before Provision for Operating Reserve (line 37 minus line 44)			

	Approved Budget Estimates (a)	HA Actuals Total (b)	HUD Approved Total (c)
Part IV. Analysis of Operating Reserve 46. Operating Reserve - Balance at Beginning of FY Covered by this Statement			
47. Cash Deposits to (or Withdrawals from) Operating Reserve During Fiscal Year			
48. Net Income (or Deficit) before Provision for Operating Reserve (line 45)			
Provision for Operating Reserve (Acct. 7016/Sec. 8; Acct. 7016.1/Rental Vouchers) 49. Addition (The amount of income, if any, on line 48)			
50. Deduction (The amount of deficit, if any, on line 48)			
51. Operating Reserve - Balance at End of Fiscal Year Covered by this Statement (line 46 plus or minus line 47 plus line 49 or minus line 50)			

I Certify that: (1) housing assistance payments have been or will be made only in accordance with Housing Assistance Payments Contracts or Rental Voucher Contracts in the form prescribed by HUD and in accordance with HUD regulations and requirements;

(2) units have been inspected by the HA in accordance with HUD regulations and requirements; and

(3) this voucher for annual contributions has been examined by me and to the best of my knowledge and belief is true, correct and complete.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Public Housing Agency	Title of Authorized HA Official	
	Signature of Authorized HA Official	Date

The Field Office has reviewed calculations of the Ongoing Administrative Fee. The HUD approved totals are the official totals as reported in HUD CAPs.

Name of Office	Signature of Director, Office of Public Housing	Date

Overpayment to be offset $ _____ Underpayment certified for payment to the HA $ _____

[FR Doc. 98–2266 Filed 1–29–98; 8:45 am]

BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 4263–N–76]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* March 31, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Shelia E. Jones, Department of Housing and Urban Development, 451—7th Street, SW, Room 7230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Paul Webster at (202) 708–1871 ext. 4563 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: The Economic Development Iniative (EDI) Grants Program.

OMB Control Number, if applicable: 2506–1053.

Description of the need for the information and proposed use: The information collection is required to assist HUD in selecting applicants to receive EDI grant funds and to document program compliance. Information to be collected for application submission is specified in the NOFA. The information collected is essential in order to rate and rank proposals, in keeping with the statutory provisions, and in order to determine the eligibility of applicants and proposed activities. The selection criteria are as required by the Act, and may include additional criteria if the Secretary deems necessary. After the Congressional notification of grant awards are made, recipients are required to follow applicable Federal CDBG (see OMB No. 2506–0077) and Section 108 loan guarantee requirements (see OMB No. 2506–0123). Information which is required to satisfy the record keeping requirements of these programs will be collected and maintained. Information collected will be used to drawdown funds and prepare annual performance reports. HUD may monitor grantee records to periodically verify compliance.

Agency form numbers, if applicable: SF424.

Members of affected public: Eligible applicants are Community Development Block Grant (CDBG) entitlement units of general local government, and non-entitlement units of general local government which are eligible to receive Section 108 loan guarantees under 24 CFR 570.702. Eligible expenses are those authorized under 24 CFR 570.703 of the Community Development Block Grant program.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Collection requirement	Annual frequency	Number of respondents	Burden hours per respondent	Total burden hours
Application	One-time	150	40	6,000
LOCCS Access	Each week (52)	60	1	3,120
Record keeping and reporting	Each week (52)	60	1	3,120
Total Burden				12,240

Status of the proposed information collection: Current approval expired on December 21, 1996.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 23, 1998.

Saul N. Ramirez, Jr.,

Assistant Secretary of Community Planning and Development.

[FR Doc. 98–2267 Filed 1–29–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–77]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: March 2, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410,

telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer of the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 22, 1998.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Crime Survey in Chicago Public Housing and the Surrounding Neighborhoods.

Office: Policy Development and Research.

OMB Approval Number: None.

Description of the Need for the Information and its Proposed Use: The Chicago Housing Authority's Henry Horner Homes are undergoing a HUD-sponsored redesign. Crime prevention is a principal objective. The survey will replicate and refine HUD's approach to survey research on criminal victimization of public housing residents, while gauging the effects of the redesign on crime.

Form Number: None.

Respondents: Individuals or Households.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Survey	500		1		.33		167

Total Estimated Burden Hours: 167.

Status: New.

Contact: Harold R. Holzman, HUD, (202) 708–1336 x123; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: January 22, 1998.

[FR Doc. 98–2268 Filed 1–29–98; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4163–N–03]

Announcement of Funding Awards; Emergency Shelter Grants Set-Aside for Indian Tribes and Alaskan Native Villages Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1997 for the Emergency Shelter Grants Set-Aside for Indian Tribes and Alaskan Native Villages. The purpose of this notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide assistance to the Indian Tribes and Alaskan Native Villages.

FOR FURTHER INFORMATION CONTACT: Robert Barth, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, P.O. Box 36003, 450 Golden Gate Avenue, San Francisco, CA 94102; telephone (415) 436–8122 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Emergency Shelter Grants Set-aside for Indian Tribes and Alaskan Native Villages funds for this notice is authorized by subtitle B, title IV of the Stewart B. McKinney Homeless Assistance Act. The proposed rule on Emergency Shelter Grants Program; Set-Aside Allocation for Indian Tribes and Alaskan Native Villages, published in the **Federal Register** on April 5, 1993 (58 FR 17764), describes the method for allocating these funds.

This notice announces FY 1997 funding of $1,265,000 to be used to help improve the quality of existing emergency shelters for the homeless, make available additional emergency shelters, meet the costs of operating emergency shelters and of providing essential social services to homeless individuals, and help prevent homelessness. The FY 1997 awards announced in this Notice were selected for funding consistent with the provisions in the Notice of Funding Availability (NOFA) published in the **Federal Register** on April 11, 1997 (62 FR 17970).

The Catalog of Federal Domestic Assistance number for this program is 14.231.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is hereby publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: January 22, 1998.

Kevin Emanuel Marchman,

Assistant Secretary for Public and Indian Housing.

APPENDIX A—FISCAL YEAR 1997; ESG SET-ASIDE FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES RECIPIENTS OF FUNDING DECISIONS

Funding recipient (name and address)	Amount approved
Eastern/Woodlands ONAP	
Grand Traverse Band of Ottawa & Chippewa Indians, 2602 N. West Bayshore Dr., Suttons Bay, MI 49682	103,520
Ho-Chunk Nation, W9814 Airport Rd., P.O. Box 667, Black River Falls, WI 54615–0667	100,000
Lac Courte Oreilles Tribal Governing Board, Route 2, Box 2700, Hayward, WI 54843	147,287
Poach Band of Creek Indians, 5811 Jack Springs Road, Atmore, AL 36502–6502	40,000
Southern Plains ONAP	
Fort Sill Apache Tribe of Oklahoma, Route 2, Box 121, Apache, OK 73006	57,759
Choctaw Nation of Oklahoma, P.O. Drawer 1210, Durant, OK 74702–4702	37,287
Miami Tribe of Oklahoma, P.O. Box 1326, Miami, OK 74355	125,000
Cherokee Nation, P.O. Box 948, Tahlequah, OK 74465–4465	29,791
Northern Plains ONAP	
Oglala Sioux Tribe, P.O. Box H, Pine Ridge, SD 57770–7770	124,320
Northern Cheyenne Tribe, P.O. Box 128, Lame Deer, MT 59043–9043	109,111
Southwest ONAP	
Inter-Tribal Council of California, Inc., 2755 Cottage Way, Suite 14, Sacramento, CA 95825	155,000
Northwest ONAP	
Hoh Indian Tribe of the Hoh Reservation, 2464 Lower Hoh Road, Forks, WA 98550	117,900
Alaska ONAP	
Cook Inlet Tribal Council, P.O. Box 93330, Anchorage, AK 99509	96,785
Orutsararmiut Native Council, P.O. Box 927, Bethel, AK 99559	21,240

[FR Doc. 98–2269 Filed 1–29–98; 8:45 am]
BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4191–N–04]

Announcement of Funding Awards, Federally Assisted Low Income Housing Drug Elimination Grants, Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding awards made by the Department under a **Federal Register** notice for the Federally Assisted Low Income Drug Elimination Grant Program. This announcement contains the names and addresses of the Federally Assisted Low Income Housing Drug Elimination Program grantees and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Michael Diggs, Office of Multifamily Housing Asset Management and Disposition, Department of Housing and Urban Development, room 6176, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0558 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: These grants are authorized under Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et seq*.), as amended by section 581 of the National Affordable Housing Act (NAHA) of 1990 (Pub. L. 101–625, 104 Stat. 4079, approved November 28, 1990), and section 161 of the Housing and Community Development Act of 1992 (HCDC 1991) (Pub. L. 102–550, approved October 28, 1992). Section 581 of NAHA expanded the Drug Elimination Program to include Federally assisted, low-income housing.

The Notice of Funding Availability (NOFA) published on May 23, 1997 (62 FR 28564) for the Federally Assisted Low-Income Housing Drug Elimination Program announced the availability of $17,000,000. The purposes of the Assisted Housing Drug Elimination Program are to eliminate drug-related crime and related problems in and around the revises of Federally assisted low-income housing, and to make available grants to help owners of such housing carry out plans to address these issues.

The Catalog of Federal Domestic Assistance number for this program is 14.193.

After reviewing and ranking the applications according to the processes described in the May 23, 1997 (62 FR 28564) NOFA, HUD, in accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), is hereby publishing the names and addresses of the grantees that received funding under the NOFA, and the amount of funds awarded to each in Appendix A. The total amount awarded during this period was $17,042,261 to 158 applicants.

Dated: January 24, 1998.

Sarah Rosen,

Associate General Deputy Assistant Secretary for Housing.

FISCAL YEAR 1997 DRUG ELIMINATION PROGRAM GRANTEES

NEW ENGLAND REGION OFFICE: BOSTON MA

ALGONQUIN HEIGHTS (023–41033)
ALGONQUIN TERRACE, PLYMOUTH, MA 02360
RECIPIENT: ALGONQUIN HEIGHTS ASSOCIATES
CONTACT PERSON: CHERYL A. CHAMBERLIN (508) 746–4133
FUND AMOUNT: $85,159

CARTER HEIGHTS (023–135NI)
10 FORSYTH STREET, CHELSEA, MA 02150
RECIPIENT: CARTER HEIGHTS C/O PEABODY PROPERTIES INCORPORATED
CONTACT PERSON: DOREEN BUSHASHIA (617) 328–1313
FUND AMOUNT: $118,860

COBBET HILL APARTMENTS (MA06K023001)
498 ESSEX STREET, LYNN, MA 01902
RECIPIENT: COBBET HILL ASSOCIATES C/O LANDEX CORPORATION
CONTACT PERSON: ALISON LEVINS (617) 581–2180
FUND AMOUNT: $122,720

JARVIS HEIGHTS APARTMENTS (023–045NI)
GERARD WAY, HOLYOKE, MA 01040
RECIPIENT: JARVIS HEIGHTS APARTMENTS ASSOCIATES
CONTACT PERSON: ANN BEREZIN (413) 539–9500 X–108
FUND AMOUNT: $122,000

MADISON PARK VILLAGE (023–35245)
122 DE WITT DRIVE, BOSTON (ROXBURY), MA 02120
RECIPIENT: MADISON PARK HOUSING CORPORATION
CONTACT PERSON: DIANA J. KELLY (617) 449–7887
FUND AMOUNT: $125,000

NORTH VILLAGE AT WEBSTER II (023–022NI)
18 VILLAGE WAY, WEBSTER, MA 01570
RECIPIENT: NORTH VILLAGE ASSOCIATES
CONTACT PERSON: LEANNE CHALIFOUX (508) 987–1595
FUND AMOUNT: $125,000

QUINCY-GENEVA GRANITE II (023–36616)
544 WARREN STREET, BOSTON (DORCHESTER), MA 02121
RECIPIENT: QUINCY-GENEVA HOUSING CORPORATION
CONTACT PERSON: SENESIE M. KABBA (617) 442–5711
FUND AMOUNT: $125,000

RIVER PLACE APARTMENTS (MA06K005005)
667 MAIN STREET, HOLYOKE, MA 01040
RECIPIENT: RIVERPLACE APARTMENTS LIMITED PARTNERSHIP
CONTACT PERSON: ANN BEREZIN (413) 539–9500 X–108
FUND AMOUNT: $124,960

SARGEANT WEST APARTMENTS (023–44199)
151 WEST STREET, HOLYOKE, MA 01040
RECIPIENT: SARGEANT WEST APARTMENTS ASSOCIATES
CONTACT PERSON: ANN BEREZIN (413) 539–9500 X–108
FUND AMOUNT: $124,300

SOUTHFIELD GARDENS (023–44002)
165 CARL AVENUE #34B, BROCKTON, MA 02402
RECIPIENT: SOUTHFIELD GARDENS COMPANY C/O FIRST REALTY MANAGEMENT CORP.
CONTACT PERSON: NANCY HOGAN (617) 423–7000
FUND AMOUNT: $125,000

WARREN GARDENS (023–55049)
45 WALNUT AVENUE, BOSTON (ROXBURY), MA 02119
RECIPIENT: WARREN GARDENS HOUSING CORPORATION C/O L.E. SMITH MANAGEMENT
CONTACT PERSON: LORING E. SMITH (617) 357–7188
FUND AMOUNT: $125,000

NEW ENGLAND REGION OFFICE: HARTFORD, CT

BEAVER ST COOPERATIVE APARTMENTS (01744083)
ROSE STREET, DANBURY, CT 06810
RECIPIENT: BEAVER ST APARTMENTS COOP
CONTACT PERSON: SONJA J. GAYESKI 860 521 6999
FUND AMOUNT: $125,000

CASA VERDE SUR (01735127)
60 WADSWORTH ST, HARTFORD, CT 06106
RECIPIENT: CHAUNCEY HARRIS ASSOC LP
CONTACT PERSON: KIM PIETRORAZIO 860 563 3777
FUND AMOUNT: $125,000

CLAY HILL ASSOC. (01735152)
ALBANY AVE, HARTFORD, CT 06112
RECIPIENT: CLAY HILL ASSOC LP
CONTACT PERSON: RICHARD WEAVER-BEY 860 522 1263
FUND AMOUNT: $124,990

FRESHWATER POND (01735089)
THISTLE LANE, ENFIELD, CT 06082
RECIPIENT: FRESHWATER POND LP
CONTACT PERSON: KAREN DEAN 860 939 1309
FUND AMOUNT: $125,000

JEFFERSON GARDENS (01744202)
7A MICHAEL RD, NEW LONDON, CT 06320
RECIPIENT: JEFFERSON GDNS ASSOC LP/ SK RESIDENTIAL CORP GP
CONTACT PERSON: KIM PIETRORAZIO 860 563 3777
FUND AMOUNT: $125,000

KENSINGTON SQUARE I (01735164)
195 CHURCH ST., NEW HAVEN, CT 06510
RECIPIENT: THE COMMUNITY BUILDERS, INC.
CONTACT PERSON: JO-ANN BARBOUR 203 781 8042
FUND AMOUNT: $123,314

NORTH STREET TOWNHOUSES (01711021)
NORTH ST., NEW BRITAIN, CT 06050
RECIPIENT: JOSE FRANCISCO & ASSOC.
CONTACT PERSON: CLARA STEVENS 203 574 3221
FUND AMOUNT: $125,000

PARK ASSOCIATES (01744107)
S. MARSHALL ST., HARTFORD, CT 06112
RECIPIENT: SOUTH MARSHALL ASSOC.
CONTACT PERSON: RICHARD WEAVER-BEY 860 522 1263
FUND AMOUNT: $124,968

VINE ST APTS (01735071)
VINE ST, HARTFORD, CT 06112
RECIPIENT: VINE ST ASSOC LP
CONTACT PERSON: RICHARD WEAVER-BEY 860 522 1263 FUND AMOUNT: $124,980

WINDHAM HEIGHTS I (01744116)
202C SCOTT RD, WILLIMANTIC, CT 06226
RECIPIENT: WINDHAM HTS PHASE I LP, SK RESIDENTIAL CORP, GP
CONTACT PERSON: KIM PIETRORAZIO 860 563 3777
FUND AMOUNT: $125,000

WINDHAM HEIGHTS II (01744160)
202C SCOTT RD, WILLIMANTIC, CT 06226
RECIPIENT: WINDHAM HTS II LP, SK RESIDENTIAL CORP GP
CONTACT PERSON: KIM PIETRORAZIO 860 563 3777
FUND AMOUNT: $125,000

NEW ENGLAND REGION OFFICE: MANCHESTER

ARMORY SQUARE APARTMENTS (VT36K007006)
UNION STREET, WINDSOR, VT 05089
RECIPIENT: ARMORY SQUARE LIMITED PARTNERSHIP
CONTACT PERSON: ANN BEREZIN (413) 539–9500 X108
FUND AMOUNT: $117,540

NEW ENGLAND REGION OFFICE: PROVIDENCE

LAWN TERRACE APARTMENTS (016–44095)
320 AND 360 MINERAL SPRING AVENUE, PAWTUCKET, RI 02860
RECIPIENT: FERLAND PROPERTY MANAGEMENT
CONTACT PERSON: JEFFREY FERLAND (401) 725–7613
FUND AMOUNT: $125,000

NEW YORK/NEW JERSEY REGION OFFICE: BUFFALO

SHORELINE I (01401NI)
200 NIAGARA STREET, BUFFALO, NY 14201
RECIPIENT: SHORELINE LIMITED PARTNERSHIP
CONTACT PERSON: OPHELIA ALEXANDER 716–852–2027
FUND AMOUNT: $125,000

NEW YORK/NEW JERSEY REGION OFFICE: NY STATE OFFICE

HOMESTEAD VILLAGE APARTMENTS (NY36M000168)
P.O. BOX 425, CORAM, NY 11727–4000
RECIPIENT: JEEFERY COLE, ESCO ASSOCIATES
CONTACT PERSON: DAVID STERN (516) 732–5600
FUND AMOUNT: $125,000

NEW YORK/NEW JERSEY REGION OFFICE: NEWARK

254 BERGEN AVENUE (NJ39E087231)
254 BERGEN AVENUE, JERSEY CITY, NJ 07306
RECIPIENT: JERSEY CITY HOUSING AUTHORITY

CONTACT PERSON: JOAN POLLACK 973–547–6600
FUND AMOUNT: $125,000

ARLINGTON GARDENS (NJ39E087231P)
380–388 ARLINGTON AVENUE, JERSEY CITY, NJ 07306
RECIPIENT: JERSEY CITY HOUSING AUTHORITY
CONTACT PERSON: JOAN POLLOCK 973–547–6600
FUND AMOUNT: $125,000

MID-ATLANTIC REGION OFFICE: BALTIMORE

KINGSLEY PARK APTS. (05294016)
1630 DARTFORD RD., BALTIMORE, MD 21221
RECIPIENT: HOUSING MGMT. CORP.
CONTACT PERSON: JENNIFER FEIT 410–686–5875
FUND AMOUNT: $124,841

MID-ATLANTIC REGION OFFICE: CHARLESTON

APPLE TREE GARDENS (045–35112)
102 APPLE TREE GARDENS ROAD, RANSON, WV 25438
RECIPIENT: JAMES I. HUMPHEY, JR
CONTACT PERSON: GREG GRIFFIN 301 680–4343
FUND AMOUNT: $81,767

FRANKLIN MANOR (045–35147)
700 WEST BURKE STREET, MARTINSBURG, WV 25401
RECIPIENT: JAMES I. HUMPHREY JR
CONTACT PERSON: GREG GRIFFIN 301 680–4343
FUND AMOUNT: $124,382

SPRING HILL APTS (045–44002)
1300 ROSEBERRY CIRCLE, CHARLESTON, WV 25311
RECIPIENT: ARNOLD KARP
CONTACT PERSON: KIMMEL CAMERON JR (301) 468–9525
FUND AMOUNT: $116,647

MID-ATLANTIC REGION OFFICE: PENNSYLVANIA

ROLLING HILLS (PA26H084013)
2120 BUCHERT ROAD, BOX 235, POTTSTOWN, PA 19464
RECIPIENT: ROLLING HILLS APARTMENTS, LTD.
CONTACT PERSON: BEVERLY BUCCI, ARM (610)-323–5130
FUND AMOUNT: $78,657

MID-ATLANTIC REGION OFFICE: PITTSBURGH

BETTER HOUSING FOR ERIE WEST (033–44098)
502 EAST 12TH STREET, ERIE, PA 16503
RECIPIENT: BETTER HOUSING FOR ERIE WEST
CONTACT PERSON: CHARLES SCALISE 814–459–1047
FUND AMOUNT: $24,231

FIRST ERIE BETTER HOUSING EAST (033–35020)
502 EAST 12TH STREET, ERIE, PA 16503
RECIPIENT: FIRST EREIE BETTER HOUSING EAST
CONTACT PERSON: JENNIFER MARTIN 814–459–1047
FUND AMOUNT: $34,190

MID-ATLANTIC REGION OFFICE: VIRGINIA

RUFFIN ROAD APARTMENTS (051–44201)
2219–A RUFFIN ROAD, RICHMOND, VA 23234
RECIPIENT: NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS
CONTACT PERSON: REGINA HARRIS (804) 672–2236
FUND AMOUNT: $47,760

MID-ATLANTIC REGION OFFICE: WASHINGTON,DC

GLENARDEN APARTMENTS I & II (000–55019)
8405 HAMLIN STREET, LANHAM,, MD 20706
RECIPIENT: UNITED GLENARDEN I & II LIMITED PARTNERSHIPS
CONTACT PERSON: WILLIAM B. GUESSFORD, ASSET MNGR. (301) 879–8818
FUND AMOUNT: $118,914

SOUTHEAST/CARIBBEAN REGION OFFICE: GEORGIA STATE OFFICE

CARRIAGE HOUSE ATLANTA (061–44091)
415 SYLVIA DRIVE, BUILDING N, FOREST PARK, GA 30020
RECIPIENT: CARRIAGE HOUSE ASSOCIATES
CONTACT PERSON: ERMA B. RISLEY (502) 691–0552
FUND AMOUNT: $122,093

ETHERIDGE COURT APARTMENTS I (061–55042)
2500 CENTER STREET, ATLANTA, GA 30318
RECIPIENT: ETHERIDGE COURT APARTMENTS I
CONTACT PERSON: VALERIE RUSSELL CALLOWAY (404) 330–0966
FUND AMOUNT: $25,214

ETHERIDGE COURT II (061–44161)
2500 CENTER STREET, ATLANTA, GA 30318
RECIPIENT: ETHERIDGE COURT II
CONTACT PERSON: VALERIE CALLOWAY (404) 330–0966
FUND AMOUNT: $125,000

FARVIEW APARTMENTS (061–35022)
300 AVENUE ''F'', THOMASTON, GA 30286
RECIPIENT: FARVIEW APARTMENTS, LTD.
CONTACT PERSON: LINDSEY JOHNSON (912) 738–0085
FUND AMOUNT: $125,000

LONDON TOWNE HOUSES (061–55019)
308 SCOTT STREET, S.W., ATLANTA, GA 30311
RECIPIENT: LONDON TOWNE HOUSES, INC.
CONTACT PERSON: JEROME HAGLEY (404) 347–8030
FUND AMOUNT: $125,000

MOUNT ZION VILLAGE APARTMENTS (061–94038)
3705 ATLANTA STREET, COLLEGE PARK, GA 30337
RECIPIENT: MOUNT ZION VILLAGE APARTMENTS
CONTACT PERSON: VINCENT L. ABELL (202) 722–4900
FUND AMOUNT: $125,000

RIVER GLEN APARTMENTS (061–35411)
201 TELFAIR STREET, AUGUSTA, GA 30901
RECIPIENT: RIVER GLEN ASSOCIATES
CONTACT PERSON: CHARLES HENLEY 704–561–5232
FUND AMOUNT: $109,166

SOUTHEAST/CARIBBEAN REGION OFFICE: BIRMINGHAM

NORMANDALE APARTMENTS (06235283)
NORMAN BRIDGE ROAD, MONTGOMERY, AL 36104
RECIPIENT: NORMANDALE APARTMENTS, LTD.
CONTACT PERSON: JUDY DONALDSON 205–933–1020
FUND AMOUNT: $124,885

PINES APARTMENTS (06235007)
620 CRUMPTON DRIVE, SW, BESSEMER, AL 35020
RECIPIENT: THE PINES APARTMENTS, LTD.
CONTACT PERSON: JUDY DONALDSON 205–933–1020
FUND AMOUNT: $125,000

SUMMIT RIDGE APARTMENTS (06244062)
149 HAVERSHAM, BIRMINGHAM, AL 35315
RECIPIENT: SUMMIT RIDGE HOUSING, L.P.
CONTACT PERSON: STEVE NAIL 601–956–6000
FUND AMOUNT: $125,000

SOUTHEAST/CARIBBEAN REGION OFFICE: SC STATE OFFICE

BAYSIDE GARDENS (054–44001)
108D NORTH ROMNEY STREET, CHARLESTON, SC 29403
RECIPIENT: LARRY BARRETT
CONTACT PERSON: LARRY BARRETT (803) 881–6765
FUND AMOUNT: $100,444

BAYSIDE MANOR (054–35022)
108D NORTH ROMNEY STREET, CHARLESTON, SC 29403
RECIPIENT: LARRY BARRETT
CONTACT PERSON: LARRY BARRETT (803) 881–6765
FUND AMOUNT: $100,444

MT. ZION AME I (054–35037)
619 ERVIN COURT, FLORENCE, SC 29506
RECIPIENT: JAMES R. ARCHER, CHAIRMAN
CONTACT PERSON: MELANIE THOMPSON (803) 798–9488
FUND AMOUNT: $82,500

MT. ZION II APARTMENTS (054–44005)
619 ERVIN COURT, FLORENCE, SC 29506
RECIPIENT: JAMES R. ARCHIE, CHAIRMAN
CONTACT PERSON: MELANIE THOMPSON (803) 798–9488
FUND AMOUNT: $45,000

ST. STEPHENS (054–35075)
1602 MCNEIL STREET, DILLON, SC 29536
RECIPIENT: DONALD BOWEN, II
CONTACT PERSON: MELANIE THOMPSON (803) 798–9488
FUND AMOUNT: $118,070

SOUTHEAST/CARIBBEAN REGION OFFICE: GREENSBORO

CORNELIUS VILLAGE (NC19R000061)
19315 MERIDIAN STREET, CORNELIUS, NC 28031
RECIPIENT: PETER O'CONNELL, SR. VICE PRESIDENT, WESTMINSTER COMPANY
CONTACT PERSON: JODEE SINCLAIR 704–892–3912

FUND AMOUNT: $124,999

NEWGATE GARDENS (053–44257)
605D GRANBY AVENUE, HIGH POINT, NC 27260
RECIPIENT: WESTMINSTER COMPANY, PETER O'CONNELL
CONTACT PERSON: SANDRA DUBOSE 910–886–5528
FUND AMOUNT: $124,996

PARKER HEIGHTS (053–92503)
1505 PARKER DRIVE, CHARLOTTE, NC 28208
RECIPIENT: DIANE VANDEVERE, REMOUNT PROPERTIES
CONTACT PERSON: ROBIN WOODS 704–377–9090
FUND AMOUNT: $125,000

SOUTHEAST/CARIBBEAN REGION OFFICE: MS STATE OFFICE

BROOKVILLE GARDEN APARTMENTS (065–35014)
305 EVERGLADE, STARKVILLE, MS 39759
RECIPIENT: BROOKVILLE GARDEN ASSOCIATES, LTD
CONTACT PERSON: REV. JOHN SMITH (601) 323–8116
FUND AMOUNT: $125,000

CARMEL MANOR APARTMENTS (065-EH188)
910 BOWMAN STREET, VICKSBURG, MS 39180
RECIPIENT: NATIONAL BAPTIST CONVENTION HOUSING BOARD, INC. XXII
CONTACT PERSON: TOMMIE WHITE (615) 631–0556
FUND AMOUNT: $104,520

SOUTHVIEW APARTMENTS (065–35039)
307 HARDY STREET, ABERDEEN, MS 39730
RECIPIENT: SOUTHVIEW ASSOCIATES, LTD.
CONTACT PERSON: DIANNE HARRIS (601) 369–8149
FUND AMOUNT: $125,000

SOUTHEAST/CARIBBEAN REGION OFFICE: JACKSONVILLE

ESCAMBIA ARMS (063–35026)
200 HICKORY ST., PENSACOLA, FL 32505
RECIPIENT: ESCAMBIA ARMS APTS. OF THE BATES REALTIES PARTNERSHIP
CONTACT PERSON: MAXINE GOODWIN (904) 433–2026
FUND AMOUNT: $113,814

HILLTOP VILLAGE (063–35019)
1646 WEST 45TH ST., JACKSONVILLE, FL 32208
RECIPIENT: HILLTOP VILLAGE ASSOCIATES, LIMITED PARTNERSHIP
CONTACT PERSON: SUSAN CHAMLIN (914) 592–2400
FUND AMOUNT: $96,061

HOLIFIELD ARMS APTS. (063–35055)
2525 TEXAS STREET, TALLAHASSEE, FL 32301
RECIPIENT: HOLIFIELD ARMS APARTMENTS, LTD.
CONTACT PERSON: MAXINE GOODWIN (904) 433–2026
FUND AMOUNT: $125,000

SOUTHEAST/CARIBBEAN REGION OFFICE: KENTUCKY STATE

JACKSON WOODS/SMOKETOWN (083–44085)
PO BOX 11609, LOUISVILLE, KY 40251
RECIPIENT: NEW DIRECTIONS HOUSING CORPORATION
CONTACT PERSON: LISA D. THOMPSON 502–589–2272
FUND AMOUNT: $123,900

SOUTHEAST/CARIBBEAN REGION OFFICE: KNOXVILLE

OAK RIDGE TOWERS AKA FAIRVIEW (08735011)
100 UTICA CIRCLE, OAK RIDGE, TN 37830
RECIPIENT: REED MCCANDLESS
CONTACT PERSON: REED MCCANDLESS 423–265–1362
FUND AMOUNT: $125,000

TABERNACLE APARTMENTS (08735007) 2624 WIMPOLE STREET, KNOXVILLE, TN 37914
RECIPIENT: AMERICAN APARTMENT MANAGEMENT COMPANY
CONTACT PERSON: PATTY OWNBY 423–525–7500
FUND AMOUNT: $125,000

TOWNVIEW TERRACE I (08744026) 300 MULVANEY STREET, SE, KNOXVILLE, TN 37915
RECIPIENT: GERALD DAVES, WOOD PROPERTIES
CONTACT PERSON: GERALD DAVES 423–637–7777
FUND AMOUNT: $118,012

TOWNVIEW TERRACE II (08744044) 200 TOWNVIEW DRIVE, KNOXVILLE, TN 37915
RECIPIENT: GERALD DAVES, WOOD PROPERTIES
CONTACT PERSON: GERALD DAVES 423–637–7777
FUND AMOUNT: $118,012

TOWNVIEW TOWERS (08744032) 1000 TOWNVIEW DRIVE, KNOXVILLE, TN 37915
RECIPIENT: GERALD DAVES, WOOD PROPERTIES
CONTACT PERSON: GERALD DAVES 423–637–7777
FUND AMOUNT: $118,021

SOUTHEAST/CARIBBEAN REGION OFFICE: NASHVILLE, TN

WALNUT PARK APTS (08135018) 203 EAST RED OAK DRIVE, MEMPHIS, TN 38112
RECIPIENT: ALCO MANAGEMENT, INC.
CONTACT PERSON: GEORGE C. CARUSO (901) 526–1211
FUND AMOUNT: $90,937

SOUTHEAST/CARIBBEAN REGION OFFICE: CARIBBEAN OFFICE

VILLAS DE MONTEREY (05644036) 21 CORNER 22, REXVILLE, BAYAMON, PR 00956
RECIPIENT: FUNDACION DE HOGARES PARA TRABAJADORES
CONTACT PERSON: LUIS MEDINA (787) 268–0222
FUND AMOUNT: $125,000

MIDWEST REGION OFFICE: ILLINOIS STATE

ADELINE PLACE APARTMENTS (IL06K002001B)
105–11 SOUTH CENTRAL, CHICAGO, IL 60644
RECIPIENT: PEOPLE'S REINVESTMENT & DEVELOPMENT EFFORT
CONTACT PERSON: MARION COLEMAN 773–379–4412
FUND AMOUNT: $28,215

COLUMBUS PARK EAST (IL06K002001A)
133–45 SOUTH CENTRAL, CHICAGO, IL 60644
RECIPIENT: PEOPLE'S REINVESTMENT & DEVELOPMENT EFFORT (PRIDE)
CONTACT PERSON: CAROL COLEMAN 773–379–4412
FUND AMOUNT: $38,858

DAVIS APARTMENTS (071–35364)
3632 SOUTH INDIANA, CHICAGO, IL 60653
RECIPIENT: DAVIS ASSOCIATES
CONTACT PERSON: MICHAEL LATOCQUE 312–335–2650
FUND AMOUNT: $125,000

GARDEN COURT ASSOCIATES D/B/A EVERGREEN TERRACE APTS. (072–35088)
902 SOUTH 25TH STREET, SPRINGFIELD, IL 62703
RECIPIENT: GARDEN COURT ASSOCIATES D/B/A EVERGREEN TERRACE APARTMENTS
CONTACT PERSON: JANET B. PICKERING 217–544–7847
FUND AMOUNT: $94,643

GRANDVIEW TERRACE (IL06K002003)
5836 WEST WASHINGTON BLVD., CHICAGO, IL 60644
RECIPIENT: PEOPLE'S REINVESTMENT & DEVELOPMENT EFFORT
CONTACT PERSON: CAROL COLEMAN 773–379–4412
FUND AMOUNT: $25,795

GREEN MEADOW APARTMENTS (IL06E000083)
1610 A EDGEWOOD DRIVE, DANVILLE, IL 61832
RECIPIENT: CENTURY PACIFIC HOUSING PARTNERSHIP VI,
DBA GREEN MEADOW APART.
CONTACT PERSON: DILIA CAMACHO-SAEEDI 312–443–1360
FUND AMOUNT: $124,596

LAVERGNE COURTS (071–35597)
4943 WEST QUINCY, CHICAGO, IL 60644
RECIPIENT: LAVERGNE COURTS LIMITED PARTNERSHIP
C/O SHOREBANK DEV. CORP.
CONTACT PERSON: SUSAN MCCANN 773–854–4503
FUND AMOUNT: $106,732

LOCKWOOD TERRACE (IL06K004003)
5301 W. WASHINGTON, CHICAGO, IL 60644
RECIPIENT: PEOPLE'S REINVESTMENT & DEVELOPMENT EFFORT (PRIDE)
CONTACT PERSON: MARION COLEMAN 773–379–4412
FUND AMOUNT: $28,655

NORTHWEST TOWER APPARTMENTS (071–44009)
1170 WEST ERIE STREET, CHICAGO, IL 60622
RECIPIENT: NORTHWEST TOWER RESIDENTS ASSOCIATION
CONTACT PERSON: DORAN O. HARPER 312–633–9057
FUND AMOUNT: $125,000

PARKSHORE EAST COOPERATIVE (071–35418)
6250 SOUTH HARPER AVENUE, CHICAGO, IL 60637

RECIPIENT: PARK SHORE EAST COOPERATIVE
CONTACT PERSON: CAROLE MILLISON 773–288–5840 XT.236
FUND AMOUNT: $125,000

PARKVIEW APARTMENTS (IL06K002004)
33–35 NORTH LOREL, CHICAGO, IL 60644
RECIPIENT: PEOPLE'S REINVESTMENT & DEVELOPMENT EFFORT
CONTACT PERSON: MARION COLEMAN 773–379–4412
FUND AMOUNT: $18,535

REBECCA WALKER (IL06K002014)
126 & 221 SOUTH CENTRAL AVENUE, CHICAGO, IL 60644
RECIPIENT: PEOPLE'S REINVESTMENT & DEVELOPMENT EFFORT (PRIDE)
CONTACT PERSON: MARION COLEMAN 773–379–4412
FUND AMOUNT: $13,530

SHERWOOD GLEN ON THE FOX I (071–44069)
3 OXFORD ROAD #14, CARPENTERSVILLE, IL 60110–1070
RECIPIENT: SHERWOOD GLEN ON THE FOX I D/B/A FOX VIEW APARTMENTS
CONTACT PERSON: MR. TRACY HILL 847–806–6020
FUND AMOUNT: $124,923

SHERWOOD GLEN ON THE FOX II (071–44124)
3 OXFORD ROAD #14, CARPENTERSVILLE, IL 60110–1070
RECIPIENT: SHERWOOD GLEN ON THE FOX II D/B/A/ FOX VIEW APARTMENTS
CONTACT PERSON: MR. TRACY HILL 847–806–6020
FUND AMOUNT: $124,923

WHITMORE APARTMENTS (071–35580)
421 & 501 SOUTH CENTRAL, CHICAGO, IL 60644
RECIPIENT: PEOPLE'S REINVESTMENT & DEVELOPMENT EFFORT
CONTACT PERSON: MARION COLEMAN 773–379–4412
FUND AMOUNT: $20,790

MIDWEST REGION OFFICE: CINCINNATI

DEANNA APARTMENT CO. (SCATTERED SITES) (04635389)
30 EAST CENTRAL PARKWAY, SUITE 702, CINCINNATI, OH 45202
RECIPIENT: WILLIAM R. HILL (GENERAL PARTNER)
CONTACT PERSON: DAWN TRAMMEL (513) 621–3685
FUND AMOUNT: $68,600

EAST HILL (SCATTERED SITE) C/O METRO MANAGEMENT CO (04635180)
30 EAST CENTRAL PARKWAY, SUITE 702, CINCINNATI, OH 45202
RECIPIENT: WILLIAM R. HILL, GENERAL PARTNER
CONTACT PERSON: DAWN TRAMMEL (513) 621–3685
FUND AMOUNT: $39,200

FIELDS ERTEL TOWNHOUSES (04635511)
MASON WAY COURT, CINCINNATI, OH 45249
RECIPIENT: ROBERT E. SCHULER, CEO, NATIONAL REALTY COMPANY
CONTACT PERSON: BOBBY ARTIST (513) 489–1900
FUND AMOUNT: $125,000

HICKORY WOODS (04635521)
1240 HAMILTON AVENUE, CINCINNATI, OH 45223
RECIPIENT: ROBERT E. SCHULER, CEO, NATIONAL REALTY CO.
CONTACT PERSON: BOBBY ARTIST (513) 489–1990
FUND AMOUNT: $125,000

JUSTINE APARTMENTS (SCATTERED SITES) C/O OF METRO MANAGEMENT (04644109)
30 EAST CENTRAL PARKWAY, SUITE 702, CINCINNATI, OH 45202
RECIPIENT: WILLIAM R. HILL, GENERAL PARTNER, C/O MANAGEMENT CO.
CONTACT PERSON: DAWN TRAMMEL (513) 621–3685
FUND AMOUNT: $42,000

NEILAN PARK I (04635014)
15 HURM STREET, HAMILTON, OH 45011
RECIPIENT: GEORGE R. OBERER, SR., GENERAL PARTNER, GOLD KEY REALTY
CONTACT PERSON: TRISH L. MARSH (937) 278–0851
FUND AMOUNT: $108,640

NEILAN PARK II (04635040)
15 HURM STREET, HAMILTON, OH 45011
RECIPIENT: GEORGE R. OBERER, SR., GENERAL PARTNER, GOLD KEY REALTY
CONTACT PERSON: TRISH L. MARSH (937) 278–0851
FUND AMOUNT: $111,679

ROLLING RIDGE (04635517)
258–259 YEARLING COURT, CINCINNATI, OH 45211
RECIPIENT: ROBERT E. SCHULER, CEO, NATIONAL REALTY CO.
CONTACT PERSON: BOBBY ARTIST (513) 489–1900 EXT 125
FUND AMOUNT: $125,000

STONEWALL APT., (SCATTERED SITES) C/O METRO MANAGEMENT (04635339)
30 EAST CENTRAL AVENUE, SUITE 700, CINCINNATI, OH 45202
RECIPIENT: WILLIAM R. HILL, GENERAL PARTNER
CONTACT PERSON: DAWN TRAMMEL (513) 621–3685
FUND AMOUNT: $56,000

WESTHILL SCATTERED SITES C/O METRO MANAGEMENT CO. (04635172)
30 EAST CENTRAL PARKWAY, SUITE 720, CINCINNATI, OH 45202
RECIPIENT: WILIAM R. HILL, GENERAL PARTNER
CONTACT PERSON: DAWN TRAMMEL (513) 621–3685
FUND AMOUNT: $29,400

MIDWEST REGION OFFICE: CLEVELAND

CHIP TOWNHOUSES I (042–55052)
3124 KALAHARI N.E., CANTON, OH 44705
RECIPIENT: DEANE EARL ROSS
CONTACT PERSON: TERRY UPPERMAN (412) 795–4755
FUND AMOUNT: $124,971

MIDWEST REGION OFFICE: OHIO STATE OFFICE

AGLER GREEN TOWNHOUSES (043–44018)
3274 GATEWOOD COURT, COLUMBUS, OH 43219
RECIPIENT: AGLER TOWNHOUSES, INC.
CONTACT PERSON: JACKIE SOWARDS (614) 471–2416
FUND AMOUNT: $125,000

CAPITAL PARK APARTMENTS (043–44003)
2144 AGLER ROAD, COLUMBUS, OH 43224
RECIPIENT: NATIONAL CORPORATION FOR HOUSING
CONTACT PERSON: ELLIE ARNOLD (614) 471–1204
FUND AMOUNT: $125,000

CROSSROADS APARTMENTS (043–44065)
2943 CASSADY COURT SOUTH, COLUMBUS, OH 43219
RECIPIENT: TUSKEGEE ALUMNI FOUNDATION, INC.
CONTACT PERSON: JAN TETER (614) 451–9000
FUND AMOUNT: $125,000

LONDONTOWN APARTMENTS (043–44085)
300 CHELSEA STREET, DELAWARE, OH 43015
RECIPIENT: DELAWARE HOUSING CORPORATION, INC.
CONTACT PERSON: MARILYN MCCOOL (614) 363–1235
FUND AMOUNT: $125,000

NORTHWOOD APARTMENTS (043–35148)
531 BROWER ROAD, LIMA, OH 45801
RECIPIENT: NORTHWOOD APARTMENTS LTD.
CONTACT PERSON: KRISTINE SAWYER (419) 229–4488
FUND AMOUNT: $96,909

SOUTHPARK APARTMENTS (043–35275)
841 GREENFIELD DRIVE, COLUMBUS, OH 43223
RECIPIENT: GREENFIELD MEADOWS, LTD.
CONTACT PERSON: NANCY NEUHAUSER (423) 525–7500
FUND AMOUNT: $125,000

MIDWEST REGION OFFICE: DETROIT MI

ELMWOOD TOWERS (044–44030)
1325 CHENE, DETROIT, MI 48207
RECIPIENT: ET–92 LDHA LIMITED PARTNERSHIP
CONTACT PERSON: GERALD A. KRUEGER 313–881–8150
FUND AMOUNT: $125,000

FREEDOM PLACE (NON–603–1)
1101 W. WARREN, DETROIT, MI 48201
RECIPIENT: UNIVERSITY CITY LIMITED DIVIDEND ASSOCIATION
CONTACT PERSON: RITA M. MOODY 248–353–7981
FUND AMOUNT: $125,000

LANCASTER VILLAGE COOPERATIVE (044–44005)
633 PALMER DR., PONTIAC, MI 48342
RECIPIENT: LANCASTER VILLAGE COOPERATIVE
CONTACT PERSON: LEONA PATTERSON 248–373–4780
FUND AMOUNT: $125,000

MARTIN LUTHER KING APARTMENTS (044–94054)
595 CHENE, DETROIT, MI 48207
RECIPIENT: MLK LIMITED DIVIDEND HOUSING ASSOCIATION
CONTACT PERSON: NANCY HOPKINS 248–851–9600
FUND AMOUNT: $118,558

NEWMAN COURT APARTMENTS (044–44012)
630 KETTERING, PONTIAC, MI 48340
RECIPIENT: NEWMAN NP HOUSING COPORATION
CONTACT PERSON: MARY HURT 248–373–7298

FUND AMOUNT: $125,000

RESTORATION TOWERS (044-EH020)
16651 LASHER, DETROIT, MI 48219
RECIPIENT: DETROIT INTERNATIONAL STAKE ADULT HOUSING CORPORATION
CONTACT PERSON: MARGARET DAVEY 313–538–0360
FUND AMOUNT: $125,000

MIDWEST REGION OFFICE: GRAND RAPIDS

STUYVESANT APARTMENTS (047–35184)
140 MADISON STREET, SE, GRAND RAPIDS, MI 49503
RECIPIENT: STUYVESANT LDHA
CONTACT PERSON: CARA MONTGOMERY (616) 456–9665
FUND AMOUNT: $123,597

MIDWEST REGION OFFICE: INDIANA

GREENWOOD APARTMENTS (07335018)
1460 SOUTH 16TH STREET, RICHMOND, IN 47374
RECIPIENT: GREENWOOD APARTMENTS INC
CONTACT PERSON: RAMONA NELSON 513–961–6011
FUND AMOUNT: $125,000

MIDWEST REGION OFFICE: MILWAUKEE, WI

WINDSOR COURT APARTMENTS (075–94002)
1831 WEST JUNEAU AVENUE, MILWAUKEE, WI 53233
RECIPIENT: JUNEAU AVENUE ASSOCIATES, LTD.
CONTACT PERSON: NANCY NEUHAUSER, CPM 423–525–7500
FUND AMOUNT: $125,000

MIDWEST REGION OFFICE: MINNEAPOLIS MN

RIVERSIDE PLAZA (092–94006)
1525 S FOURTH ST, MINNEAPOLIS, MN 55454
RECIPIENT: RIVERSIDE PLAZA LIMITED PARTNERSHIP
CONTACT PERSON: LARRY MITCHELL 612–338–6161
FUND AMOUNT: $125,000

SOUTHWEST REGION OFFICE: NEW MEXICO

COX ESTATES & ST. ANTHONY PLAZA (11635034)
4528 CARLISLE BLVD N.E., ALBUQUERQUE, NM 87109
RECIPIENT: CUDA ROBERSON PROPERTY MANAGEMENT, INC
CONTACT PERSON: PAUL MUELLER (505) 883–1840
FUND AMOUNT: $125,000

HOUSING AUTHORITY OF THE CITY OF LAS CRUCES, NM (NM02002004)
926 S. SAN PEDRO STREET, LAS CRUCES, NM 88001
RECIPIENT: LAS CRUCES HOUSING DEVELOPMENT CORPORTAION
CONTACT PERSON: ANDREW HOLGUIN (505) 526–5541
FUND AMOUNT: $125,000

MOUNTAIN VIEW (11655002)
2323 KATHRYN AVE S.E., ALBUQUERQUE, NM 87106
RECIPIENT: LAKECREST L.P., A DELAWARE LTD. PARTNERSHIP
CONTACT PERSON: RUDY CUPICH (505)293–7462
FUND AMOUNT: $125,000

SOUTHWEST REGION OFFICE: FT. WORTH

ROYAL CREST APARTMENTS (TX16E000033)
3558 WILHURT, DALLAS, TX 75216
RECIPIENT: ROYAL CREST
CONTACT PERSON: JACK OLIVER 913–451–0770
FUND AMOUNT: $125,000

SOUTHWEST REGION OFFICE: HOUSTON

ARBOR COURT APARTMENTS (11435238)
802 SEMINAR ROAD, HOUSTON, TX 77060
RECIPIENT: THP–ARBOR COURT, L.P. STEVE H. SISSON
CONTACT PERSON: STEVE H. SISSON 901/759–1855
FUND AMOUNT: $125,000

CLEME MANOR APARTMENTS (114–35063)
5300 COKE STREET, HOUSTON, TX 77020
RECIPIENT: CLEME MANOR CHARITABLE TRUST
CONTACT PERSON: PAULA T. BEALL 713/667–6454
FUND AMOUNT: $125,000

COLUMBUS VILLAGE APARTMENTS (114–35038)
803 RILEY, HEARNE, TX 77859
RECIPIENT: COLUMBUS 80
CONTACT PERSON: JANE GRUBBS 281/240–3330
FUND AMOUNT: $125,000

COOLWOOD OAKS APARTMENTS (114–35275)
777 COOLWOOD DRIVE, HOUSTON, TX 77013
RECIPIENT: HERBERT J. ZIEBEN
CONTACT PERSON: PAULA T. BEALL 713/667–6454
FUND AMOUNT: $125,000

GARDEN CITY APARTMENTS (114–35036)
9601 WEST MONTGOMERY ROAD, HOUSTON, TX 77088
RECIPIENT: HELEN KRULL
CONTACT PERSON: PAULA T. BEALL 713/667–6454
FUND AMOUNT: $125,000

HAVERSTOCK HILL APARTMENTS (114–11002)
5619 ALDINE BENDER ROAD, HOUSTON, TX 77032
RECIPIENT: HJZ INC.
CONTACT PERSON: PAULA T. BEALL 713/667–6454
FUND AMOUNT: $125,000

PLYMOUTH VILLAGE APARTMENTS (114–35078)
5080 HELBIG ROAD, BEAUMONT, TX 77708
RECIPIENT: PLYMOUTH VILLAGE CHARITABLE TRUST
CONTACT PERSON: PAULA T. BEALL 713/667–6454
FUND AMOUNT: $125,000

SUNFLOWER TERRACE APARTMENTS (114–44004)
505 SUNFLOWER, HOUSTON, TX 77033
RECIPIENT: ALLYN S. PATRICK
CONTACT PERSON: PAULA T. BEALL (713)667–6454
FUND AMOUNT: $125,000

SUNLIGHT MANOR (114–35085)
2950 SOUTH 8TH STREET, BEAUMONT, TX 77701
RECIPIENT: SUNLIGHT BAPTIST CHURCH PROPERTIES
CONTACT PERSON: PAULA T. BEALL 713/667–6454
FUND AMOUNT: $125,000

SUNSET HILLS APARTMENTS (114–35050)
HOLLIE COURTS STREET, SAN AUGUSTINE, TX 77972
RECIPIENT: KNIGHTS OF PHYTHIAS, INCORPORATED D.B.A. SUNSET HILLS APARTMENT
CONTACT PERSON: RUDOLPH V. RASMUS 713/864–6033
FUND AMOUNT: $125,000

SOUTHWEST REGION OFFICE: LITTLE ROCK

FAIR OAKS APTS (08244072)
9600 WEST 36TH ST, LITTLE ROCK, AR 72204
RECIPIENT: WESIDE REHAB CORPORATION
CONTACT PERSON: CAROL RUDD (501)227–5466
FUND AMOUNT: $124,936

SHORTER COLLEGE GARDENS APTS (08235002)
800 BEECH STREET, NORTH LITTLE ROCK, AR 72114
RECIPIENT: SHORTER GARDENS LIMITED PARTNERSHIP
CONTACT PERSON: GEORGE MAYS (501) 280–0037
FUND AMOUNT: $125,000

TERRACE GREEN (08235029)
8223 SCOTT HAMILTON DR, LITTLE ROCK, AR 72209
RECIPIENT: TERRACE GREEN APTS
CONTACT PERSON: SAM SEXTON (501)782–7268
FUND AMOUNT: $125,000

SOUTHWEST REGION OFFICE: NEW ORLEANS

VERSAILLES ARMS I (0644032)
14639 SAIGON DRIVE, NEW ORLEANS, LA 70129
RECIPIENT: VERSAILLES ARMS I
CONTACT PERSON: MELANIE OTTAWAY (504) 271–4022
FUND AMOUNT: $125,000

SOUTHWEST REGION OFFICE: SAN ANTONIO

OAK VILLAGE APARTMENTS (115–55021)
2330 AUSTIN HIGHWAY, SAN ANTONIO, TX 78218
RECIPIENT: TERRA GENESIS HOUSING, INC.
CONTACT PERSON: RON ANDERSON 210–732–3394
FUND AMOUNT: $125,000

SOUTHWEST REGION OFFICE: SHREVEPORT

STONE VISTA (059–35196)
541 EAST STONER AVE., SHREVEPORT, LA 71101
RECIPIENT: STONE VISTA-FAIRFIELD DEVELOPMENT CO.
CONTACT PERSON: KATHY POSS 318–227–8697
FUND AMOUNT: $123,440

SOUTHWEST REGION OFFICE: TULSA

NORMANDY APARTMENTS (118–55012)

6221 EAST 38TH STREET, TULSA, OK 74135
RECIPIENT: NORMANDY APARTMENTS, LTD.
CONTACT PERSON: KELLY SIMMONS 918–622–4428
FUND AMOUNT: $125,000

GREAT PLAINS REGION OFFICE: DES MOINES IA

OAKRIDGE NEIGHBORHOOD (074–44015)
1236 OAKRIDGE DRIVE, DES MOINES, IA 50314
RECIPIENT: HOMES OF OAKRIDGE, INC.
CONTACT PERSON: MARGARET TOOMEY 515–244–7702
FUND AMOUNT: $125,000

GREAT PLAINS REGION OFFICE: KANSAS CITY

BENTON VILLA (084–55051)
220 GARFIELD, KANSAS CITY, MO 64124
RECIPIENT: RITA ORLANDO, C/O METRO CORP
CONTACT PERSON: JACK OLIVER 913–451–0770
FUND AMOUNT: $33,773

PARKVIEW HOMES I (084–44143)
1000 PASEO BOULEVARD, KANSAS CITY, MO 64106
RECIPIENT: UNITED PARKVIEW I, LP
CONTACT PERSON: DENNIS WATTS 816–842–1266
FUND AMOUNT: $54,000

PARKVIEW HOMES II (084–44163)
1000 PASEO BOULEVARD, KANSAS CITY, MO 64106
RECIPIENT: UNITED PARKVIEW II, LP
CONTACT PERSON: DENNIS WATTS 816–842–1266
FUND AMOUNT: $102,800

ROANOKE RIDGE I (084–44025)
3443 WYOMING, KANSAS CITY, MO 64111
RECIPIENT: ROANOKE RIDGE I APARTMENTS
CONTACT PERSON: JACK OLIVER 913–451–0770
FUND AMOUNT: $123,650

ROANOKE RIDGE II (084–44026)
3443 WYOMING, KANSAS CITY, MO 64111
RECIPIENT: ROANOKE RIDGE II APARTMENTS
CONTACT PERSON: JACK OLIVER 913–451–0770
FUND AMOUNT: $76,925

TERRACE VIEW I APARTMENTS (084–55027)
220 GARFIELD, KANSAS CITY, MO 64124
RECIPIENT: RITA ORLANDO, C/O METRO CORP
CONTACT PERSON: JACK OLIVER 913–451–0770
FUND AMOUNT: $59,143

TERRACE VIEW II APARTMENTS (084–55042)
220 GARFIELD, KANSAS CITY, MO 64124
RECIPIENT: RITA ORLANDO, C/O METRO CORP
CONTACT PERSON: JACK OLIVER 913–451–0770
FUND AMOUNT: $53,106

VALLEY VIEW APARTMENTS (084–55031)
220 GARFIELD, KANSAS CITY, MO 64124
RECIPIENT: RITA ORLANDO, C/O METRO CORP
CONTACT PERSON: JACK OLIVER 913–451–0770
FUND AMOUNT: $89,681

GREAT PLAINS REGION OFFICE: ST LOUIS

BOAZ APARTMENTS (085–35001)
5530 MABLE #A–3, KINLOCH, MO 63140
RECIPIENT: WILSHIRE-BOAZ, L.P.
CONTACT PERSON: CONSUETTA HARRIS 314–521–6016
FUND AMOUNT: $105,000

ROCKY MOUNTAINS REGION OFFICE: DENVER

SIERRA VISTA APARTMENTS (10194005)
8851 EAST FLORIDA AVENUE, DENVER, CO 80231
RECIPIENT: THE ROSS GROUP
CONTACT PERSON: DEBORAH ROSS WESELOH 303–860–7885
FUND AMOUNT: $125,000

PACIFIC/HAWAII REGION OFFICE: LOS ANGELES

UJIMA VILLAGE (CA16E00028)
941 EAST 126TH STREET, LOS ANGELES, CA 90059
RECIPIENT: COMMUNITY DEVELOPMENT COMMISSION OF LOS ANGELES COUNTY
CONTACT PERSON: MARIA BADRAKHAN (213) 890–7135
FUND AMOUNT: $125,000

PACIFIC/HAWAII REGION OFFICE: ARIZONA STATE OFFICE

CORONADO COURTS (123–94011)
1830 BONITA AVE., DOUGLAS, AZ 85607
RECIPIENT: ESSEX MANAGEMENT CORP.
CONTACT PERSON: BEVERLY HOGAN 520–364–4637
FUND AMOUNT: $125,000

PACIFIC/HAWAII REGION OFFICE: SACRAMENTO

ELLISON APARTMENTS I (136–44141)
1275 WALNUT STREET, RED BLUFF, CA 96080
RECIPIENT: MICHAEL FORCE
CONTACT PERSON: MICHAEL FORCE 916–348–1188
FUND AMOUNT: $47,000

PACIFIC/HAWAII REGION OFFICE: SAN DIEGO

CALEXICO GARDENS (12955004)
1620 ROCKWOOD AVENUE, CALEXICO, CA 92231
RECIPIENT: CALEXICO HOUSING AUTHORITY
CONTACT PERSON: LUPITA RIOS 760–357–3013
FUND AMOUNT: $125,000

PACIFIC/HAWAII REGION OFFICE: SAN FRANCISCO

DAKOTA WOODS II (12135705)
2021 WEST DAKOTA AVENUE, FRESNO, CA 93711
RECIPIENT: LINCOLN DAKOTA WOODS ASSOCIATES
CONTACT PERSON: HENRY SMITH, BUSINESS MANAGER 209–222–6200
FUND AMOUNT: $125,000

MONTE ALBAN APARTMENTS (12135016)
1324 SANTEE DRIVE, SAN JOSE, CA 95122
RECIPIENT: JOHN K. STEWART, GENERAL PARTNER
CONTACT PERSON: H.J.CHRIS BURSON 408–286–1903
FUND AMOUNT: $105,000

PRINCE HALL APARTMENTS (12144005)
1170 MCALLISTER STREET, SAN FRANCISCO, CA 94115
RECIPIENT: BETHEL AFRICAN METHODIST EPISCOPAL CHURCH
CONTACT PERSON: OLGA DE LEONARDIS 510–632–6712
FUND AMOUNT: $125,000

PACIFIC/HAWAII REGION OFFICE: NEVADA STATE OFFICE

SIERRA POINTE APARTMENTS (125–94004)
1064 SIERRA VISTA DRIVE, LAS VEGAS, NV 89109
RECIPIENT: SIERRA VISTA HOUSING ASSOCIATES
CONTACT PERSON: DEBORAH ROSS WESELOH (303) 860–7885 EXT.4
FUND AMOUNT: $124,977

NORTHWEST/ALASKA REGION OFFICE: ANCHORAGE

WOODSIDE VILLAGE (17644018)
1019 EAST 20TH AVENUE, ANCHORAGE, AK 99501
RECIPIENT: WOODSIDE VILLAGE, A LIMITED PARTNERSHIP
CONTACT PERSON: MARIANNA OLSON 907–277–9564
FUND AMOUNT: $69,000

NORTHWEST/ALASKA REGION OFFICE: PDX

ABBIE LANE (OR16H029115)
1011 ABBIE LANE, EUGENE, OR 97401
RECIPIENT: HOUSING AUTHORITY AND COMMUNITY SERVICES AGENCY OF LANE COUNTY
CONTACT PERSON: MERILEE EISEN 541–682–4090
FUND AMOUNT: $96,357

FOURTEEN PINES (126–44041)
65 WILLAKENZIE ROAD, EUGENE, OR 97401
RECIPIENT: HOUSING AUTHORITY AND COMMUNITY SERVICES AGENCY OF LANE COUNTY
CONTACT PERSON: MERILEE EISEN 541/687–3875
FUND AMOUNT: $125,000

ST. JOHNS WOODS APARTMENTS (126–44011)
8652 NORTH SWIFTWAY, PORTLAND, OR 97203
RECIPIENT: ST. JOHNS WOODS ASSOCIATES LTD. OREGON BY JAYWIN, INC.
CONTACT PERSON: MARLYS LAVER 503/242–3614
FUND AMOUNT: $115,323

VIKING VILLAGE (126–35026)
3424 FAIRHAVEN AVENUE N.E., SALEM, OR 97303
RECIPIENT: WESTFAIR ASSOCIATES
CONTACT PERSON: BARBARA KAUSS 503/588–6443
FUND AMOUNT: $125,000

VILLAGE OAKS (126–44037)
3308 WEST 18TH, EUGENE, OR 97402
RECIPIENT: HOUSING AUTHORITY AND COMMUNITY SERVICES AGENCY OF LANE COUNTY

CONTACT PERSON: MERILEE EISEN 541/687–4090
FUND AMOUNT: $125,000

NORTHWEST/ALASKA REGION OFFICE: WASHINGTON STATE

FRYE APARTMENT (12735097)
223 YESLER WAY, SEATTLE, WA 98104
RECIPIENT: FRYE ASSOCIATES LTD
CONTACT PERSON: DAVID LABEL (206) 622–5323
FUND AMOUNT: $92,133

TOTAL PROJECTS: 158

TOTAL GRANT AMT: $17,042,261

[FR Doc. 98–2271 Filed 1–29–98; 8:45 am]

BILLING CODE 4210–70–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–40]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: January 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 22, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 98–1940 Filed 1–29–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Recreational Activities Committee Meeting

AGENCY: Fish and Wildlife Service.

ACTION: Notice of meeting.

SUMMARY: This notice announces the initial meeting of the Recreational Activities Committee of the Aquatic Nuisance Species Task Force. The purposes of this organizing meeting of the Committee are to: (1) Provide background about requirements of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, the Aquatic Nuisance Species Task Force, and the Committee's mission; (2) discuss Committee structure and operating guidelines; (3) review nonindigenous aquatic species issues and problems and on-going activities relevant to Committee responsibilities; (4) begin development of the voluntary guidelines for recreational activities required by the Act; and (5) initiate other committee activities.

DATES: The Recreational Activities Committee will meet from 1 p.m., Tuesday, February 10, 1998 to 12 Noon on Thursday, February 12, 1998.

ADDRESSES: The meeting will be held in Room 800 of the U.S. Fish and Wildlife Service offices, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622.

FOR FURTHER INFORMATION CONTACT: Patricia Carter, Chair, Recreational Activities Committee, at 404–679–7108, or Bob Peoples, Executive Secretary, Aquatic Nuisance Species Task Force, at 703–358–2025.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Recreational Activities Committee of the Aquatic Nuisance Species Task Force. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 840, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and the Chair, Recreational Activities Committee, U.S. Fish and Wildlife Service, Room 240, 1875 Century Boulevard, Atlanta, Georgia 30345, and will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: January 23, 1998.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries.

[FR Doc. 98–2352 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Garrison Diversion Unit Federal Advisory Council Conference Call

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of conference call.

SUMMARY: This notice announces a conference call of the Garrison Diversion Unit Federal Advisory Council which was established under the authority of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–0294, May 12, 1986). The conference call is open to the public.

DATE: The Garrison Diversion Unit Federal Advisory Council will have a conference call, on Friday, February 6, 1998, from 1 p.m. to 3 p.m. Mountain Standard Time.

ADDRESSES: There will be a speaker phone in the conference room at the following address, which will provide an opportunity for the public to participate in the conference call: U.S. Bureau of Reclamation, Oakes Office, Highway 1 South, Oakes, North Dakota.

FOR FURTHER INFORMATION CONTACT:

Dr. Grady Towns, Refuges and Wildlife, North Dakota/South Dakota, at (303) 236–8145, extension 644.

SUPPLEMENTARY INFORMATION: The Garrison Diversion Unit Federal Advisory Council will consider and discuss subjects such as the Kraft Slough status and acquisition, the Dakota Water Resources Act, North Dakota Wetland Trust, Wildlife Development Plan, National Wildlife Refuge-Wildlife Management Area Mitigation and Designation of Kraft Slough as a National Wildlife Refuge.

Dated: January 23, 1998.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 98–2321 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request revising and extending the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration. Comments and suggestions on the requirement should be made directly to the Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503 and to the Bureau Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192. As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;
2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
3. The utility, quality, and clarity of the information to be collected; and,
4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Portland and Masonry Cement.

Current OMB approval number: 1032–0038.

Abstract: Respondents supply the U.S. Geological Survey with data on cement production, shipments, and capacity, as well as consumption of raw materials. This information will be published as an annual report for use by Government agencies, industry, and the general public.

Bureau form number: 6–1214–A.

Frequency: Annual.

Description of respondents: Commerical producers and importers of portland and masonry cement.

Annual Responses: 130.

Anuual burden hours: 650.

Bureau clearance officer: John E. Cordyack, Jr., 703–648–7313.

Kenneth W. Mlynarski,

Acting Chief Scientist, Minerals Information Team.

[FR Doc. 98–2319 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–040–1310–03]

Notice That the Tulsa District is Forming a Federal Spacing Unit for a Fractional Section on the Border Between Texas and Oklahoma in Beaver County, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to Bureau of Land Management Regulations (43 CFR parts 3160 and 3162) in accordance with the authority delegated by the Secretary of the Interior, this notice advises the public that the Tulsa District is forming a federal spacing unit for a fractional section on the border between Texas and Oklahoma in Beaver County, Oklahoma. The correlative rights of this mineral tract were not protected when spacing was established for the production of crude oil from the Upper Morrow Group, and for the production of natural gas from the Lower Morrow Group.

The fractional section consists of 15.75 acres described as: All of Section 06, Township 1 South, Ranger 21 East, Cimarron Meridian, Beaver County, Oklahoma.

This fractional section is in a rural area between 1.2 and 2.3 miles west of where U.S. Highway 83 crosses into Oklahoma, four miles south of Gray, Oklahoma. This federal spacing unit will be for all formations, for both oil and gas, and with full allowables for any production with no restrictions based upon acreage. The property will be offered for lease through the New Mexico State Office, Bureau of Land Management later this year. There will be stipulations that the mineral tract is subject to drainage and that a protective well is required to be drilled within one year of the effective date of the lease.

DATES: Comments by interested parties regarding this decision will be accepted by the District Manager at the address below for thirty days following publication of this notice.

ADDRESSES: Bureau of Land Management, District Manager, RE: Fractional Section/Federal Spacing Unit, 7906 East 33rd Street, Suite 101, Tulsa, OK 74145–1352.

Dated: January 26, 1998.

Jim Sims,

District Manager, Tulsa District Office.

[FR Doc. 98–2316 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–956–98–1420–00]

Colorado: Filing of Plats of Survey

January 22, 1998.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., January 22, 1998. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 51 N., R. 1 E., New Mexico Principal Meridian, Group 1179, Colorado, was accepted January 22, 1998.

The plat representing the dependent resurvey of a portion of the Third Standard Parallel South (south bdy.), a portion of the east boundary, and a portion of the subdivisional lines, T. 15 S., R. 85 W., Sixth Principal Meridian, Group 1179, Colorado, was accepted January 15, 1998.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 50 N., R. 1 E., New Mexico Principal Meridian, Group 1179, Colorado, was accepted January 15, 1998.

These surveys were requested by the Colorado Department of Transportation for administrative purposes.

The plat representing the dependent resurvey of portions of the subdivisional lines, the subdivision of sections 18, 19, 20, 21, 27, 28, and 34, and the metes-and-bounds survey of Parcel A. section 20, T. 7 N., R. 84 W., Sixth Principal Meridian, Group 979, Colorado, was accepted December 2, 1997.

The plat representing the entire record of the corrective resurvey of the metes-and-bounds survey of Tracts 46 and 47, the correction of a portion of the

S. bdy. of Tract 48, and the supplemental plat creating Tracts 46 A and B from Tract 46, in protracted sections 10 and 11, in unsurveyed Township 2 S., R. 75 W., Sixth Principal Meridian, Group 1119, Colorado, was accepted November 4, 1997.

The plat representing the dependent resurvey of a portion of the line between sections 13 and 24, a portion of the subdivision of sec. 13, and a portion of the traverse of the high water line of Green Mountain Reservoir, and a metes-and-bounds survey between certain lots in section 13, T. 2 S., R. 80 W., Sixth Principal Meridian, Group 1180, Colorado, was accepted October 15, 1997.

The plat (in 2 sheets) representing the dependent resurvey of portions of the subdivision of section 9, and Homestead Entry Survey Nos. 105 and 238, and the metes-and-bounds survey of Public Land Tract Nos. 41 and 42, Public Land Lot 23, and portions of certain Public Land Lots, T. 4 S., R. 78 W., Sixth Principal Meridian, Group 1180, Colorado, was accepted October 27, 1997.

The plat representing the entire record of the dependent resurvey and a survey along the E. right-of-way of County Road 503, to divide former lot 24 into two lots (35 and 36), in section 6, T. 7 S., R. 77 W., Sixth Principal Meridian, Group 1180, Colorado, was accepted October 29, 1997.

The plat representing the dependent resurvey of a portion of the First Standard Parallel South, a portion of the subdivisional lines, a portion of the subdivision of section 35, a portion of the Frisco Townsite boundary, portions of certain mineral claims in sections 34 and 35, and survey of irregular lot lines in section 35, T. 5 S., R. 78 W., Sixth Principal Meridian, Group 1180, Colorado, was accepted October 29, 1997.

The plat representing the entire record of the dependent resurvey and survey to identify lots 45 and 46 in sec. 30, T. 6 S., R. 77 W., Sixth Principal Meridian, Group 1180, Colorado, was accepted October 30, 1997.

The plat representing a dependent resurvey and metes-and-bounds survey in T. 3 S., R. 79 W., Sixth Principal Meridian, Group 1180, Colorado, was accepted October 30, 1997.

The plat representing the entire record of the dependent resurvey and survey to create an irregular lot in section 30, T. 7 S., R. 77 W., Sixth Principal Meridian, Group 1180, was accepted October 15, 1997.

These surveys were requested by the USDA Forest Service for management purposes.

The plat representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the dependent resurvey of M.S. 114, Sunset Lode, and the subdivision of section 24, T. 22 S., R. 72 W., Sixth Principal Meridian, Group 1126, Colorado, was accepted December 1, 1997.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the dependent resurvey of certain mineral claims, and the subdivision of section 19, T. 22 S., R. 71 W., Sixth Principal Meridian, Group 1126, Colorado, was accepted December 1, 1997.

The plat representing the entire record of the segregation survey of certain claims in suspended T. 42 N., R. 7 W., New Mexico Principal Meridian, Group 1164, Colorado, was accepted December 3, 1997.

The plat representing the segregation survey of certain claims in suspended T. 42 N., R. 6 W., New Mexico Principal Meridian, Group 1164, Colorado, was accepted December 3, 1997.

The plat representing the mineral segregation survey necessary to define Tract 39 in suspended T. 42 N., R. 6 W., New Mexico Principal Meridian, Group 1164, Colorado, was accepted December 3, 1997.

The supplemental plat, creating new lot 100 in the NE¼SW¼ of section 6, T. 1 N., R. 71 W., Sixth Principal Meridian, Colorado, was accepted December 8, 1997.

The supplemental plat, creating new lot 95 in the SE¼ of section 19, T. 1 N., R. 71 W., Sixth Principal Meridian, Colorado, was accepted December 8, 1997.

The supplemental plat, creating new lots 117 and 118 from old lot 59 in the S½NW¼NE¼ of section 7, T. 1 N., R. 72 W., Sixth Principal Meridian, Colorado, was accepted January 21, 1998.

The supplemental plat, correcting lot 88 in section 5, to lot 96, and lot 179 in section 8, to lot 187, T. 1 N., R. 71 W., Sixth Principal Meridian, Colorado, was accepted October 15, 1997.

The supplemental plat, correcting the lot numbers for section 18, T. 35 N., R. 9 W., New Mexico Principal Meridian, Colorado, was accepted November 13, 1997.

The supplemental plat correctly showing the lotting and aliquot parts of sections 1 and 12, T. 5 S., R. 78 W., Sixth Principal Meridian, Colorado, was accepted November 13, 1997.

These surveys were requested by BLM for administrative purposes.

Darryl A. Wilson,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 98–2337 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Submission of Study Package to Office of Management and Budget; Review Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service, Cumberland Island National Seashore in Georgia, Jean Lafitte National Historical Park and Preserve in Louisiana, and Chattahoochee River National Recreation Area in Georgia.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) Visitor Services Project and three parks (Cumberland Island National Seashore in Georgia, Jean Lafitte National Historical Park and Preserve in Louisiana, and Chattahoochee River National Recreation Area in Georgia) propose to conduct visitor surveys to learn about visitor demographics and visitor opinions about services and facilities in these three parks. The results of these studies will be used by park managers to improve the services they provide to visitors while better protecting park natural and cultural resources. Study packages that include the proposed survey questionnaires for these three proposed park studies have been submitted to the Office of Management and Budget for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on these three proposed information collection requests (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The purpose of the three proposed ICRs is to document the demographics of visitors to the three parks, to learn about the motivations and expectations these visitors have for their park visits, and to obtain their

opinions regarding services provided by the three parks and the suitability of the visitor facilities maintained in the three parks. This information will be used by park planners and managers to plan, develop, and operate visitor services and facilities in ways that maximize use of limited park financial and personnel resources to meet the expectations and desires of park visitors.

There were no public comments received as a result of publishing in the **Federal Register** a 60 day notice of intention to request clearance of information collection for these three surveys.

DATES: Public comments will be accepted for thirty days from the date listed at the top of this page in the **Federal Register** (March 2, 1998).

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20530; and also to: Margaret Littlejohn; Cooperative Park Studies Unit; Department of Forest Resources; College of Forestry, Wildlife and Range Sciences; University of Idaho; Moscow, ID 83844–1133.

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGES SUBMITTED FOR OMB REVIEW, CONTACT:

Margaret Littlejohn, phone: 208–885–7863, FAX: 208–885–4261, or email: littlej@uidaho.edu.

SUPPLEMENTARY INFORMATION:

Title: National Park Service (NPS) Visitor Services Project Visitor Surveys at Three Parks.

Bureau Form Number: Not applicable.

OMB Number: To be assigned.

Expiration Date: To be assigned.

Type of Request: Request for new clearance.

Description of Need: The National Park Service needs information concerning visitor demographics and visitor opinions about the services and facilities that the National Park Service provides in each of these three parks. The proposed information to be collected regarding visitors in these three parks is not available from existing records, sources, or observations.

Automated Data Collection: At the present time, there is no automated way to gather this information, since it includes asking visitors to evaluate services and facilities that they used during their park visit. The intrusion on visitors to the parks is minimized by only contacting visitors during one 7–9 day period at each park.

Description of Respondents: A sample of visitors to each of these three parks.

Estimated Average Number of Respondents: 400 at Cumberland Island National Seashore, 900 at Jean Lafitte National Historical Park and Preserve, and 800 at Chattahoochee River National Recreation Area.

Estimated Average Number of Responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated Average Burden Hours Per Response: 12 minutes.

Frequency of Response: One time per respondent.

Estimated Annual Reporting Burden: 80 hours at Cumberland Island National Seashore, 180 hours at Jean Lafitte National Historical Park and Preserve, and 160 hours at Chattahoochee River National Recreation Area.

Diane M. Cooke,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 98–2331 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Death Valley National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Death Valley National Park Advisory Commission will be held February 11 and 12, 1998; assemble at 9:00 AM at Furnace Creek in Death Valley National Park, Death Valley, California.

The main agenda will include:

- Visitor Information
- Management of Feral Burros
- Grazing
- Items for Discussion at Upcoming Meetings
- Fee Demonstration Program Update
- NEMO Update
- Wilderness Update

The Advisory Commission was established by PL #03–433 to provide for the advice on development and implementation of the General Management Plan.

Members of the Commission are Janice Allen, Kathy Davis, Michael Dorame, Mark Ellis, Pauline Esteves, Stanley Haye, Sue Hickman, Cal Jepson, Joan Lolmaugh, Gary O'Connor, Alan Peckham, Michael Prather, Robert Revert, Wayne Schulz, and Gilbert Zimmerman.

This meeting is open to the public.

Richard H. Martin,

Superintendent, Death Valley National Park.

[FR Doc. 98–2332 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware Water Gap National Recreation Area Citizen Advisory Commission Meeting

AGENCY: National Park Service; Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces two upcoming meetings of the Delaware Water Gap National Recreation Area Citizen Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act (Public Law 92–463).

Meeting Date and Time: Saturday, March 14, 1998 at 9:00 a.m.

Address: Bushkill School, Bushkill, PA 18324.

Meeting Date and Time: Thursday, June 11, 1998 at 7:00 p.m.

Address: Warren County Community College, Washington, NJ 07882.

Meeting Date and Time: Thursday, September 10, 1998 at 7:00 p.m.

Address: Bushkill Information Center, Bushkill, Pennsylvania 18324.

The agenda for the meeting consists of reports from Citizen Advisory Commission committees including: Natural Resources, Recreation, Cultural and Historical Resources, Inter-governmental and Public Affairs, Construction and Capital Project Implementation, and Interpretation, as well as Special Committee Reports. Superintendent William G. Laitner will give a report on various park issues.

SUPPLEMENTARY INFORMATION: The Delaware Water Gap National Recreation Area Citizen Advisory Commission was established by Public Law 100–573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the recreation area and its surrounding communities.

The meetings will be open to the public. Any member of the public may file a written statement concerning agenda items with the Commission. The statement should be addressed to The Delaware Water Gap National Recreation Area Citizen Advisory Commission, P.O. Box 284, Bushkill, PA 18324. Minutes of the meetings will be available for inspection several weeks after the meeting at the permanent headquarters of the Delaware Water Gap National Recreation Area located on River Road 1 mile east of U.S. Route 209, Bushkill, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Superintendent, Delaware Water Gap National Recreation Area, Bushkill, PA 18324, 717–588–2418.

Dated: January 16, 1998.

Bob Kirby,

Acting Superintendent.

Congressional Listing for Delaware Water Gap NRA

Honorable Frank Lautenberg, U.S. Senate, SH–506 Hart Senate Office Building, Washington, D.C. 20510–3002
Honorable Robert G. Torricelli, U.S. Senate, Washington, D.C. 20510–3001
Honorable Richard Santorum, U.S. Senate, SR 120 Senate Russell Office Bldg., Washington, D.C. 20510
Honorable Arlen Specter, U.S. Senate, SH–530 Hart Senate Office Bldg., Washington, DC 20510–3802
Honorable Paul McHale, U.S. House of Representatives, 511 Cannon House Office Bldg., Washington, D.C. 20515–3815
Honorable Joseph McDade, U.S. House of Representatives, 2370 Rayburn House Office Bldg., Washington, D.C. 20515–3810
Honorable Margaret Roukema, U.S. House of Representatives, 2244 Rayburn House Office Bldg., Washington, D.C. 20515–3005
Honorable Tom Ridge, State Capitol, Harrisburg, PA 17120
Honorable Christine Whitman, State House, Trenton, NJ 08625

[FR Doc. 98–2334 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Manzanar National Historic Site, Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Manzanar National Historic Site Advisory Commission will be held at 1:00 p.m. on Friday, February 13, 1998, at the Inyo County Administrative Center, Board of Supervisors' Chambers, 224 N. Edwards Street (U.S. Highway 395), Independence, California, to hear presentations on issues related to the planning, development, and management of Manzanar National Historic Site.

The Advisory Commission was established by Public Law 102–248, to meet and consult with the Secretary of the Interior or his designee, with respect to the development, management, and interpretation of the site, including preparation of a general management plan for the Manzanar National Historic Site.

Members of the Commission are as follows:

Sue Kunitomi Embrey, Chairperson
William Michael, Vice Chairperson
Keith Bright
Martha Davis
Ronald Izumita
Gann Matsuda
Vernon Miller
Mas Okui
Glenn Singley
Richard Stewart

The main agenda items at this meeting of the Commission will include the following:

(1) Status report on the development of Manzanar National Historic Site by Superintendent Ross R. Hopkins.

(2) General discussion of miscellaneous matters pertaining to future Commission activities and Manzanar National Historic Site development issues.

(3) Public comment period.

This meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Commission. A transcript will be available after March 31, 1998. For a copy of the minutes, contact the Superintendent, Manzanar National Historic Site, PO Box 426, Independence, CA 93526.

Dated: January 20, 1998.

Ross R. Hopkins,

Superintendent, Manzanar National Historic Site.

[FR Doc. 98–2333 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Upper Delaware Scenic and Recreational River Citizens Advisory Council

AGENCY: National Park Service, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the date of the 1998 installation and organizational meeting of the Upper Delaware Citizens Advisory Council.

The Upper Delaware Citizens Advisory Council will meet Monday, February 9, 1998. Among other items of discussion, the Upper Delaware Citizens Advisory Council will install new members and officers, set a slate of meetings, and plan agendas for 1998.

The meeting will convene at 7:00 p.m., at NPS Headquarters, River Road, Beach Lake, Pennsylvania.

Press Releases containing specific information regarding the subject of meetings and special informational programs, will be published in the following area newspapers:

The Sullivan County Democrat
The Times Herald Record
The River Reporter
The Tri-state Gazette
The Pike County Dispatch
The Wayne Independent
The Hawley News Eagle
The Weekly Almanac

Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, WJFF and WVOS.

FOR FURTHER INFORMATION, CONTACT: Calvin F. Hite, Superintendent; Upper Delaware Scenic and Recreational River, RR2, Box 2428, Beach Lake, PA 18405–9737; 717–729–8251.

SUPPLEMENTARY INFORMATION:

The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 USC s1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware Region.

All meetings are open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 1–3/4 miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Dated: January 21, 1998.

Calvin F. Hite,

Superintendent, Upper Delaware Scenic & Recreational River.

[FR Doc. 98–2336 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service, Interior

National Wildlife and Scenic River System: Ohio; Big and Little Darby Creeks

AGENCY: National Park Service, Interior.

ACTION: Notice of correction.

SUMMARY: The **Federal Register** notice dated Tuesday, December 23, 1997, page 67092, was submitted prematurely. This notice is hereby cancelled.

FOR FURTHER INFORMATION CONTACT: Angie Tornes, Rivers, Trails, and Conservation Assistance Program, National Park Service, Midwest Field Office, 310 West Wisconsin Street, Suite 100E, Milwaukee, Wisconsin 53202; or telephone 414–297–3605.

Dated: January 15, 1998.

David N. Given,

Deputy Regional Director, Midwest Region.

[FR Doc. 98–2335 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council Meetings

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meetings.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet to discuss several issues including: review of the CALFED Programmatic EIR/EIS, a presentation by members of the Southern California business community on their perspective on CALFED, updates on proposals for further analysis of the Program, and updates on the progress of the BDAC Work Groups on Ecosystem Restoration, Water Transfers, Finances, and Assurances. The Ecosystem Roundtable (a subcommittee of the BDAC) will meet to discuss several issues including: additional proposals, designated actions, and focused grants for FY 98 funding, revised planning process, funding coordination, and other issues. These meetings are open to the public. Interested persons may make oral statements to the BDAC or to the Ecosystem Roundtable or may file written statements for consideration.

DATES: The Bay-Delta Advisory Council meeting will be held from 9:30 a.m. to 5:00 p.m. on Thursday, March 19, 1998 and from 9:30 a.m. to 5:00 p.m. on Friday, March 20, 1998. The Ecosystem Roundtable meeting will be held from 9:30 a.m. to 3:30 p.m. on Wednesday, February 11, 1998.

ADDRESSES: The Bay-Delta Advisory Council will meet at the Burbank Airport Hilton, 2500 Hollywood Way, Burbank, CA. The Ecosystem Roundtable will meet at the State Water Resources Control Board, 901 P Street, Room 102, Sacramento, CA.

FOR FURTHER INFORMATION CONTACT: For the BDAC meeting, contact Mary Selkirk, CALFED Bay-Delta Program, at (916) 657–2666. For the Ecosystem Roundtable meeting, contact Cindy Darling, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: January 26, 1998.

Roger Patterson,

Regional Director, Mid-Pacific Region.

[FR Doc. 98–2315 Filed 1–29–98; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 95–49]

Singer-Andreini Pharmacy, Inc., Revocation of Registration

On June 13, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to singers-Andreini Pharmacy, Inc. (Respondent) of West New York, New Jersey, notifying the pharmacy of an opportunity to show cause as to why DEA should not revoke its DEA Certificate of Registration, AS0666757, and deny any pending applications for renewal of such registration as a retail pharmacy under 21 U.S.C 823(f), for reason that the pharmacy's continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 824(a)(4).

On July 10, 1995, Respondent filed a timely request for a hearing, and following prehearing procedures, a hearing was held in New York, New York on June 11 and 12, 1996, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, Government counsel submitted proposed findings of fact, conclusions of law and argument, and counsel for Respondent submitted a closing argument summation. On October 23, 1997, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's DEA Certificate of Registration be revoked. Neither party

filed exceptions to her decision, and on December 12, 1997, Judge bittner transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Harry Richman is a registered pharmacist who has been involved with Respondent pharmacy for over 30 years. Mr. Richman has jointly owned Respondent with the Andreini family for a number of years, and during all relevant times to this case has been the pharmacist-in-charge, responsible for the day-to-day operation of the pharmacy.

In 1983, DEA conducted an inspection of Respondent after it received a report from a distributor that Respondent had purchased more than 88,000 dosage units of Tranxene, a Schedule IV controlled substance, between April 1, 1982 and February 15, 1983. As part of the inspection, DEA conducted an accountability audit covering the period April 1, 1982 to February 15, 1983, which revealed that Respondent could not account for approximately 4,000 dosage units of various strengths of Tranxene. This shortage was most likely understated since DEA used a zero beginning balance in conducting the audit, and as a result, Respondent was not held accountable for any Tranxene that it may have had on hand at the beginning of the audit period. In addition to the audit results, the inspection revealed the following violations of Federal regulations: numerous prescriptions lacked the patients' addresses, issuance dates and dates filled; several Schedule II prescriptions were not maintained separately from other controlled substance prescriptions; and several Schedule III through V prescriptions were refilled more than six months after the issuance date of the prescription. In a letter to DEA dated July 1, 1983, Respondent indicated that it would correct the alleged violations, however it did not mention the shortage of Tranxene.

In July 1985, the New Jersey Division of Consumer Affairs conducted a routine Board of Pharmacy inspection of Respondent. This inspection noted a number of deficiencies including: (1) A total of 177 outdated medications were found in the active stock inventory; (2) 12 medications were improperly stored; (3) stock shelves were extremely dirty and in some places liquid medications had spilled on the shelves and dried making it difficult to remove some containers; (4) Respondent failed to dispense generic alternatives for some brand name medications pursuant to state and Medicaid requirements; (5) patient addresses were missing from the Exempt Narcotic Register; (6) patient addresses were not written on some controlled substance prescriptions; (7) DEA numbers were not written on some controlled substance prescriptions; (8) Schedule IV controlled substance prescriptions were filed with other prescriptions for legend drugs without being marked with the required red letter ''C''; (9) prescriptions received over the telephone failed to include the physician's address, the patient's address and/or the physician's DEA number; and (10) Respondent dispensed 13 oral emergency prescriptions for Schedule II substances without subsequently obtaining written prescriptions for these dispensations. As a result of this inspection, by letter dated March 6, 1987, the New Jersey Board of Pharmacy offered Respondent ''the opportunity to settle this matter and avoid the initiation of formal disciplinary proceedings'' by paying a civil penalty of $5,175.00. There is no evidence in the record to indicate whether Respondent paid this penalty.

On March 19, 1986, another Board of Pharmacy inspection was conducted of Respondent. This inspection revealed that Respondent: (1) Maintained 32 outdated medications in the active inventory; (2) failed to dispense formulary alternatives for popular brand name medications; (3) dispensed six emergency telephone prescriptions for Schedule II substances without subsequently obtaining a written prescription; and (4) dispensed Schedule II substances pursuant to nine prescriptions that did not include the patients' addresses. Like with the prior state inspection, by letter dated May 23, 1988, Respondent was offered the opportunity to avoid formal disciplinary proceedings by paying a $750.00 civil penalty. Again, there is no evidence in the record to indicate whether Respondent paid this penalty.

Subsequently, DEA was contacted by a postal employee who indicated that in September 1990 he had injured his arm at work. According to the employee, the postmaster encouraged him not to seek medical attention, and instead told the employee that he would get the employee any drug he wanted. The employee stated that he told the postmaster that he wanted Darvocet, a Schedule IV controlled substance, and that ultimately he was given an unlabeled vial containing approximately 10 to 12 pills inscribed ''Darvocet N–100.'' DEA then interviewed the postmaster, who at first denied that he was involved in distributing controlled substances, but later admitted that he had obtained the Darvocet for the employee from Mr. Richman at Respondent without a physician's prescription for the medication. At the hearing in this matter, Mr. Richman asked, ''how could anybody accuse me of that when there's no label on the bottle?''

DEA then conducted another inspection of Respondent in October 1990. As part of this inspection, DEA audited Respondent's handling of Darvocet and its generic equivalent, and various strengths of Dilaudid, a Schedule II controlled substance. The audit covered the period July 1 to October 30, 1990, and revealed a shortage of over 1,000 dosage units of Darvocet N–100, and over 300 dosage units of Dilaudid 4 mg. The shortage of Dilaudid was most likely understated since DEA used a zero beginning balance in conducting the audit, and as a result, Respondent was not held accountable for any Dilaudid 4 mg. that it may have had on hand at the beginning of the audit period. In addition to the audit discrepancies, the inspection of Respondent's records revealed other violations of controlled substance related regulations during the audit period. Respondent refilled some controlled substance prescriptions more than six months after the original prescription was issued and refilled some controlled substance prescriptions more than five times. On numerous occasions, Respondent dispensed controlled substances pursuant to prescriptions which did not bear a DEA number for the prescribing practitioner and dispend controlled substances on several occasions pursuant to prescriptions which contained incorrect DEA numbers. In addition, Respondent filled a Darvocet prescription even though the patient's address was not on the prescription, and Respondent failed to maintain some receiving records, including a copy of a DEA official order form.

Subsequent to this inspection, DEA investigators interviewed two physicians who had purportedly issued

controlled substance prescriptions that were found in Respondent's records. In one instance, the prescription found in the pharmacy was dated May 31, 1990, however the dispensing log indicated that it was dated October 9, 1990. The physician told the investigators that while he had a patient by that name, a check of his records indicated that he had written a prescription for that patient on May 31, 1990, but had not authorized a prescription for the patient in October 1990. The investigators interviewed the second physician regarding a prescription that appeared to be either a photocopy and/or a forgery. The physician indicated that he had not seen the patient listed on the prescription on the date the prescription was supposedly issued; that he did not issue the prescription; and that he did not write the numeral ''8'' the way it looked on the prescription.

On July 20, 1992, DEA again inspected Respondent pharmacy and conducted an accountability audit covering the period October 30, 1990 to July 20, 1992, of the same controlled substances audited in October 1990. This audit revealed total shortages of over 8,000 dosage units. In addition, a review of Respondent's records during this period revealed that on a number of occasions, Respondent's dispensing logs did not list the prescribing physician's DEA number; a number of controlled substance telephone prescriptions did not contain required information such as the prescribing physician's DEA number, patient addresses, dates, physician's addresses, the number of authorized refills, or a stamped red ''C'' denoting that the prescription was for a controlled substance. Also, this inspection revealed that Respondent dispensed Schedule II controlled substances on numerous occasions pursuant to telephone prescriptions without subsequently obtaining any written prescriptions for these dispensations, and that several Schedule II prescriptions were found in the same files as prescriptions for Schedule III and IV substances. Further, the inspection revealed a prescription for a Schedule IV controlled substance that was refilled 12 times. The review of the records also revealed that several Schedule II order forms were missing from Respondent's files.

Following the inspection, DEA investigators interviewed several physicians who purportedly issued controlled substance prescriptions that were found in Respondent's files. One physician was asked about two prescriptions that appeared to be photocopies. The physician checked his records and determined that he did have a patient by the name listed on the prescriptions, but that he did not issue photocopied prescriptions. A second physician was asked about a prescription that had pertinent information such as the patient's name and address, the date, and part of the doctor's name covered with correction fluid, and other information written over those portions of the prescription. The physician stated that while she did have a patient by the name listed on the prescription, she had not seen the patient on the date noted on the prescription. Another physician was interviewed about a prescription where the date was covered with correction fluid and January 23, 1991 was written over it. The physician stated that he had treated that patient on May 26, 1990, but not on January 23, 1991. A DEA investigator testified that if the prescription is held up to the light, it appears that the original date under the correction fluid is May 26, 1990. A fourth physician was interviewed about a prescription for 25 Percocet, a Schedule II controlled substance. The physician indicated that she did not have a patient by the name listed on the prescription and that she would not issue a Percocet prescription unless a patient had undergone surgery. The investigators interviewed another physician about a telephone prescription for Darvocet Respondent's records of this prescription did not indicate the patient's or physician's address, the physician's DEA number, nor any indication as to whether refills were authorized. Nonetheless, Respondent's records showed that this prescription was refilled twice. The physician indicated that he did not have a patient by the name indicated on the prescription. Finally, a physician was interviewed about a prescription that she had purportedly issued for an individual for 40 dosage units of Percocet. It appeared that there was correction fluid on the prescription and that the quantity authorized had been altered from 10 to 40 dosage units. After checking her records, the physician confirmed that she had issued a prescription for the individual on the date listed, however she had only authorized 10 dosage units.

During the course of the investigation, DEA investigators interviewed a former employee of Respondent who alleged that the clerk/bookkeeper at Respondent would divert controlled substances from orders received at Respondent, then telephone the distributor telling it that it had forgotten to ship whatever she had taken, and then sell or trade the drugs. The former employee also told the investigators that when Mr. Richman would leave Respondent for whatever reason, he would leave a pharmacy intern in charge of the pharmacy, and that the pharmacy interns would divert controlled substances and distribute them without a prescription. At the hearing, Mr. Richman characterized the former employee as a ''disgruntled person'' who understood very little English.

The former employee's daughter had worked at Respondent as a clerk and she also was interviewed by the investigators. She stated that she saw Mr. Richman give controlled substances to customers without a prescription; that Mr. Richman's employees and friends took controlled substances from Respondent; and that she saw Mr. Richman and pharmacy interns exchange controlled substances for food with an individual who worked at a local food store. At the hearing, Mr. Richman testified that the former employee's daughter, ''never, never worked the drug counter. * * * So she couldn't hear anything and she didn't have enough intelligence to sense anything.'' The former employee's son told the investigators that he sometimes ran errands for Respondent and that he has seen the owner of the business next door to Respondent go into Respondent's dispensing area and take medication. At the hearing, Mr. Richman testified that the son never worked for him and that ''he was a special ed student.''

On February 10, 1994, DEA investigators conducted another inspection of Respondent during which Respondent's prescription files were seized. Upon reviewing Respondent's records, the investigators determined that a number of prescriptions and 134 daily dispensing logs had not been provided by Respondent. Consequently, the investigators returned to Respondent on two other occasions in order to obtain from Respondent's computer the dispensing information necessary to conduct an accountability audit. DEA then conducted an audit of certain Schedule II controlled substances for the period May 4, 1993 through February 10, 1994, and of certain Schedule III through V controlled substances for the period May 7, 1993 to February 10, 1994. The audits revealed discrepancies in Respondent's recordkeeping, including a shortage of 3,351 dosage units of Fiorinal with codeine #3, a Schedule III controlled substance.

In addition to the audit results, the 1994 inspection revealed other violations of Federal regulations relating to controlled substances. A review of

Respondent's dispensing logs disclosed a number of instances where an invalid DEA number was listed for the prescribing physician, and a number of occasions where Respondent dispensed Schedule II controlled substances pursuant to telephone prescriptions without subsequently obtaining any written prescriptions for these dispensations. A review of Respondent's prescription files revealed numerous prescriptions that did not contain required information such as the physician's name, the physician's DEA number, the patient's name, the patient's address, and/or the date issued. In addition, approximately 13 Schedule II controlled substance prescriptions were filed with prescriptions for Schedule III and IV substances instead of separately. Also, while conducting the inspection of Respondent, a DEA investigator observed a note taped to the wall in the dispensing area that appeared to be an ''IOU'' for Demerol, A Schedule II controlled substance, and Klonopin, a Schedule IV controlled substance. When asked about the note, Mr. Richman replied that another area pharmacy had loaned him the drugs, however the investigator found no order form or other record of this controlled substance transfer.

After reviewing records seized during the 1994 inspection, DEA sought to verify three controlled substance prescriptions found in Respondent's files that had purportedly been written by physicians working at a local hospital. The hospital's records indicated that none of these prescriptions were authorized, however the DEA investigator did not contact the physicians who purportedly issued the prescriptions to determine whether they had authorized them. In addition, the DEA investigator interviewed four physicians about a total of nine controlled substance prescriptions that were purportedly issued by them and found in Respondent's files. The physicians all indicated that they did not authorize the prescriptions attributed to them.

At the hearing in this matter, Mr. Richman did not offer any explanation for the audit discrepancies or recordkeeping violations discovered during the various inspections of Respondent. Respondent testified that no one at Respondent pharmacy ever forged a prescription. In addition, Mr. Richman testified that ''[a]nytime we get a narcotic that's of a tremendous amount and quantity and we don't know who the patient is, especially from out of town New York, which we don't even fill, we always call a doctor.'' Further, Mr. Richman testified that the prescriptions with correction fluid found at Respondent were probably first brought to another pharmacy and not filled for some reason.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest, Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one of combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See *Henry J. Schwarz, Jr., M.D.,* Docket No. 88–42, 54 F.R. 16,422 (1989).

As a preliminary matter, Respondent argues that its registration should not be revoked because most of the Government's case is based on hearsay and is therefore unreliable. The Acting Deputy Administrator disagree with Respondent's contention. ''. . .[H]earsay is both admissible, and may, standing by itself, constitute substantial evidence in support of an administrative decision.'' *Klinestiver* v. *Drug Enforcement Administration, 606 F.2d 1128 (D.C. Cir. 1979).*

Regarding factor one, there is evidence in the record that the New Jersey Board of Pharmacy conducted inspections of Respondent in 1985 and 1986, both of which revealed numerous violations. In both instances the Board of Pharmacy offered Respondent the opportunity to pay civil penalties in order to avoid formal disciplinary action, however, there is no evidence in the record whether Respondent even paid these fines. There is also no evidence in the record to suggest that the Board of Pharmacy has restricted Respondent's pharmacy permit or Mr. Richman's license to practice pharmacy. But as Judge Bittner notes, ''sate licensure is a necessary but not sufficient condition for DEA registration.'' Therefore, the fact that Respondent currently possesses and unrestricted state license is not dispositive of the issue of whether or not to revoke its DEA registration.

Factors two and four, Respondent's experience in dispensing controlled substances and its compliance with applicable laws and regulations relating to controlled substances, are extremely relevant in this proceeding. The record clearly establishes Respondent's long history of failure to comply with the laws and regulations relating to the dispensing of controlled substances. The state conducted inspections of Respondent in 1985 and 1986 and DEA conducted inspections, which included accountability audits, in 1983, 1990, and 1994. Each of these inspections revealed numerous recordkeeping deficiencies.

The state inspections revealed a number of violations of state requirements relating to controlled substances. The DEA inspections revealed Respondent's failure to keep complete and accurate records of its handling of controlled substances as required by 21 U.S.C. 827 and 21 CFR 1304.21, and as evidenced by the various audit results. In addition, Respondent dispensed controlled substances pursuant to both oral and written prescriptions found in its files that did not contain information required by 21 CFR 1306.05(a), such as the physician's DEA registration number, the patient's address, and/or the date of issuance. Also, oral prescriptions for Schedule II controlled substances were dispensed without subsequently obtaining a written prescription for the dispensation in violation of 21 CFR 1306.11, and Schedule II prescriptions were intermingled in Respondent's files with Schedule III and IV controlled substance prescriptions in violation of 21 CFR 1304.04(h)(1). Further, Respondent refilled substance prescriptions more than five times, and in some instances, more than six months after the original prescription was issued, both in violation of 21 CFR 1306.22(a).

In addition, Respondent dispensed controlled substances without a valid prescription in violating of 21 U.S.C. 829, as evidenced by the Darvocet given to the postal employee in 1990. The Acting Deputy Administrator further finds that the physician interviews conducted by DEA establish that Respondent dispensed controlled substances without a physician's authorization. As Judge Bittner notes, ''although the evidence as to

unauthorized dispensing is hearsay, Respondent offered no contradictory evidence.'' The Acting Deputy Administrator concurs with Judge Bittner's conclusion that ''although it is possible that some of the physicians interviewed by investigators may have been mistaken, it strains credulity past the breaking point to find that all were.''

Further, there is evidence in the record that Respondent dispensed controlled substances pursuant to prescriptions that appeared on their face to be forged and/or altered, and therefore not valid. Respondent argues that the Government did not prove that anyone at Respondent forged the prescriptions. The Acting Deputy Administrator finds that Respondent is correct, however the mere fact that Respondent dispensed controlled substances pursuant to clearly forged and/or altered prescriptions is evidence of Respondent's violation of its corresponding responsibility, as set forth in 21 CFR 1306.04, for the proper prescribing and dispensing of controlled substances.

Other violations noted during these inspections were: failure to maintain all its records of receipt, including DEA order forms, as required by 21 CFR 1304.04 and 21 CFR 1305.13; failure to maintain records in a readily retrievable manner as require by 21 CFR 1304.04(h)(2), and as evidenced by its inability to provide its dispensing records during the 1994 inspection; failure to use a DEA order form when transferring Schedule II controlled substances between registrants as required by 21 CFR 1305.03, and as evidence by the ''IOU'' for Demerol found at the pharmacy during the 1994 inspection.

The Acting Deputy Administrator concurs with Judge Bittner's conclusion that ''Respondent has presented no evidence explaining its extraordinary history of noncompliance, nor did Mr. Richman provide any basis for me to conclude that Respondent would be more mindful of and compliant with applicable law and regulations in the future.'' Of particular concern to the Acting Deputy Administrator is that many of the same violations were discovered during each of the inspections. There is no evidence of any effort on Respondent's part to correct the deficiencies after each inspection. This cavalier attitude towards compliance with the Controlled Substances Act and its implementing regulations is extremely troubling. The Acting Deputy Administrator finds that these factors weigh in favor of a conclusion that Respondents continued registration would not be in the public interest.

Regarding factor three, there is no evidence that Respondent or Mr. Richman has ever been convicted under state or Federal laws relating to controlled substances. As to factor five, the Acting Deputy Administrator agrees with Judge Bittner and Government counsel that Mr. Richman's ''recalcitrant'' attitude evidences that he ''is either unwilling or unable to accept the responsibility inherent in a DEA registration.

Judge Bittner concluded ''that the record as a whole establishes that Respondent's registration with the DEA would be inconsistent with the public interest,'' and therefore recommended that its registration be revoked. The Acting Deputy Administrator agrees. Respondent's continued failure to abide by the laws and regulations in place to prevent the diversion of controlled substances clearly justifies the revocation of its DEA Certificate of Registration.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AS0666757, previously issued to Singers-Andreini Pharmacy, Inc., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective March 2, 1998.

Dated: January 20, 1998.

Peter F. Gruden,

Acting Deputy Administrator.

[FR Doc. 98–2374 Filed 1–29–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget

Janaury 16, 1998.

The Department of Labor has submitted the following (see below) emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). OMB approval has been requested by February 20, 1998. A copy of this ICR, with supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Todd Owen, at (202) 219–5096, Ext. 143.

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the U.S. Department of Labor, Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, D.C. 20503 ((202) 395–7316). The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Employment and Training Administration, Labor.

Title: Trade Adjustment Assistance and NAFTA Transitional Adjustment Assistance Program Performance Report.

OMB Number: 1205–New.

Frequency: Quarterly.

Affected Public: State government.

Total Respondents: 50.

Estimated Time per Respondent: 80 hours per quarter.

Estimated Total Burden Hours: 16,000.

Total Burden Cost (capital/startup): $500,000.

Total Burden Cost (operating/maintaining): $225,000.

Description: The Government Performance and Results Act (GPRA) of 1993 requires all federal benefits programs to report on the outcomes achieved for benefit recipients and how those outcomes can be continuously improved. In addition, public and Congressional awareness and concern regarding the effectiveness of assistance provided to U.S. workers displaced by imports has created a demand for more information on those receiving assistance from TAA and NAFTA–TAA.

The data currently collected by TAA does not provide sufficient information to adequately assess TAA program performance and participant outcomes, making it impossible to precisely evaluate program effectiveness. In order to comply with Federal law and respond to other concerns, the Office of Trade Adjustment Assistance (OTAA) is implementing a new system of collecting and reporting performance and outcomes data.

Each quarter, beginning with the quarter ending June 30, 1998, the States will provide the Department with reports on demographic data, benefits provided, and participant outcomes for each participant who has terminated from the TAA or NAFTA–TAA program during the reporting quarter. A conference of Regional and State TAA staff concluded that many States already collect most, if not all, of the proposed data items. Therefore, many State TAA coordinators will only need to access existing data and reformat it for submission to the Department, rather than creating an entirely new data collection and reporting system. States may also take this opportunity to begin to collect additional data items for their own program review and improvement purposes.

Dated: January 27, 1998.

Todd Owen,

Departmental Clearance Officer.

[FR Doc. 98–2353 Filed 1–29–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

None

Volume III

None

Volume IV

None

Volume V

None

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the

seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 22nd day of January 1998.

Carl L. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–2009 Filed 1–29–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 98–3]

Agency Informaton Collection Activities: Proposed Collection; Comment Request; 4,4′-Methylenedianiline in Construction

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the 4,4,′ Methylenedianiline Standard 29 CFR 1926.60.

A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the addressee section of this notice. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted by March 31, 1998.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 98–3, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210, telephone number (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Adrian Corsey, Directorate of Health Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3718, telephone (202) 219–7075. A copy of the referenced information collection request is available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Adrian Corsey at (202) 219–7075 extension 105 or Barbara Bielaski at (202) 219–8076 extension 142. For electronic copies of the Information Collection Request on 4,4′-Methylenedianiline, contact OSHA's WebPage on the Internet at http://www.osha.gov/ and click on standards.

SUPPLEMENTARY INFORMATION:

I. Background

The 4,4′-Methylenedianiline standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to 4,4′-Methylenedianiline. The standard requires that employers establish a compliance program, including exposure monitoring and medical surveillance records. These records are used by employees, physicians, employers and OSHA to determine the effectiveness of the employers' compliance efforts. Also the standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the 4,4′-Methylenedianiline Standard.

Type of Review: Extension.

Agency: Occupational Safety and Health Administration.

Title: 4,4′—Methylenedianiline 29 CFR 1926.60.

OMB Number: 1218–0183.

Affected Public: Business or other for-profit, Federal government, State and Local governments.

Total Respondents: 66.

Frequency: On occasion.

Total Responses: 2,848.

Average Time per Response: Ranges from 5 minutes to maintain records to 2 hours to monitor employee exposure.

Estimated Total Burden Hours: 1,841.

Total Annualized capital/startup costs: 0.

Total initial annual costs (operating/maintaining systems or purchasing services): $59,120.

Comments submitted in responses to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. The comments will become a matter of public record.

Dated: January 20, 1998.

Adam Finkel,

Director, Directorate of Health Standards Programs.

[FR Doc. 98–2354 Filed 1–29–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket Number ICR 98–4]

Agency Information Collection Activities: Proposed Collection; Comment Request; 4,4′-Methylenedianiline in General Industry

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for

the 4,4'-Methylenedianiline Standard 29 CFR 1910.1050

A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the addressee section of this notice. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted by March 31, 1998.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 98–4, U.S. Department of labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Adrian Corsey, Directorate of Health Standards Programs, Occupation Safety and Health Administration, U.S. Department of Labor, Room N3718, telephone (202) 219–7075. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Adrian Corsey at (202) 219–7075 extension 105 or Barbara Bielaski at (202) 219–8076 extension 142. For electronic copies of the Information Collection Request on 4,4′-Methylenedianiline, contact OSHA's WebPage on the Internet at http://www.osha.gov/ and click on standards.

SUPPLEMENTARY INFORMATION:

I. Background

The 4,4′-Methylenedianiline standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupation exposure to 4,4′-Methylenedianiline. The standard requires that employers establish a compliance program, including exposure monitoring and medical surveillance records These records are used by employees, physicians, employers and OSHA to determine the effectiveness of the employers' compliance efforts. Also the standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the 4,4′Methylenedianiline Standard.

Type of Review: Extension.

Agency: Occupational Safety and Health Administration.

Title: 4,4′-Methylenedianiline 29 CFR 1910.1050.

OMB Number: 1218–0184.

Affected Public: Business or other for-profit, Federal government, State and Local governments.

Total Respondents: 18.

Frequency: On occasion.

Total Responses: 1175.

Average Time per Response: Ranges from 5 minutes to maintain records to 2 hours to monitor employee exposure.

Estimated Total Burden Hours: 710.

Total Annualized capital/startup costs: 0.

Total initial annual costs (operating/maintaining systems or purchasing services): $26,616.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. The comments will become a matter of public record.

Dated: January 22, 1998.

Adam Finkel,

Director, Directorate of Health Standards Programs.

[FR Doc. 98–2355 Filed 1–29–98; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collection under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: NRC Form 212, Qualifications Investigation, and NRC Form 212A, Qualifications Investigation Secretarial/Clerical.

2. Current OMB approval number: 3150–0033 for NRC 212, 3150–0034 for NRC 212A.

3. How often the collection is required: Whenever Human Resources' specialists determine qualification investigations are required in conjunction with applications for employment related to vacancies.

4. Who is required or asked to report: Supervisors, former supervisors, and/or other references of external applicants.

5. The number of annual respondents: NRC Form 212, 1400 annually, NRC Form 212A, 300 annually.

6. The number of hours needed annually to complete the requirement or request: NRC Form 212, 350 hours (15 minutes per response), NRC Form 212A, 75 hours (15 minutes per response).

7. Abstract: Information requested on NRC Forms 212 and 212A is used to determine the qualifications and suitability of external applicants for employment in professional and clerical or secretarial positions with the NRC. The completed form may be used to examine, rate and/or assess the prospective employee's qualifications. The information regarding the qualifications of applicants for employment is reviewed by professional personnel of the Office of Human Resources, in conjunction with other information in the NRC files, to determine the qualifications of the applicant for appointment to the position under consideration.

Submit, by March 31, 1998, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool

bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 27th day of January, 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–2323 Filed 1–29–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–282]

Northern States Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License No. DPR–42; Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–42 issued to Northern States Power Company (the licensee) for operation of the Prairie Island Nuclear Generating Plant, Unit 1, located in Goodhue County, Minnesota.

The proposed amendment would initiate a one-time only change for Prairie Island Unit 1 Cycle 19 that would allow the use of the moveable incore detector system for measurement of the core peaking factors with less than 75% and greater than or equal to 50% of the detector thimbles available.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve an increase in the probability of an accident previously evaluated. The moveable incore detector system is used only to provide confirmatory information on the neutron flux distribution and is not required for the daily safe operation of the core. The system is not a process variable that is an initial condition in the accident analyses. The only accident that the moveable incore detector system could be involved in is the breaching of the detector thimbles which would be enveloped by the small break loss of coolant accident (LOCA) analysis. As the proposed changes do not involve any changes to the system's equipment and no equipment is operated in a new or more harmful manner, there is no increase in the probability of such an accident.

The proposed [amendment] would not involve an increase in the consequences of an accident previously evaluated. The moveable incore detector system provides a monitoring function that is not used for accident mitigation (the system is not used in the primary success path for mitigation of a design basis accident). The ability of the reactor protection system or engineered safety features system instrumentation to mitigate the consequences of an accident will not be impaired by the proposed changes. The small break LOCA analysis (and thus its consequences) continues to bound potential breaching of the system's detector thimbles.

With greater than or equal to 50% and less than 75% of the detector thimbles available, core peaking factor measurement uncertainties will be increased, which could impact the core peaking factors and as a result could affect the consequences of certain accidents. However, any changes in the core peaking factors resulting from increased measurement uncertainties will be compensated for by conservative measurement uncertainty adjustments in the Technical Specifications to ensure that pertinent core design parameters are maintained. Sufficient additional penalty is added to the power distribution measurements such that this change will not impact the consequences of any accident previously evaluated.

Therefore, based on the conclusions of the above analysis, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed [amendment] would not create the possibility of a new or different kind of accident previously evaluated as [it] only affect[s] the minimum complement of equipment necessary for operability of the moveable incore detector system. There is no change in plant configuration, equipment or equipment design. No equipment is operated in a new manner. Thus the changes will not create any new or different accident causal mechanisms. The accident analysis in the Updated Safety Analysis Report remains bounding.

Therefore, based on the conclusions of the above analysis, the proposed changes will not create the possibility of a new or different kind of accident.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The proposed changes will not involve a significant reduction in a margin of safety. The reduction in the minimum complement of equipment necessary for the operability of the moveable incore detector system could only impact the monitoring/calibration functions of the system. Reduction of the number of available moveable incore detector thimbles to the 50% level does not significantly degrade the ability of the system to measure core power distributions. With greater than or equal to 50% and less than 75% of the detector thimbles available, core peaking factor measurement uncertainties will be increased, but will be compensated for by conservative measurement uncertainty adjustments in the Technical Specifications to ensure that pertinent core design parameters are maintained. Sufficient additional penalty is added to the power distribution measurements such that this change does not impact the safety margins which currently exist. Also, the reduction of available detector thimbles has negligible impact on the quadrant power tilt and core average axial power shape measurements. Sufficient detector thimbles will be available to ensure that no quadrant will be unmonitored.

Based on these factors, the proposed changes in this license amendment will not result in a significant reduction in the plant's margin of safety, as the core will continue to be adequately monitored.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would

result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 2, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 15, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 26th day of January 1998.

For the Nuclear Regulatory Commission.

Beth A. Wetzel,

Senior Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–2325 Filed 1–29–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

Toledo Edison Company; Centerior Service Company; and the Cleveland Electric Illuminating Company; Davis-Besse Nuclear Power Station, Unit 1, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations with respect to Facility Operating License No. NPF–3, issued to Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit 1, located in Ottawa County, Ohio.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensees from the requirement to have an oil collection system for the reactor coolant pump (RCP) lube oil addition system, provided certain compensatory actions are taken, thus allowing the licensees to utilize remote lube oil fill lines at power. This requirement is contained in 10 CFR part 50, Appendix R, Section III.O, which provides that licensees shall have a collection system ''capable of collecting lube oil from all potential pressurized and unpressurized leakage sites in the reactor coolant pump lube oil systems.'' It also specifies that ''leakage points to be protected shall include lift pump and piping, overflow lines, lube oil cooler, oil fill and drain lines and plugs, flanged connections on oil lines, and lube oil reservoirs where such features exist on the reactor coolant pumps.''

The proposed action is in accordance with the licensees' application for exemption dated November 18, 1997, as supplemented by facsimile dated December 9, 1997.

The Need for the Proposed Action

The proposed action is needed to reduce dose and personnel hazards to workers who periodically add oil to the RCP lube oil system during power operation.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed action involves features located entirely within the restricted area as defined in 10 CFR part 20.

The proposed action will not result in an increase in the probability or consequences of accidents or result in a change in occupational or offsite dose. Therefore, there are no radiological impacts associated with the proposed action. In addition, the proposed action will not result in a change in nonradiological plant effluents and will have no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no environmental impacts associated with this action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of Davis-Besse dated October 1975.

Agencies and Persons Consulted

In accordance with its stated policy, on December 9, 1997, the staff consulted with the Ohio State official, Carol O'Claire, of the Ohio Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensees' letter dated November 18, 1997, and facsimile dated December 9, 1997, which are available for public inspection at the Commission's Public Document Room located at the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Dated at Rockville, Maryland, this 26th day of January, 1998.

For the Nuclear Regulatory Commission.

Richard P. Savio,

Acting Director, Project Directorate III–3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–2324 Filed 1–29–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a meeting of a sub-committee of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on February 12, and 13, 1998. The meeting will take place at the address provided below. All sessions of the meeting will be open to the public.

Topic of discussion will be the proposed rule text for the revision of 10 CFR Part 35 and associated guidance.

DATES: On February 12, 1998, the meeting will begin at 8:30 a.m. and end at 5:00 p.m. On February 13, 1998, the meeting will begin at 8:30 a.m. and end at 3:00 p.m.

ADDRESS: Leonard C. Ferguson Cancer Center, 1163 W. Stephenson Street, Freeport, IL 61032.

FOR FURTHER INFORMATION CONTACT: Patricia Vacherlon, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, Telephone (301) 415–6376.

Conduct of the Meeting

Dr. Judith Stitt will chair the meeting. Dr. Stitt will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following

procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Patricia Vacherlon (address listed previously), by February 2, 1998. Statements must pertain to the topics on the agenda for the meeting.

2. At the meeting, questions from members of the public will be permitted at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection, and copying, for a fee, at the NRC Public Document Room 2120 L Street, N.W., Lower Level, Washington, DC 20555, telephone (202) 634–3273, on or about April 1, 1998. Minutes of the meeting will be available on or about May 1, 1998.

4. Seating for the public will be on a first-come, first-served basis.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations*, part 7.

Dated: January 26, 1998.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 98–2320 Filed 1–29–98; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request; OPM Form1203

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces a proposed extension of a form which collects information from the public. OPM Form 1203, Occupational Supplement Series—Form C, is an optical scan form designed to collect applicant information and qualifications in a format suitable for automated processing and to create basic applicant records for an automated examining system. OPM uses the form to carry out their responsibility for open competitive examining for admission to the competitive service in accordance with section 3304, 5 U.S.C.

''Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately *500,000* forms are completed each year with an average completion time of *27* minutes. For copies of this proposal, call James Farron on (202) 418–3208 or email to JMFARRON@OPM.GOV.

DATES: Comments on this proposal should be received on or before March 31, 1998.

ADDRESSES: Send or deliver comments to: Mrs. Crystal A. Wilson, U.S. Office of Personnel Management, Nationwide Examining Policy Office, 1900 E Street, NW, Room 2458, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Crystal A. Wilson, (202) 606–1010.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–2274 Filed 1–29–98; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of February 2, 1998.

A closed meeting will be held on Thursday, February 5, 1998, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Unger, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting schedule for Thursday, February 5, 1998, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: January 27, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–2417 Filed 1–27–98; 4:10 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39569; File No. SR–CHX–97–35]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, Relating to the Failure To Pay Fines for Minor Rule Violations

January 22, 1998.

Pursuant to Section 19(B)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 11, 1997, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change, and on January 14, 1998,[1] filed Amendment No. 1 to such proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change for interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add an interpretation to Article XII, Rule 9 of the Rules to clarify that failure to pay a fine imposed under the Minor Rule Violation Plan (''Plan'') shall be deemed

[1] As submitted on December 11, 1997, this filing did not adequately describe the terms of the proposed rule change. The Commission requested that the Exchange amend this filing. This renders the filing effective on January 14, 1998.

to be a waiver by the registered person of the right to a disciplinary proceeding or any right to review or appeal such fine. The text of the proposed rule change is below. Proposed new language is in italics.

Article XII, Rule 9

Interpretations and Policies

.01 With respect to subsection (d), a failure to pay a fine imposed pursuant to this Rule by the time it is due, without timely contesting the action upon which such fine was based pursuant to subsection (e), shall be deemed a waiver by the person against whom the fine is imposed of such person's right to a disciplinary proceeding under Article XII and any right to review or appeal.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to clarify a provision of the Exchange's Plan relating to failure to pay or contest a fine imposed under the Plan. The Exchange adopted its Plan, Article XII, Rule 9 on May 30, 1996. The Exchange may impose a fine, not to exceed $2,500, for any violation of a rule under the Plan.[2] The Plan establishes procedures for imposing fines if the Exchange determines that a member, member organization, associated person, or registered or non-registered employee of a member or member organization (collectively ''Member'') has violated a rule under the Plan.[3] A Member is provided notice of a violation under the Plan and is provided not less than 15 days to make payment or to contest the Exchange's determination of violation.[4] A Member, upon payment of an assessed fine, waives the right to contest the Exchange's determination.[5] A Member, however, has the right to contest the Exchange's determination before payment is due, at which point the matter becomes a ''Disciplinary Proceeding.''[6]

The Exchange proposes to add an interpretation that would make it clear that failure to pay an assessed fine for a Plan violation when it becomes due and payable does not thereby extend the time allowed for a member to contest the determination. As with the failure to pay any debt, the Exchange may proceed with disciplinary action (including, but not limited to, suspension) pursuant to Article XIV, Rule 13 against any Member that fails to pay a fine, when due, imposed under the Plan.

2. Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and , in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–97–35 and should be submitted by February 20, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2290 Filed 1–29–98; 8:45 am]

BILLING CODE 8010–01–M

[2] *See* CHX Article XII, Rule 9(h) for a list of the Exchange rules and policies that are subject to the Plan.

[3] CHX Article XII Rule 9(b).

[4] CHX Article XII Rule 9(c).

[5] CHX Article XII Rule 9(d).

[6] CHX Article XII Rule 9(e).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with PL. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. Government Pension Questionnaire—0960–0160.—The Social Security Act and Regulations provide that an individual receiving spouse's benefits and concurrently receiving a Government pension, based on the

individual's own earnings, may have the Social Security benefit amount reduced by two-thirds of the pension amount. The data collected on Form SSA–3885 is used by the Social Security Administration (SSA) to determine if the individual's Social Security benefit will be reduced, the amount of reduction, the effective date of the reduction and if one of the exceptions in 20 CFR 404.408a applies. The respondents are individuals who are receiving (or will receive) Social Security spouse's benefits and also receive their own Government pension.

Number of Respondents: 76,000.

Frequency of Response: 1.

Average Burden Per Response: 12.5 minutes.

Estimated Annual Burden: 15,833 hours.

2. Telephone Replacement Card Interview Script—0960–0570. SSA will conduct a pilot study by telephone to obtain information from individuals who need a duplicate Social Security Number (SSN) card. The information collected will be used to properly identify an individual prior to releasing a replacement SSN card, thus eliminating the need for the respondent to take or mail his/her identity documents to a Social Security office. The information provided, which should be known by the true Social Security number holder, will be compared to information available in our current electronic systems. The respondents are U.S. Citizens applying for a replacement SSN card.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 4 minutes.

Estimated Average Burden: 6,667 hours.

3. Reconsideration Report for Disability Cessation— 0960–0350. Form SSA–782-BK will be used by claimants and SSA field offices to document new developments on the claimant's condition (as perceived by the claimant), since the prior continuing disability interview was conducted. The form will also be used by the SSA interviewer to provide his/her observations of the claimant. The respondents are claimants for Old-Age, Survivors and Disability Insurance and Supplemental Security Income, who file a Request for Reconsideration—Disability Cessation.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Average Burden: 50,000 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the Agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

1. Request to be Selected as Payee—0960–0014. The information collected on Form SSA–11–BK is used by SSA to determine the proper payee for a Social Security beneficiary, and it is designed to aid in the investigation of a payee applicant. The form will establish the applicant's relationship to the beneficiary, the justification, the concern for the beneficiary and the manner in which the benefits will be used. The respondents are applicants for selection as representative payee for Old-Age, Survivors and Disability Insurance (OASDI), Supplemental Security Income (SSI) and Black Lung benefits.

Number of Respondents: 1,709,657.

Frequency of Response: 1.

Average Burden Per Response: 10.5 minutes.

Estimated Annual Burden: 299,190 hours.

2. Application for Benefits Under the Federal Mine Safety and Health Act of 1977, as Amended; (Widow's Claim, Child's Claim and Dependent's Claim)—0960–0118.

Sections 402(g) and 412(a) of the Federal Mine Safety and Health Act provide that those widows, surviving children, and dependent parents, brothers or sisters who are not currently receiving benefits on the deceased miner's account must file the appropriate application within 6 months of the deceased miner's death, using Forms SSA–47, 48 and 49. This information is used by SSA to determine eligibility for benefits. The respondents are Black Lung widows, surviving children and dependents (parents, brothers or sisters) who were not currently receiving Black Lung benefits on the Deceased Miner's Account.

Number of Respondents: 1,800.

Frequency of Response: 1.

Average Burden Per Response: 11 minutes.

Estimated Annual Burden: 330 hours.

3. Work History Report—0960–0552. Form SSA–3369–BK is used by the State Disability Determination Services (DDS) to determine disability and to record information about the claimant's work history during the past 15 years. The respondents are claimants who live in Virginia and are applying for OASDI and SSI benefits.

Number of Respondents: 32,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 16,000 hours.

4. Disability Report-Child—0960–0504. Form SSA–3820–BK is used by the State DDSs to record claimants' allegations and sources of evidence in determining eligibility for children filing for SSI disability benefits. The respondents are SSI claimants who live in Virginia and are applying for disabled child's benefits.

Number of Respondents: 10,900.

Frequency of Response: 1.

Average Burden Per Response: 40 minutes.

Estimated Annual Burden: 7,267 hours.

5. Work Incapacity and Reintegration Study—0960–0543. The purpose of this study is to identify those incentives and interventions that are most successful in assisting persons who are disabled due to a back condition to return to work. The information collected will be used primarily to complete a cross-national analysis of this issue. Data will also be gathered on subjects of particular importance in the U.S. The findings will provide policy makers with information that will be highly useful in establishing disability policy. The respondents are persons entitled to Social Security Disability Insurance, Supplemental Security Income or State Temporary Disability Insurance benefits due to a back condition.

Number of Respondents: 700.

Frequency of Response: 1.

Average Burden Per Response: 1 hour.

Estimated Annual Burden: 700 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503,

(SSA)

Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Date: January 22, 1998.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–2199 Filed 1–29–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice 2657

Bureau for International Narcotics and Law Enforcement Affairs; Anti-Crime Training and Technical Assistance Program (ACTTA)

AGENCY: Office of Europe, NIS, and Training; Bureau for International Narcotics and Law Enforcement Affairs, State.

ACTION: Notice.

SUMMARY: State Department's Bureau for International Narcotics and Law Enforcement Affairs (INL) developed the Anti-Crime Training and Technical Assistance Program (ACTTA) in 1994 to bring U.S. Federal law enforcement agencies together to provide training and technical assistance in consultation with their counterparts in Russia, the NIS, and Eastern/Central Europe. Training continues to focus on combating international organized crime, financial crimes, and narcotics trafficking. The goal of the program is to increase professionalism and develop the technical capabilities of law enforcement institutions to combat organized crime and to assure that through international law enforcement cooperation, U.S. agencies and their foreign counterparts succeed in intercepting the movement of transnational organized criminal elements into the U.S.

The ACTTA program is being expanded to include the participation of non-Federal agencies (e.g., universities, state/local government agencies, private non-profit organizations, etc.) in the delivery of law enforcement training and technical assistance to Russia, and the Newly Independent States (NIS). This non-Federal component of the ACTTA program has a timeframe of 1998–1999.

DATES: Strict deadlines for submission to the FY 1998 process are: Letters of Intent must be received no later than Friday, February 27, 1998. Letters of Intent (LOI) are mandatory; full proposals will not be reviewed unless they are requested following the LOI review process. Projects deemed unsuitable during LOI review will not be encouraged to submit full proposals. Full proposals must be received at INL no later than Friday, April 10, 1998. Applicants who have not received a response to their letter of intent by Friday, March 13, 1998 should contact Linda Gower at 202–776–8774. We anticipate that review of full proposals will occur during late April 1998 and funding should begin during the spring of 1998 for most approved projects. July 1, 1998 should be used as the proposed start date on proposals, unless otherwise directed by a program manager. Applicants should be notified of their status within 6 months. All proposals must be submitted in accordance with the guidelines below. Failure to heed these guidelines may result in proposals being returned without review.

ADDRESSES: Propsals may be submitted to: U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, SA–44 South, Room 105, Washington, DC 20520, Attn: Linda Gower.

FOR FURTHER INFORMATION CONTACT: Linda Gower at above address, TEL: 202–776–8774, FAX: 202–776–8775.

SUPPLEMENTARY INFORMATION:

Funding Availability

This Program Announcement is for projects to be conducted by agencies/programs outside the Federal government, over a period of up to two years. Actual funding levels will depend upon the final FY 1998 budget appropriations, current plans are for up to a total of $5.0 million to be available for new (or renewing) ACTTA awards. The funding instrument for extramural awards will be a grant. Funding for non-U.S. institutions and contractual arrangements for services and products for delivery to INL are not available under this announcement. Matching share, though encouraged, is not required by this program.

Program Authority

Authority: Section 635(b) of the Foreign Assistance Act, as amended.

Program Objectives

The goal of the ACTTA program is to increase the technical capabilities of foreign country law enforcement institutions to control organized crime, combat corruption, institute democratic practices, and to assure that through international law enforcement cooperation, U.S. agencies succeed in intercepting the movement of transnational organized criminal elements into the U.S. and Eastern/Central Europe.

The ACTTA program has been designed to generate assistance to foreign governments which will complement that training and assistance provided by Federal agencies. All training and assistance of the ACTTA program should be focused on city or local police forces.

The program objectives of the ACTTA program are: (1) Combat the growing threat to U.S. national security posed by the broad range of organized crime activities, (2) help emerging democracies strengthen their national and law enforcement institutions to counter illegal criminal activities, (3) help emerging democracies develop laws and prosecutorial frameworks to counter organized crime activities, and (4) provide foreign law enforcement institutions with the skills to detect, arrest, and prosecute major transnational criminal offenders.

Program Priorities

The primary focus of this program is concentrated in Russia and the Newly Independent States.

All training conducted under this program must utilize a ''training-of-trainers'' format.

The FY 1998 ACTTA Program Announcement invites training and technical assistance program proposals in the following areas:

(1) Community policing methods,

(2) Curriculum development for national police training academies,

(3) Domestic violence/violence against women and children,

(4) Program evaluations (process and impact) of USG-funded international law enforcement training academies,

(5) Combating organized crime, and

(6) Anti-corruption measures.

Eligibility

Extramural eligibility is limited to non-Federal agencies and organizations, and is encouraged with the objective of developing a strong partnership with the state/local law enforcement community. Non-law enforcement proposers are urged to seek collaboration with state/local law enforcement institutions. State and local governments, universities, and non-profit organizations are included among entities for funding under this announcement. Funding for non-U.S.

institutions is not available under this announcement.

Letters of Intent

Letters of Intent (LOI): (1) Letters should be no more than two pages in length and include the name and institution of project director, a statement of the problem, brief summary of work to be completed, and approximate cost of project. (2) Facsimile is acceptable for letters of intent only. (3) Letters of Intent are mandatory; full proposals will not be reviewed unless they are requested following the LOI review process. (4) Projects deemed unsuitable during LOI review will not be encouraged to submit full proposals.

Evaluation Criteria

Consideration for financial assistance will be given to those proposals which address one or more of the Program Priorities identified above and meet the following evaluation criteria:

(1) Relevance (20%): Importance and relevance to the goal and objectives of the ACTTA program identified above.

(2) Methodology (25%): Adequacy of the proposed approach and activities, including development of relevant training curricular, training methods proposed, evaluation methodology (for training academy evaluation proposals only), project milestones, and final products.

(3) Readiness (25%): Relevant history and experience in conducting program evaluations (for training academy evaluation proposals only) or training/technical assistance in the program priority areas identified above, strength of proposed training/technical assistance or evaluation teams, past performance record of proposers.

(4) Linkages (15%): Connections to existing law enforcement agencies in Russia and the NIS, in addition to previous training or related assistance experience in these countries.

(5) Costs (15%): Adequacy/efficiency of the proposed resources; appropriate share of total available resources; prospects for joint funding.

Selection Procedures

All proposals will be evaluated and ranked in accordance with the assigned weights of the above evaluation criteria by independent peer panel review composed of INL and other Federal USG agency law enforcement experts. Their recommendations and evaluations will be considered by the program managers in final selections. Those ranked by the panel and program as not recommended for funding will not be given further consideration and will be notified of non-selection. For the proposals rated for possible funding, the program managers; will: (a) Ascertain which proposals meet the objectives, fit the criteria posted, and do not duplicate other projects that are currently funded by INL, other USG agencies or foreign governments, or international organizations (note: proposals or elements that duplicate existing activities of USG agencies will not receive awards); (b) select the proposals to be funded; (c) determine the total duration of funding for each proposal; and (d) determine the amount of funds available for each proposal.

Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding.

Proposal Submission

The guidelines for proposal preparation provided below are mandatory. Failure to heed these guidelines may result in proposals being returned without review.

(a) Full Proposals

(1) Proposals submitted to INL must include the original and two unbound copies of the proposal. (2) Applicants are not required to submit more than 3 copies of the proposal, however, the normal review process requires 5 copies. Applicants are encouraged to submit sufficient proposal copies for the full review process if they wish all reviewers to receive color, unusually sized (not 8.5″ × 11″), or otherwise unusual materials submitted as part of the proposal. Only three copies of the Federally required forms are needed. (3) Proposals must be limited to 30 pages (numbered), including budget, personnel vitae, and all appendices, and should be limited to funding requests for one to two year duration. Appended information may not be used to circumvent the page length limit. Federally mandated forms are not included within the page count. (4) Proposals should be sent to INL at the above address. (5) Facsimile transmissions of full proposals will not be accepted.

(b) Required Elements

(1) Signed title page: The title page should be signed by the Project Director (PD) and the institutional representative and should clearly indicate which project area is being addressed. The PD and insitutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period.

(2) Abstract: An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear as a separate page, headed with the proposal title, insitution(s) name, investigator(s), total proposed cost and budget period.

(3) Prior training experience: A summary of prior law enforcement raining experience should be described, including training related to program priorities identified above and/or conducted in Russia and the NIS. Reference to each prior training award should include the title, agency, award number, period of award and total award. The section should be a brief summary and should not exceed two pages total.

(4) Statement of work: The proposed project must be completely described, including identification of the problem, project objectives, proposed training methodology, relevance to the goal and objectives of the ACTTA program, and the program priorities listed above. Benefits of the proposed project to U.S. law enforcement efforts should be discussed. A year-by-year summary of proposed work must be included clearly indicating that each year's proposed work is severable and can easily be separated into annual increments of meaningful work. The statement of work, including and excluding figures and other visual materials, must not exceed 15 pages of length.

(5) Budget: Applicants must submit a Standard form 424 (4–92) ''Application for Federal Assistance,'' including a detailed budget using the Standard Form 424a (4–92), ''Budget Information—Non-Construction Programs.'' The form is included in the standard INL application kit. The proposal must include total and annual budgets corresponding with the descriptions provided in the statement of work. Additional text to justify expenses should be included as necessary.

(6) Vitas: Abbreviated curriculum vitae are sought with each proposal. Vitae for each project staff person should not exceed three pages in length.

(c) Other Requirements

(1) Applicants may obtain a standard INL application kit from the Program Office.

Primary Applicant Certification—All primary applicants must submit a completed Form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and

Lobbying.'' Applicants are also hereby notified of the following:

1. Non procurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension,'' and the related section of the certification form prescribed above applies;

2. Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, Subpart F, ''Government Wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to aplications/bids for grants of more than $100,000; and

4. Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

(1) Recipients must require applicants/bidders for subgrants or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying'' and disclosure Form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to Department of State (DOS). SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOS in accordance with the instructions contained in the award document.

(2) Recipients and subrecipients are subject to all applicable Federal laws and Federal and Department of State policies, regulations, and procedures applicable to Federal financial assistance awards.

(3) Preaward Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of State to cover preaward costs.

(4) This program is subject to the requirements of OMB Circular No. A–110, ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' OMB Circular No. A–133, ''Audits of Institutions of Higher Education and Other Non-Profit Institutions,'' and 15 CFR part 24, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' as applicable. Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(5) All non-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associate with the applicant have been convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters with significantly reflect on the applicant's management, honesty, or financial integrity.

(6) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(7) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to the Department of State are made.

(8) Buy American-Made Equipment or Products—Applicants are encouraged that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

(9) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(d) If an application is selected for funding, the Department of State has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of State.

(e) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of or be subjected to discrimination under any program or activity receiving assistance from the INL ACTTA program.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The standard forms have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB approval number 0348–0043, 0348–0044, and 0348–0046.

Classification: This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: January 20, 1998.

Thomas M. Browne Jr.,

Deputy Director, Office of Europe, NIS, and Training, Bureau for International Narcotics and Law Enforcement Affairs, U.S. Department of State.

[FR Doc. 98–2310 Filed 1–29–98; 8:45 am]

BILLING CODE 4710–17–M

DEPARTMENT OF STATE

[Public Notice 2717]

Advisory Committee on International Economic Policy; Notice of Closed Meeting

The Advisory Committee on International Economic Policy will meet from 9:00–1:00 pm on Thursday, February 5, 1998 in Room 1107, U.S. Department of State, 2201 C Street, NW Washington, DC 20520. The Closed Meeting will be hosted by Assistant Secretary of State for Economic and Business Affairs, Alan Larson.

Pursuant to Section 10(d) of the Federal Advisory Committee Act (FACA) and 5 U.S.C. 552b(c)(1), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(9)(B), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed.

For further information, contact Sharon Rogers, ACIEP Secretariat, U.S. Department of State, Bureau of Economic and Business Affairs, Room 6828, Main State, Washington, DC 20520. She may be reached at telephone number (202) 647–5968 or fax number (202) 647–5713.

Dated: January 26, 1998.

Alan Larson,

Assistant Secretary for Economic and Business Affairs.

[FR Doc. 98–2347 Filed 1–29–98; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act 1995 (44 U.S.C. Chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) to reinstate the information collection entitled Highway Safety and Improvement Program and Priorities. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published in 62 FR 58767, October 30, 1997.

DATES: Comments must be submitted on or before March 2, 1998.

FOR FURTHER INFORMATION CONTACT: All signed, written comments should refer to the docket number that appears below in this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Kenneth Epstein, Office of Highway Safety, (202) 366–2157, 400 7th Street, SW., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

[FHWA Docket No. 2983]

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: The overall annual reporting burden is shared by the 50 States and the District of Columbia.

Title: Highway Safety and Improvement Program and Priorities.

OMB No: 2125–0025.

Abstract: Each year all States and Territories are required to report to the Secretary of Transportation on the progress being made in implementing the Highway Safety Improvement Programs (Rail-Highway Crossings and Hazard Elimination) and the effectiveness of these programs. The Secretary is required to report annually to the Congress on the progress of the safety programs based upon the information reported by the States. The FHWA receives the program information from the States. Numerical data are processed and stored in the computerized Highway Safety Evaluation System. A report is then prepared for Congress providing the required information on the effectiveness of highway safety improvement projects. Congress uses the contents of this report when determining the level of funding for the Highway Safety Improvement Programs and when modifying these programs.

The information collected by the States in the survey of all public roads includes motor vehicle accident data, traffic volume data, and highway inventory data. This information is used by the States to identify hazards and to determine what safety improvements would be cost-effective when mitigating those hazards. Without this process fewer lives would be saved and fewer injuries averted by the Highway Safety Improvement Programs administered by the FHWA.

Estimated Total Annual Burden: The annual reporting burden is estimated to be 11,220 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FHWA Desk Officer.

Your comments to OMB are best assured of having its full impact if OMB receives them within 30 days of publication. This does not affect the deadline for the public to comment on DOT proposed regulations.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 6, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–2301 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection(ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collection and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published in 62 FR 60117, November 6, 1997.

DATES: Comments must be submitted on or before March 2, 1998.

FOR FURTHER INFORMATION CONTACT: Scott A. Poyer, Chief Economist, Saint Lawrence Seaway Development Corporation, Office of Great Lakes Pilotage, United States Department of Transportation, 400 7th Street SW., Suite 5424, Washington, DC 20590, (800) 785–2779, or Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Suite 5424, Washington, DC 20590, (800) 785–2779.

SUPPLEMENTARY INFORMATION: Saint Lawrence Seaway Development Corporation, DOT.

Title: Great Lakes Pilotage Rate Methodology.

OMB Control Number: 2135–0501.

Type of Request: Extension of a currently approved collection.

Affected Public: Great Lakes Pilot Associations.

Affected Public: The Great Lakes Pilotage Act of 1960 authorizes the Director of Great Lakes Pilotage to

prescribe a uniform system of accounts and to perform audits and inspections of Great Lakes pilot associations. The Director uses this information to carry out financial oversight of the Great Lakes pilot associations and to set pilotage rates. The specific information to be filed by respondents is set forth in 33 CFR parts 404–407.

Average Annual Burden on Respondents: 18 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention SLSDC Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on January 22, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–2302 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending January 23, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–3356
Date Filed: January 21, 1998
Parties: Members of the International Air Transport Association
Subject: Application of the International Air Transport Association, pursuant to Sections 41308 and 41309 of Title 49 of the U.S.C. Parts 303.03, 303.05 and 303.30(c) of Title 14 of the Code of Federal Regulations, file this petition to request DOT approval and immunity for third parties to participate as technical advisers on two sub-groups: the Data Interchange Sub-Group (DISG) and the BSPC Support Group (BSG).

Docket Number: OST–98–3354
Date Filed: January 21, 1998
Parties: Members of the International Air Transport Association
Subject:
PTC12 NMS–ME 0033 dated December 17, 1997
Mail Vote 901 (Mid Atlantic-Mideast) r1–11
1st Amendment to Mail Vote 901
2nd Amendment to Mail Vote 901
PTC12 NMS–ME 0034 dated December 17, 1997
Mail Vote 902 (South Atlantic-Mideast) r12–22
Amendment to Mail Vote 902
Intended effective date: April 1, 1998

Docket Number: OST–98–3351
Date Filed: January 21, 1998
Parties: Members of the International Air Transport Association
Subject:
PTC23 ME–TC3 0025 dated December 5, 1997
Middle East-TC3 Resos r1–50
Minutes—PTC23 ME–TC3 0029 dated January 16, 1998
Tables—PTC23 ME–TC3 Fares 0010 dated December 9, 1997
Corrections—PTC23 ME–TC3 0027 dated December 19, 1997 PTC23 ME–TC3 Fares dated December 23, 1997
Intended effective date: April 1, 1998

Docket Number: OST–98–3352
Date Filed: January 21, 1998
Parties: Members of the International Air Transport Association
Subject: PTC12 Telex Mail Vote 908 Jordan-U.S. fares r1–7
Intended effective date: April 1, 1998

Docket Number: OST–98–3353
Date Filed: January 21, 1998
Parties: Members of the International Air Transport Association
Subject:
PTC3 Telex Mail Vote 907
Specification of Qingdao-Fukuoka fares
Intended effective date: February 25, 1998

Docket Number: OST–98–3377
Date Filed: January 23, 1998
Parties: Members of the International Air Transport Association
Subject:
PTC12 USA–EUR Fares 0020 dated January 20, 1998
USA–UK add-on fares
Intended effective date: April 1, 1998

Paulette V. Twine,

U.S. D.O.T. Dockets.

[FR Doc. 98–2357 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending January 23, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–3363.
Date Filed: January 21, 1998.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 19, 1998.
Description: Application of Airbus Transport International S.N.C. pursuant to 49 U.S.C. Section 41302, Part 212 of the Economic Regulations and Subpart Q of the Procedural Regulations, applies for an initial foreign air carrier permit authorizing it to engage in on-demand foreign charter air transportation of property and mail between a point or points in France and a point or points in the United States of America, via intermediate and beyond points.

Paulette V. Twine,

U.S. D.O.T. Dockets.

[FR Doc. 98–2356 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Security of Aircraft and Safety of Passengers Transiting Port-Au-Prince, Haiti

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The Department has found that Port-Au-Prince International Airport does not maintain and carry out effective security measures. The Department is requiring notice of that finding be given to passengers and posted at airports in accordance with statutory requirements.

FOR FURTHER INFORMATION CONTACT: Peter Bloch, Office of the General Counsel, U. S. Department of

Transportation, 400 7th Street, SW., Washington, DC 20590. Telephone (202) 366–9183.

Pursuant to 49 U.S.C. § 44907 D(1), on October 20, 1997, I notified the Haitian government that I had determined that Port-Au-Prince International Airport, Port-Au-Prince, Haiti, did not maintain and carry out effective security measures. 90 days have elapsed since my determination, and I have found that Port-Au-Prince International Airport still does not maintain and carry out effective security measures. My determination is based on Federal Aviation Administration assessments which reveal that security measures used at the airport do not meet the standards established by the International Civil Aviation Organization.

Notice

Pursuant to 49 U.S.C. § 44907 D(1), I have directed that a copy of this notice be published in the **Federal Register**, that my determination be displayed prominently in all U.S. Airports regularly being served by scheduled air carrier operations, and that the news media be notified of my determination. In addition, as a result of this determination, all U.S. and foreign air carriers (and their agents) providing service between the United States and Port-Au-Prince International Airport must provide notice of my determination to any passenger purchasing a ticket for transportation between the United States and Port-Au-Prince International Airport, with such notice to be made by written material included on or with such ticket.

Dated: January 23, 1998.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 98–2385 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 98–005]

Agency Information Collection Activities Under OMB Review

AGENCY: Coast Guard, DOT.

ACTION: Notice; request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to request approval of one new Information Collection Request (ICR) and renewal of one ICR. These ICRs include: 1. Recreational Boating Safety Survey and 2. Boating Statistics Questionnaire. Before submitting the ICR package to the Office of Management and Budget (OMB), the U.S. Coast Guard is asking for comments on the collection as described below.

DATES: Comments must be received on or before March 31, 1998.

ADDRESSES: You may mail comments to Commandant (G–SII–2), U.S. Coast Guard Headquarters, Room 6106 (Attn: Barbara Davis), 2100 Second St, SW, Washington, DC 20593–0001, or deliver them to the same address between 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–2326. The comments will become part of this docket and will be available for inspection and copying by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone (202) 267–2326.

SUPPLEMENTARY INFORMATION:

Request for Comments

The U.S. Coast Guard encourages interested persons to submit written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this Notice and the specific ICR to which each comment applies, and give reasons for each comment. The U.S. Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed post card or envelope.

Interested persons can receive copies of the complete ICR by contacting Ms. Davis where indicated under **ADDRESSES.**

Information Collection Requests

1. Title: Recreational Boating Safety Survey.

OMB Control No. 2115–New.

Summary: The U.S. Coast Guard has concerns with the number of deaths related to the lack of boating safety education and drownings due to not wearing personal flotation devices (PFDs). A survey has been developed to collect information from participants interested in recreational boating, to help determine whether or not to set Federal requirements for boaters to wear (PFDs) or for vessel operators to attend boating safety training.

Need: Under 33 U.S.C. 4302, the Coast Guard is authorized to issue regulations to establish minimum safety requirements for recreational vessels and to require the carriage or use of associated equipment.

Respondents: Voluntary participants interested in recreational boating.

Frequency: One time.

Burden Estimate: The estimated burden is 2,560 hours.

2. Title: Boating Statistics Questionnaire.

OMB Control No. 2115–0618.

Summary: The U.S. Coast Guard publishes a report, *Boating Statistics*, annually on recreational boating accidents. The report is distributed to approximately 7,000 people. The Coast Guard will conduct a survey to determine customer's information needs and measure their satisfaction with the *Boating Statistics*, report.

Need: Under 46 U.S.C. 6102(b), the Coast Guard is authorized to collect, analyze, and annually publish statistical information on recreational boating accidents.

Respondents: Recreational Boaters, Federal and State Officials, Safety Professional Boating Organizations and Boating Industry Representatives.

Burden Estimate: The estimated burden is 320 hours annually.

Dated: January 22, 1998.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 98–2299 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement/Joint Planning Advisory Group

AGENCY: Maritime Administration, DOT.

ACTION: Notice of meeting.

The Maritime Administration and United States Transportation Command announce a meeting of the Voluntary Intermodal Sealift Agreement (VISA) Joint Planning Advisory Group (JPAG) to: (1) review final VISA concepts of operations developed to date; (2) develop draft carrier commitments for VISA Stages I and II; (3) review VISA activation procedures; and (4) begin preparations for the Turbo Challenge JPAG sessions scheduled for April and June 1998. Due to the nature of the information and the need for a government-issued security clearance, participation at the meeting will be by

invitation only. The meeting will be held in Room P1–1303, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590 on February 10, 1998 from 12:30 p.m. to 4:15 p.m., on February 11, 1998 from 8:00 a.m. to 4:30 p.m. and Thursday, February 12, from 8:00 a.m. to 11:30 a.m. A synopsis of the meeting will be published following the meeting.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Raymond R. Barberesi, Director, Office of Sealift Support, (202) 366–2323.

By Order of the Maritime Administrator.

Dated: January 26, 1998.

Joel C. Richard,

Secretary.

[FR Doc. 98–2303 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–97–3176]

National Survey of Pedestrian and Bicyclist Attitudes, Knowledge and Behavior

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice and request for comments on data collection.

SUMMARY: The purpose for conducting this survey is to assist the agency in reducing injuries, fatalities, and economic loss resulting from motor vehicle crashes with pedestrians and bicyclists; and to support the Department of Transportation (DOT) Secretarial Initiative for Pedestrian and Bicycle Safety. More than 5,000 pedestrians and 800 bicyclists are killed each year in traffic crashes, and more than 140,000 are injured. Developing effective strategies to address this problem requires up-to-date information on such factors as exposure, awareness, safety practices, physical obstacles to safety, and perceptions of risk. By collecting these data, NHTSA will be able to determine where efforts should be targeted and where new strategies may be needed. In addition, the Secretary of Transportation has mobilized a national effort to promote walking and bicycling as safe, efficient, and healthy ways to travel. The survey will collect information to help assess progress in meeting the Secretarial Initiative, including the goal to double the national percentage of transportation trips made by bicycling and walking.

DATES: Written comments must be submitted on or before March 31, 1998.

ADDRESSES: Direct all written comments to U.S. Department of Transportation Dockets, 400 Seventh Street, S.W., Plaza 401, Washington, D.C. 20590. Docket # NHTSA–97–3176.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Block, Contracting Officer's Technical Representative, Office of Research and Traffic Records (NTS–31), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Room 6240, Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries and economic losses resulting from motor vehicle-related crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle safety standards and traffic safety programs.

While not as much in the public eye as other traffic safety problems, motor vehicle crashes involving pedestrians and bicyclists exact a heavy toll. Pedestrians and bicyclists account for 15 percent of all traffic fatalities, and more than 140,000 injuries each year. Yet there are simple things that people can do to reduce these risks, provided that they are sufficiently aware and willing to take the appropriate steps. For example, a study published in the Journal of the American Medical Association found that the universal use of helmets by all bicyclists could have prevented as many as 2,500 deaths and 757,000 head injuries between 1984 and 1988. Despite this, only 18 percent of bicyclists age 16 and older usually wear a helmet when they ride. To effectively address this gap, a clear picture of bicyclists' knowledge of the effectiveness of helmet use, and the attitudes that prevent helmet use, is needed.

Efforts to address the problem have included training, public information and education, legislation, enforcement, and engineering. However, there is an absence of national data to tell us whether these efforts need to be modified or whether new types of interventions are needed. More specifically, there is a lack of data concerning the public's exposure to risk as pedestrians and bicyclists, their awareness of correct pedestrian and bicyclist safety practices, their perceptions of the responsibilities of other roadway users, and their perceptions of risks. Without this information, safety professionals are left with inadequate tools for determining if there are critical deficits in education or training that should be addressed, or whether interventions are efficiently targeted to where they are most needed. This in turn would pose severe constraints on the ability to meet the U.S. Secretary of Transportation's goal of reducing by 10 percent the number of injuries and fatalities occurring to bicyclists and pedestrians.

Besides reducing pedestrian/bicyclist injuries and fatalities, the U.S. Secretary of Transportation has called for a doubling in the national percentage of transportation trips made by bicycling and walking. Both goals are part of the DOT Secretarial Initiative for Pedestrian and Bicycle Safety. This is a national effort to promote walking and bicycling as safe, efficient, and healthy ways to travel. It involves partnering with numerous groups to foster the development of a more balanced transportation system. Yet while the Initiative calls for an increase in pedestrian and bicyclist activities, there are no exposure data to measure its progress. Moreover, there is a lack of information on the obstacles to walking and bicycling that would have to be addressed to meet the Secretarial goal; as well as information on how persons decide whether or not to walk, or to bike.

The proposed survey will collect data to meet the informational needs described above. The survey instrument will include items to measure exposure, knowledge, risk perception, community characteristics, and decision factors. The survey data will be used to assess the adequacy of present strategies to increase pedestrian and bicyclist safety, and to help guide policies aimed at encouraging these modes of transportation.

II. Method of Data Collection

The survey will be conducted by telephone among a national probability sample of 4,200 adults age 16 and older. Participation by respondents is voluntary. The survey instrument will contain questions appropriate to all members of the sample, as well as questions appropriate only to subgroups of pedestrians (as defined within the study) and bicyclists. The overall interview length for a respondent will average 20 minutes. The interviewers will use computer assisted telephone interviewing to reduce the interview length and minimize recording errors. A Spanish-language translation as well as multilingual interviewers will be used

to minimize language barriers to participation. The survey will be anonymous and confidential.

III. Use of Findings

The findings of this study will assist NHTSA in addressing the pedestrian and bicyclist crash problem, and in formulating programs and recommendations to Congress. NHTSA will use the findings to: (a) Design more effective countermeasure programs; (b) develop policy recommendations that support increases in bicycling and walking; and (c) provide for measurement of the effectiveness of these efforts. The findings will also be used directly by State and local highway safety agencies in the development and implementation of effective programs to increase the levels of bicycling and walking among the public while simultaneously reducing the number of crash-related deaths and injuries.

IV. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: The United States non-institutionalized population ages 16 and older living in households with telephone service.

Estimated Number of Respondents: 4,200.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Burden: 1,400 hours.

Estimated Total Cost: $51.90 per survey respondent.

V. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for approval by the Office of Management and Budget (OMB) of this information collection. Copies of all comments will be placed in Docket NHTSA–97–3176, in the U.S. Department of Transportation Dockets, 400 7th Street, SW., Plaza 401, Washington, DC 20590, and will become a matter of public record.

Issued on: January 27, 1998.

James Nichols,

Acting Associate Administrator for Traffic Safety Programs.

[FR Doc. 98–2375 Filed 1–29–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33543]

Southern Pacific Transportation Company—Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP) has agreed to grant overhead trackage rights to Southern Pacific Transportation Company (SP) over UP's tracks known as the Los Angeles Subdivision from milepost 158.9 near Daggett to milepost 162.0 near Yermo, a distance of 3.1 miles in the vicinity of Los Angeles, CA. [1]

The transaction was expected to be consummated on or as soon as possible after January 21, 1998, the effective date of the exemption.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C.10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33543, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on: Joseph D. Anthofer, General Attorney, 1416 Dodge Street, #830, Omaha, NE 19381–0796.

Decided: January 22, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–2365 Filed 1–29–98; 8:45 am]

BILLING CODE 4915–00–P

[1] SP states that it filed this notice of exemption to extend the trackage rights it received from UP in STB Finance Docket No. 33129, effective September 26, 1996 (STB served Oct. 8, 1996), which included, among others, trackage rights over UP's Los Angeles Subdivision.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33544]

Union Pacific Railroad Company; Trackage Rights Exemption; Southern Pacific Transportation Company

Southern Pacific Transportation Company (SP) has agreed to grant overhead trackage rights to Union Pacific Railroad Company over SP's Del Rio Subdivision from milepost 210.70, near Tower 105, to milepost 219.33, near Withers, in the vicinity of San Antonio, a distance of 8.63 miles in Bexar County, TX.

The earliest the transaction can be consummated is January 28, 1997, the effective date of the exemption (7 days after the notice of exemption was filed).

The purpose of the trackage rights is to permit UP to improve the efficiency of its train operations and to assist in avoiding rail traffic congestion in the vicinity of San Antonio.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33544, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Joseph D. Anthofer, Esq., 1416 Dodge Street, #830, Omaha, NE 68179.

Decided: January 23, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–2366 Filed 1–29–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Federal Firearms and Ammunition Excise Tax Deposit.

DATES: Written comments should be received on or before March 31, 1998 to be assured of consideration.

ADDRESS: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Teri Byers, Tax Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8220.

SUPPLEMENTARY INFORMATION:

Title: Federal Firearms and Ammunition Excise Tax.

OMB Number: 1512–0509.

Form Number: ATF F 5300.27.

Abstract: A Federal excise tax is imposed by 26 U.S.C. 4181 on the sale of pistols and revolvers, other firearms, shells and cartridges sold by firearms manufacturers, producers, and importers. Sections 6001, 6301, and 6302 of Title 26 U.S.C. establish the authority for a deposit of excise tax to be made. The information on the form identifies the taxpayer and establishes the taxpayer's deposit.

Current Actions: The only change to this information collection is a decrease in burden hours due to a decrease of the number of respondents.

Type of Review: Extension.

Affected Public: Business or other for-profit, individuals or households.

Estimated Number of Respondents: 283.

Estimated Time Per Respondent: 9 minutes.

Estimated Total Annual Burden Hours: 770.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 26, 1998.

John W. Magaw,

Director.

[FR Doc. 98–2291 Filed 1–29–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Tax Information Authorization.

DATES: Written comments should be received on or before March 31, 1998 to be assured of consideration.

ADDRESS: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Teri Byers, Tax Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8220.

SUPPLEMENTARY INFORMATION:

Title: Tax Information Authorization.

OMB Number: 1512–0033.

Form Number: ATF F 1534A (5000.19).

Abstract: ATF F 1534A (5000.19) is required by ATF to be filed when a respondent's representative, not having a power of attorney, wishes to obtain confidential information regarding the respondent. After proper completion of the form, information can be released to the representative.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 50.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 26, 1998.

John W. Magaw,

Director.

[FR Doc. 98–2292 Filed 1–29–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application For License or Permit Under 18 U.S.C. Chapter 40, Explosives.

DATES: Written comments should be received on or before March 31, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gail H. Davis, Firearms, Explosives and Arson Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8053.

SUPPLEMENTARY INFORMATION:

Title: Application For License or Permit Under 18 U.S.C. Chapter 40, Explosives.

OMB Number: 1512–0182.

Form Number: ATF F 5400.13/5400.16.

Abstract: Chapter 40, Title 18, U.S.C. provides that any person engaged in the business of explosive materials as a dealer, manufacturer, or importer shall be licensed. The information collected on the form is used to determine if the applicant is qualified to be a licensee or permittee under the provisions of the statute. There is no record retention requirement for the applicant.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, individuals or households, not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 2,100.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 6,200.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 26, 1998.

John W. Magaw,

Director.

[FR Doc. 98–2293 Filed 1–29–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Inventories: Licensed Explosives Importers, Manufacturers, Dealers and Permitees.

DATES: Written comments should be received on or before March 31, 1998 to be assured of consideration.

ADDRESS: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dottie Morales, Explosives and Arson Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8051.

SUPPLEMENTARY INFORMATION:

Title: Inventories: Licensed Explosives Importers, Manufactures, Dealers, and Permittees.

OMB Number: 1512–0371.

Recordkeeping Requirement ID Number: ATF REC 5400/1.

Abstract: These records show the explosive material inventories of those persons engaged in various activities within the explosives industry and are used by the government as initial figures from which an audit trial can be developed during the course of a compliance inspection or criminal investigation. Licensees and permittees shall keep records on the business premises for five years from the date a transaction occurs or until discontinuance of business or operations by licenses or permittee.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 13,106.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 26,212.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the

collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 26, 1998.

John W. Magaw,

Director.

[FR Doc. 98–2294 Filed 1–29–98; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comment concerning its proposed renewal without change of an information collection titled Uniform Form For Registration and Amendment to Registration as a Transfer Agent—Form TA–1.

DATES: Written comments should be submitted by March 31, 1998.

ADDRESSES: Direct all written comments to the Communications Division, Attention: 1557–0124, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection may be obtained by contacting Jessie Gates, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0124), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Uniform Form for Registration and Amendment to Registration as a Transfer Agent—Form TA–1.

OMB Number: 1557–0124.

Form Number: TA–1.

Abstract: The OCC is requesting comment on its proposed renewal without change of the information collection titled Uniform Form for Registration and Amendment to Registration as a Transfer Agent—Form TA–1. Section 17A(c) of the Securities Exchange Act of 1934 (Act), as amended by the Securities Act Amendments of 1975, provides that all those authorized to transfer securities registered under Section 12 of the Act (transfer agents) shall register by filing with the appropriate regulatory agency an application for registration in such form and containing such information and documents as such appropriate regulatory agency may prescribe to be necessary or appropriate in furtherance of the purposes of this section. Form TA–1 was developed by the OCC, Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve to satisfy this statutory requirement. National bank transfer agents use Form TA–1 to register or amend registration as transfer agents. The OCC uses the information to determine whether to allow, deny, accelerate, or postpone an application. An amendment to Form TA–1 must be filed with the OCC within sixty calendar days following the date on which any information reported on Form TA–1 becomes inaccurate, misleading or incomplete. The OCC also uses the data to more effectively schedule and plan transfer agent examinations. Amendments to Form TA–1 are used by the OCC to schedule and plan examinations. The Securities and Exchange Commission maintains complete files on the registration data of all transfer agents registered pursuant to the Act. It utilizes the data to identify transfer agents and to facilitate development of rules and standards applicable to all registered transfer agents.

Type of Review: Renewal of OMB approval.

Affected Public: Businesses or other for-profit.

Number of Respondents: 105.

Total Annual Responses: 105.

Frequency of Response: Occasional.

Total Annual Burden: 46 burden hours.

Comments

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 23, 1998.

Karen Solomon,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 98–2287 Filed 1–29–98; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comment concerning its proposed renewal without change of an information collection titled Community Reinvestment Act Regulation—12 CFR part 25.

DATES: Written comments should be submitted by March 31, 1998.

ADDRESSES: Direct all written comments to the Communications Division, Attention: 1557–0160, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection may be obtained by contacting Jessie Gates, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0160), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Community Reinvestment Act Regulation—12 CFR Part 25.

OMB Number: 1557–0160.

Form Number: None.

Abstract: The OCC is requesting comment on its proposed renewal without change of the information collections contained in 12 CFR Part 25. The OCC uses this information to assess each national bank's record of meeting the credit needs of its community, as required by the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*). The Act requires the OCC to assess and evaluate the efforts of national banks to help meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations. These records are used in evaluating applications for mergers, branches, and other corporate activities. The collections of information are found in 12 CFR 25.25, 25.27, 25.29, 25.41, 25.42, and 25.43. The OCC uses the records in the examination process to evaluate a bank's CRA performance. The public uses the information to assess the bank's CRA performance and to participate meaningfully in the application process.

Type of Review: Renewal, without change, of OMB approval.

Affected Public: Businesses or other for-profit.

Number of Respondents: 3,076.

Total Annual Responses: 3,076.

Frequency of Response: Occasional.

Total Annual Burden: 57,044 burden hours.

Comments

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 23, 1998.

Karen Solomon,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 98–2288 Filed 1–29–98; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–6: OTS Nos. 05056 and H–1958]

First Savings Brancshares, MHC, Woodbridge, New Jersey; Approval of Conversion Application

Notice is hereby given that on January 16, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Savings Bancshares, MHC, Woodbridge, New Jersey, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: January 22, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–1897 Filed 1–29–98; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board, Notice of Meeting

The Department of Veterans Affairs gives notice under Pub. L. 92–463 (Federal Advisory Committee Act) as amended, by section 5(c) of Pub. L. 94–409 that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board will be held at the Westin City Hotel, 1400 ''M'' Street NW., Washington, DC on January 27 through January 29, 1998.

The session on January 27, 1998, is scheduled to begin at 6:30 p.m. and end at 9:30 p.m. The sessions on January 28 and January 29, 1998, are scheduled to begin at 8 a.m. and end at 5 p.m. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public up to the seating capacity of the room for the January 27 session for the discussion of administrative matters, the general status of the program, and the administrative details of the review process. On January 28–29, 1998 the meeting is closed during which the Board will be reviewing research and development applications.

This review, involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts.

Thus, the closing is in accordance with 5 U.S.C. 552b (c)(6), and (c)(9)(B) and the determination of the Secretary of the Department of Veterans Affairs under Sections 10(d) of Pub. L. 92–463 as amended by Section 5(c) of Pub. L. 94–409.

Due to the limited seating capacity of the room, those who plan to attend the open session should write to Ms. Victoria Mongiardo, Program Analyst, Rehabilitation Research and Development Service, Department of Veterans Affairs, 103 South Gay Street, Baltimore, Maryland 21202 (Phone: 410–962–2563) at least five days before the meeting.

Dated: January 8, 1998.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98–2314 Filed 1–29–98; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 63, No. 20

Friday, January 30, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Parts 721 and 722

Removal of Rules on Standards of Conduct and Reporting Procedures on Defense Related Employment

Correction

Final rule document 98-1922 was inadvertently published in the Proposed Rules section of the issue of Tuesday, January 27, 1998 beginning on page 3860. It should have appeared in the Rules and Regulations section.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-110-000]

Garden Banks Gas Pipeline, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 98–1877 appearing on page 3886, in the issue of Tuesday January 27, 1998, make the following correction:

On page 3886, in the second column, the Docket No. should be as set forth above.

BILLING CODE 1505-01-D

federal register

Friday
January 30, 1998

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1000 et al.

Milk in the New England and Other Marketing Areas; Opportunity To File Comments, Including Written Exceptions, on Proposed Amendments to Marketing Agreements and Orders; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1000, 1001, 1002, 1004, 1005, 1006, 1007, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1124, 1126, 1131, 1134, 1135, 1137, 1138 and 1139

[DA–97–12]

Milk in the New England and Other Marketing Areas; Proposed Rule and Opportunity To File Comments, Including Written Exceptions, on Proposed Amendments to Marketing Agreements and Orders

7 CFR part	Marketing area
1000	General Provisions of Federal Milk Marketing Orders.
1001	New England.
1002	New York-New Jersey.
1004	Middle Atlantic.
1005	Carolina.
1006	Upper Florida.
1007	Southeast.
1012	Tampa Bay.
1013	Southeastern Florida.
1030	Chicago Regional.
1032	Southern Illinois-Eastern Missouri.
1033	Ohio Valley.
1036	Eastern Ohio-Western Pennsylvania.
1040	Southern Michigan.
1044	Michigan Upper Peninsula.
1046	Louisville-Lexington-Evansville.
1049	Indiana.
1050	Central Illinois.
1064	Greater Kansas City.
1065	Nebraska-Western Iowa.
1068	Upper Midwest.
1076	Eastern South Dakota.
1079	Iowa.
1106	Southwest Plains.
1124	Pacific Northwest.
1126	Texas.
1131	Central Arizona.
1134	Western Colorado.
1135	Southwestern Idaho-Eastern Oregon.
1137	Eastern Colorado.
1138	New Mexico-West Texas.
1139	Great Basin.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule consolidates the current 31 Federal milk marketing orders into 11 orders. This consolidation is proposed to comply with the 1996 Farm Bill which mandates that the current Federal milk orders be consolidated into between 10 to 14 orders by April 4, 1999. This proposed rule also sets forth two options for consideration as a replacement for the Class I price structure and proposes replacing the basic formula price with a multiple component pricing system. This proposed rule also establishes a new Class IV which would include milk used to produce nonfat dry milk, butter, and other dry milk powders; reclassifies eggnog and cream cheese; and addresses other minor classification changes. Part 1000 is proposed to be expanded to include sections that are identical to all of the consolidated orders to assist in simplifying and streamlining the orders.

DATES: Comments must be submitted on or before March 31, 1998.

ADDRESSES: Comments (two copies) should be submitted to Richard M. McKee, Deputy Administrator, Dairy Programs, USDA/AMS, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456. Comments also may be sent by fax to (202) 690–3410. Additionally, comments may be submitted via E-mail to: Milk__Order__Reform@usda.gov.

All comments should be identified with the docket number found in brackets in the heading of this document. To facilitate the review process, please state the particular topic(s) addressed, from the following list, at the beginning of the comment: consolidation, basic formula price, Class I price structure, other class prices, classification, provisions applicable to all orders, regional issues (please specify: Northeast, Southeast, Midwest, Western), and miscellaneous and administrative. If comments submitted pertain to a specific order, please identify such order.

Comments are also being requested on the Executive Order 12866 analysis, the Regulatory Flexibility Act analysis, and the Paperwork Reduction Act analysis.

Additionally, comments may be sent via E-mail to: Milk__Order__Reform@usda.gov.

All comments submitted in response to this proposal will be available for public inspection at the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2968, South Building, 14th and Independence Ave., S.W., Washington, D.C., during normal business hours (7 CFR 1.27(b)). All persons wanting to view the comments are requested to make an appointment in advance by calling Richard M. McKee at (202) 720–4392.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Branch Chief, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–6274.

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IV. Appendix
- A: Summary of Preliminary Suggested Order Consolidation Report
- B: Summary of Pricing Options
- C: Summary of Classification Report
- D: Summary of Identical Provisions Report
- E: Summary of Basic Formula Price Report
- F: Summary of Revised Preliminary Suggested Order Consolidation Report

I. Legislative and Background Requirements

Legislative Requirements

Section 143 of the Federal Agriculture Improvement and Reform Act of 1996. (Farm Bill), 7 U.S.C. 7253, requires that by April 4, 1999,[1] the current Federal

[1] Section 143(b)(2) requires that a proposed rule be published by April 4, 1998 and Section 143(b)(3) provides that ''in the event that the Secretary is enjoined or otherwise restrained by a court order from publishing or implementing the consolidation and related reforms under subsection (a), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in paragraph (2) thereby extending those time limitations by a period of time

milk marketing orders be consolidated into between 10 to 14 orders. The Secretary of Agriculture (Secretary) is also directed to designate the State of California as a Federal milk order if California dairy producers petition for and approve such an order. In addition, the Farm Bill provided that the Secretary may address related issues such as the use of utilization rates and multiple basing points for the pricing of fluid milk and the use of uniform multiple component pricing when developing one or more basic prices for manufacturing milk. Besides designating a date for completion of the required consolidation, the Farm Bill further requires that no later than April 1, 1997, the Secretary shall submit a report to Congress on the progress of the Federal order reform process. The report must cover three areas: a description of the progress made towards implementation, a review of the Federal order system in light of the reforms required, and any recommendations considered appropriate for further improvements and reforms. This report was submitted to Congress on April 1, 1997. Finally, the 1996 Farm Bill specifies that USDA use informal rulemaking to implement these reforms.[2]

Background

The authorization of informal rulemaking to achieve the mandated reforms of the Farm Bill has resulted in a rulemaking process that is substantially different from the formal rulemaking process required to promulgate or amend Federal orders. The formal rulemaking process requires that decisions by USDA be based solely on the evidentiary record of a public hearing held before an Administrative Law Judge. Formal rulemaking involves the presentation of sworn testimony, the cross-examination of witnesses, the filing of briefs, the issuance of a recommended decision, the filing of exceptions, the issuance of a final decision that is voted on by affected producers, and upon approval by producers, the issuance of a final order.

The informal rulemaking process does not require these procedures. Instead, informal rulemaking provides for the issuance of a proposed rule by the Agricultural Marketing Service, a period of time for the filing of comments by interested parties, and the issuance of a final rule by the Secretary, which would become effective if approved by the requisite number of producers in a referendum.

Full participation by interested parties is essential in the reform of Federal milk orders. The issues are too important and complex for this proposed rule to be developed without significant input from all facets of the dairy industry. The experience, knowledge, and expertise of the industry and public are integral to the development of the proposed rule. To ensure maximum public input into the process while still meeting the legislated deadline of April 4, 1999, USDA developed a plan of action and projected time line. The plan of action developed consists of three phases: *developmental, rulemaking,* and *implementation.*

The first phase of the plan was the *developmental* phase. The use of a *developmental* phase allowed USDA to interact freely with the public to develop viable proposals that accomplish the Farm Bill mandates, as well as related reforms. The USDA met with interested parties to discuss the reform progress, assisted in developing ideas or provided data and analysis on various possibilities, issued program announcements, and requested public input on all aspects of the Federal order program. The *developmental* phase began on April 4, 1996, and concludes with the issuance of this proposed rule.

The second phase of the plan is the *rulemaking* phase. The *rulemaking* phase begins with the issuance and publication of this proposed rule. This proposed rule provides the public 60 days to submit written comments on the proposal to USDA. These comments will be reviewed and considered prior to the issuance of a final rule.

The third and final phase of the plan is the *implementation* phase. The *implementation* phase will begin after the final rule is published in the **Federal Register**. This phase will consist of informational meetings conducted by Market Administrator personnel. The objective of the informational meetings is to inform producers and handlers about the newly consolidated orders and explain the projected effects on producers and handlers in the new marketing order areas. After informational meetings have been held, referendums will be conducted. Upon approval of the consolidated orders and related reforms by the required number of producers in each marketing area, a final order implementing the new orders will be issued and published in the **Federal Register**.

Although all of the issues regarding Federal milk order reform are interrelated, USDA has established several committees to address specific issues. The use of committees has allowed the reform process to be divided into more manageable tasks. The committees will work throughout the *developmental* and *rulemaking* phases. The committees that have been established are: Price Structure, Basic Formula Price, Identical Provisions, Classification, and Regional. The Regional committee is divided into four sub-committees: Midwest, Northeast, Southeast, and West. Committee membership consists of both field and headquarters Dairy Programs personnel. The committees have been given specific assignments related to their designated issue and have been meeting since May 1996.

In addition to utilizing USDA personnel, partnerships have been established with two university consortia to provide expert analyses on the issues relating to price structure and basic formula price options. Dr. Andrew Novakovic of Cornell University led the analysis on price structure and published a staff paper entitled ''U.S. Dairy Sector Simulator: A Spatially Disaggregated Model of the U.S. Dairy Industry'' and a research bulletin entitled ''An Economic and Mathematical Description of the U.S. Dairy Sector Simulator''[3] Dr. Ronald Knutson of Texas A&M University led the analysis on basic formula price options and published two working papers entitled ''An Economic Evaluation of Basic Formula Price (BFP) Alternatives'' and ''The Modified Product Value and Fresh Milk Base Price Formulas as BFP Alternatives.''[4]

Actions Completed

USDA has maintained continual contact with the industry regarding the reform process. To begin, on May 2, 1996, the Agricultural Marketing Service (AMS) Dairy Division issued a memorandum to interested parties announcing the planned procedures for

equal to the period of time for which the injunction or other restraining order is effective.''

[2] Since this proceeding was initiated on May 2, 1996, the Black Hills, South Dakota and the Tennessee Valley orders have been terminated. Effective October 1, 1996, the operating provisions of the Black Hills were terminated (61 FR 47038), and the remaining administrative provisions were terminated effective December 31, 1996 (61 FR 67927). Effective October 1, 1997, the operating provisions of the Tennessee Valley order were terminated (62 FR 47923). The remaining administrative provisions of the Tennessee Valley order will be terminated before this consolidation process is completed.

[3] Copies of this report may be obtained by contacting Ms. Wendy Barrett, Cornell University, ARME, 348 Warren Hall, Ithaca, NY 14853–7801, (607) 255–1581.

[4] Copies of these reports may be obtained by contacting Dr. Ronald Knutson, Agricultural and Food Policy Center, Dept. of Ag. Economics, Texas A&M University, College Station, TX 77843–2124, (409) 845–5913.

implementing the Farm Bill.[5] In this memorandum, all interested parties were requested to submit ideas on reforming Federal milk orders, specifically as to the consolidation and pricing structure of orders. Input was requested by July 1, 1996.

On June 24, 1996, USDA issued a press release announcing that a public forum would be held in Madison, Wisconsin, on July 29, 1996. The forum would address price discovery techniques for the value of milk used in manufactured dairy products. Thirty-one Senators, Congressmen, university professors, representatives of processor and producer organizations, and dairy farmers made presentations at the forum.

On October 24, 1996, AMS Dairy Division issued a memorandum to interested parties requesting input regarding all aspects of Federal milk order reform and specifically as to its impact on small businesses. USDA anticipates that the consolidation of Federal orders will have an economic impact on handlers and producers affected by the program, and USDA wants to ensure that, while accomplishing their intended purpose, the newly consolidated Federal orders will not unduly inhibit the ability of small businesses to compete.

On December 3, 1996, AMS Dairy Division issued a memorandum to interested parties announcing the release of the preliminary report on Federal milk order consolidation. The report recommends the consolidation of the current 32 Federal milk orders into ten orders. (See Appendix A for report summary.) The memorandum requested input from all interested parties on the recommended consolidated orders and on any other aspect of the milk marketing order program by February 10, 1997.

On March 7, 1997, AMS Dairy Division issued a memorandum to interested parties announcing the release of three reports that addressed the Class I price structure, the classification of milk, and the identical provisions contained in a Federal milk order. The price structure report consisted of a summary report and a technical report and discussed several options for modifying the Class I price structure. (See Appendix B for report summary.) The classification report recommended the reclassification of certain dairy products, including the removal of Class III–A pricing for nonfat dry milk. (See Appendix C for report summary.) The identical provisions report recommended simplifying, modifying, and eliminating unnecessary differences in Federal order provisions. (See Appendix D for report summary.) Comments on the contents of these reports, as well as on any other aspect of the program, was requested from interested parties by June 1, 1997.

On April 18, 1997, AMS Dairy Division issued a memorandum to interested parties announcing the release of the preliminary report on Alternatives to the Basic Formula Price (BFP). The report contained suggestions, ideas, and initial findings for BFP alternatives. Over eight categories of options were identified with four options recommended for further review and discussion. (See Appendix E for report summary.) The memorandum requested input from all interested parties on a BFP alternative and on any other aspect of the milk marketing order program by June 1, 1997.

On May 20, 1997, AMS Dairy Division issued a memorandum to interested parties announcing the release of a revised preliminary report on Federal milk order consolidation. The revisions were based on the input received from interested parties in response to the initial preliminary report on order consolidation. (See Appendix F for report summary.) Instead of recommending 10 consolidated orders as in the first report, the revised report recommended 11 consolidated orders and suggested the inclusion of some currently unregulated territory. The memorandum requested comments from all interested parties on the recommended consolidated orders and on any other aspect of the milk marketing order program by June 15, 1997.

To elicit further input on the role of the National Cheese Exchange price in calculating the basic formula price, on January 29, 1997, the Secretary sissued a press release announcing steps being taken by USDA to address concerns raised by dairy producers about how milk prices are calculated. In the press release, the Secretary requested further comments from interested parties about the use of the National Cheese Exchange in the determination of the basic formula price, which is the minimum price that handlers must pay dairy farmers for milk used to manufacture Class III products (butter and cheese) and the price used to establish the Class I and Class II prices. These comments were requested by March 31, 1997, and have been useful in analyzing alternatives to the basic formula price in context of the order reform process.

Public Interaction

As a result of these announcements and the forum, more than 1,600 individual comments have been received by USDA. In addition to the individual comments, more than 3000 form letters have been received. All comments were reviewed by USDA personnel and are available for public inspection at USDA. To assist the public in accessing the comments, USDA contracted to have the comments scanned and published on a CD. The use of this technology has allowed interested parties throughout the United States access to the information received by USDA.

USDA also made all publications and requests for information available on the Internet. A separate page under the Dairy Division section of the AMS Homepage was established to provide information about the reform process. To assist in transmitting correspondence to USDA, a special electronic mail account—Milk__Order__Reform@usda.gov—was opened to receive input on Federal milk order reforms.

USDA personnel met continually with interested parties from May 1996 through the issuance of this proposed rule to gather information and ideas on the consolidation of Federal milk orders. During this time period, USDA personnel addressed over 250 groups comprised of more than 22,000 individuals on various issues related to Federal order reform.

USDA personnel also conducted in-person briefings for both the Senate and House Agricultural Committees on the progress of Federal milk order reforms. Since May 1996, seven briefings were conducted for the committees. The briefings advised the committees of the plan of action for implementing the Farm Bill mandates; explained the preliminary report on the consolidation of Federal milk orders; explained the contents of the reports addressing Class I price structure, classification of milk, identical provisions and basic formula price; and discussed the congressional report.

Public Input

To ensure the involvement of all interested parties, particularly small businesses as defined in the following Initial Regulatory Flexibility Analysis, in the process of Federal order reform, three primary methods of contact have been used: direct written notification, publication of notices through various media forms, and speaking and meeting with organizations and individuals regarding the issue of Federal order

[5] Copies of this announcement and all subsequent announcements and reports can be obtained from Dairy Programs at (202) 720–4392, any Market Administrator office, or via the Internet at http://www.ams.usda.gov/dairy/.

reforms. In addition, information has been made available to the public via the Internet. USDA also made one written program announcement specifically requesting information from small businesses.

All announcements made by USDA have been mailed to over 20,000 interested parties, State Governors, State Department of Agriculture Secretaries or Commissioners, and the national and ten regional Small Business Administration offices. In addition, most dairy producers under the orders were notified through regular market service bulletins published by Market Administrators on a monthly basis. Press releases were issued by USDA for the May 2, 1996, December 3, 1996, January 29, 1997, March 7, 1997, and May 20, 1997, announcements, and for the July 31, 1996, public forum.[6] These press releases were distributed to approximately 33 wire services and trade publications and to each State Department of Agriculture Communications Officer. These methods of notification helped to ensure that virtually all identified small businesses were contacted.

Departmental personnel, both in the field and from Washington, actively met with interested parties to gather input and to clarify and refine ideas already submitted. Formal presentations, round table discussions, and individually scheduled meetings between industry representatives and Departmental personnel were held. Over 250 organizations and more than 22,000 individuals were reached through this method. Of these individuals, approximately 13,400 were identified as small businesses.

As a result of the requests for information, publication of informational reports, meetings with interested parties, and the comments, AMS has prepared this proposed rule which contains proposals addressing the following issues: the consolidation of marketing areas; basic formula price replacement and other class price issues; Class I price structure; classification of milk; provisions applicable to all orders; regional issues relating to the Northeast, Southeast, Midwest, and Western areas; and various other miscellaneous and administrative issues. Each proposal is discussed in detail following this preliminary statement that includes Executive Order 12988 and 12866 discussions, the Regulatory Flexibility Analysis, and the Paperwork Reduction Analysis.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the 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 request modification or exemption from such order by filing 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 law. 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 the date of the entry of the ruling.

Executive Order 12866

The Department is issuing this proposed rule in conformance with Executive Order 12866. This proposed rule has been determined to be economically significant for the purposes of Executive Order 12866. When proposing a regulation which is determined to be economically significant, agencies are required, among other things, to: assess the costs and benefits of available regulatory alternatives; base regulatory decisions on the best reasonably-obtainable technical, economic, and other information; avoid duplicative regulations; and tailor regulations to impose the least burden on society consistent with obtaining regulatory objectives. Therefore, to assist in fulfilling the objectives of Executive Order 12866, the USDA prepared an initial Regulatory Impact Analysis (RIA). Information contained in the RIA pertaining to the costs and benefits of the revised regulatory structure are summarized in the following analysis. Copies of the RIA can be obtained from Dairy Programs at (202) 720–4392, any Market Administrator office, or via the Internet at http://www.ams.usda.gov/dairy.

This rule proposes the consolidation of the current 31 Federal milk marketing order areas into 11 marketing order areas. The proposed marketing areas are: Northeast, Mideast, Upper Midwest, Central, Appalachian, Southeast, Florida, Southwest, Arizona-Las Vegas, Western, and Pacific Northwest. The consolidated marketing areas consist primarily of territory that is in the current Federal order markets. In addition, they would include some previously unregulated territory. At this time, California is not proposed as a Federal order. This consolidation is proposed to comply with the 1996 Farm Bill that mandates the current Federal milk order marketing areas be consolidated into between 10 to 14 marketing areas by April 4, 1999. This proposed rule also sets forth two options for consideration as a replacement for the Class I price structure and proposes replacing the basic formula price with a multiple component pricing system. These changes are proposed to address concerns that the current system of pricing Class I milk may not adequately reflect the value of Class I milk at various locations or the value of milk used in manufacturing products. The 1996 Farm Bill identified these as related issues that may be addressed in the consolidation of milk marketing orders. The proposed rule further proposes changes to classification of milk by establishing a new Class IV which would include milk used to produce nonfat dry milk, butter, and other dry milk powders; the reclassification of eggnog and cream cheese; and other minor changes. These proposed changes should improve handler reporting and accounting procedures thereby providing for greater market efficiencies. Finally, this proposed rule expands Part 1000 to include provisions that are identical within each consolidated order to assist in simplifying the orders. These provisions include the definitions of route disposition, plant, distributing plant, supply plant, nonpool plant, handler, other source milk, fluid milk product, fluid cream product, cooperative association, and commercial food processing establishment. In addition, the milk classification section, pricing provisions, and most of the provisions relating to payments have been included in the General Provisions. These proposed changes adhere with the efforts of the National Performance Review—Regulatory Reform Initiative to simplify, modify,

[6] Copies of these press releases may be obtained from Dairy Programs at (202) 720–4392, or via the Internet at http://www.ams.usda.gov/news/newsrel.htm.

and eliminate unnecessary repetition of regulations. Unique regional issues or marketing conditions have been considered and included in each market's order provisions. Not all of these changes would be considered economically significant; however, changes dealing with marketing area consolidation, the basic formula price, and the Class I pricing structure may be significant and are described further in the following sections.

Economic Impacts of Consolidation

It is impossible to determine the economic effects of the proposed marketing area consolidation on handlers, producers and consumers without using assumptions about the specific order provisions contained in the consolidated order areas. The only effect consolidation, as a single factor, can have on the various market participants is its effect on the percentage of milk used in different classes within the proposed consolidated orders. Without assumptions that include the specific class prices and milk uses in different products, there are no means of quantifying the economic effects of consolidation.

Handlers would be affected by class prices, which would be determined by the Class I price surface option that is selected, and by the minimum prices contained in all of the orders for milk used in Classes II, III and IV. Handlers similarly located would be subject to the same minimum Class I, Class II, Class III and Class IV prices for milk. Such handlers would also be subject to the same minimum prices to be paid to producers.

Dairy farmers would be affected by the proposed consolidation of marketing areas because changes in utilization percentages would result in changes in blend prices. As in the case of effects on handlers, however, it is impossible to accurately determine a separate consolidation effect on producers, defined in monetary terms. The closest approximation to such an estimate would be the ''weighted average utilization value'' (WAUV). These ''prices'' reflect only the change in value that can be attributed to changes in utilization rates, with no assumptions about changes in the levels of the various class prices. Such estimates, of necessity, would reflect only anticipated *changes* in blend prices, using class prices that would no longer be in effect under the consolidated orders. To the extent that the WAUV computations reflect some of the effect of the effect of consolidation on producer prices, they are included in this analysis. It should be noted, however, that all producers in any given current area would be affected to an equal extent by the consolidation factor.

The following table shows the potential impact of three order consolidation options on producers who supply each of the current Federal milk marketing order areas via WAUV ''prices''. The three consolidated options are (1) the consolidated marketing areas suggested in the December 1996 initial Preliminary Report on Order Consolidation; (2) the consolidated marketing areas suggested in the May 1997 Revised Preliminary Report on Order Consolidation; and (3) the consolidated marketing areas suggested in this proposed rule.

WEIGHTED AVERAGE UTILIZATION VALUES (WAUV)

[Based on October 1995 information]

Consolidated Market / Current Markets	Marketing areas in Initial Consol. Report (Dec. 96) (Option 1)		Marketing Areas in Revised Consol. Report (May 97) (Option 2)		Marketing Areas in Proposed Rule (Option 3)	
	Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)	
	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)
Northeast	.....	$13.46	.....	$13.48	.....	$13.47
New England (F.O. 1)	$13.50	13.48	$13.52	13.51	$13.52	13.49
NY-NJ (F.O. 2)	13.44	13.48	13.48	13.50	13.45	13.48
Middle Atlantic (F.O. 4)	13.45	13.39	13.45	13.41	13.44	13.40
Appalachian	.....	14.13	.....	13.96	.....	13.97
Carolina (F.O. 5)	14.23	14.21	14.23	14.19	14.23	14.20
Tenn. Valley (F.O. 11)	13.92	13.95	13.92	13.93	13.92	13.94
Lville-Lex-Evan (F.O. 46)	n/a	n/a	13.35	13.39	13.35	13.40
Florida	.....	15.05	.....	15.05	.....	15.05
Upper Florida (F.O. 6)	14.67	14.78	14.67	14.78	14.67	14.78
Tampa Bay (F.O. 12)	15.09	15.04	15.09	15.04	15.09	1504
SE Florida (F.O. 13)	15.42	15.31	15.42	15.31	15.42	15.31
Southeast	.....	14.26	.....	14.25	.....	14.24
Southeast (F.O. 7)	14.26	14.26	14.25	14.25	14.24	14.27
Mideast	.....	12.96	.....	12.94	.....	12.92
Ohio Valley (F.O. 33)	12.99	13.02	12.99	13.01	12.99	13.00
E. Ohio-W. PA (F.O. 36)	13.07	13.00	13.10	12.99	13.07	12.97
S. Michigan (F.O. 40)	12.75	12.86	12.75	12.84	12.75	12.83
MI Upper Penin. (F.O. 44)	12.81	12.62	12.81	12.62	12.81	12.61
Lville-Lex-Evan (F.O. 46)	13.35	13.06	n/a	n/a	n/a	n/a
Indiana (F.O. 49)	12.97	12.94	12.97	12.93	12.97	12.92
Upper Midwest	.....	12.60	.....	12.62	.....	12.60
Chicago Reg. (F.O. 30)	12.62	12.62	12.62	12.61	12.62	12.62
MI Upper Penin. (F.O. 44)	R	R	R	R	R	R
Neb.-W. Iowa (F.O. 65)	n/a	n/a	12.63	12.74	n/a	n/a
Upper Midwest (F.O. 68)	12.55	12.56	12.55	12.54	12.55	12.56
E. South Dakota (F.O. 76)	n/a	n/a	12.81	12.65	n/a	n/a
Iowa (F.O. 79)	n/a	n/a	12.69	12.67	n/a	n/a

WEIGHTED AVERAGE UTILIZATION VALUES (WAUV)—Continued

[Based on October 1995 information]

Consolidated Market / Current Markets	Marketing areas in Initial Consol. Report (Dec. 96) (Option 1)		Marketing Areas in Revised Consol. Report (May 97) (Option 2)		Marketing Areas in Proposed Rule (Option 3)	
	Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)	
	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)
Central	.....	13.16	.....	13.21	.....	12.95
S. IL-E. MO (F.O. 32)	12.93	12.90	13.00	12.95	13.00	12.88
Central IL (F.O. 50)	13.03	12.74	13.03	12.78	13.03	12.72
Greater K. City (F.O. 64)	13.22	12.90	13.22	12.95	13.22	12.88
Neb.-W. Iowa (F.O. 65)	12.63	12.81	n/a	n/a	12.63	12.79
E. South Dakota (F.O. 76)	12.81	12.68	n/a	n/a	12.81	12.67
Iowa (F.O. 79)	12.71	12.71	n/a	n/a	12.71	12.70
SW Plains (F.O. 106)	13.31	13.33	13.31	13.41	13.08	13.29
E. Colorado (F.O. 137)	13.27	13.31	13.27	13.38	13.27	13.27
Southwest	.....	13.36	.....	13.39	.....	13.39
Texas (F.O. 126)	13.49	13.48	13.49	13.46	13.49	13.46
Central AZ (F.O. 131)	13.26	13.17	n/a	n/a	n/a	n/a
NM-W. Texas (F.O. 138)	13.00	13.09	13.00	13.07	13.00	13.07
Arizona-Las Vegas	.....	n/a	.....	13.26	.....	13.26
Central AZ (F.O. 131)	n/a	n/a	13.26	13.29	13.26	13.29
Western	.....	12.79	.....	12.78	.....	12.78
W. Colorado (F.O. 134)	13.41	12.84	13.41	12.82	13.41	12.82
SW ID-E. OR (F.O. 135)	12.63	12.68	12.63	12.68	12.63	12.68
Great Basin (F.O. 139)	12.83	12.81	12.81	12.79	12.81	12.79
Pacific Northwest	.....	12.45	.....	12.44	.....	12.44
Pacific NW (F.O. 124)	12.45	12.45	12.44	12.44	12.44	12.44

n/a: Not applicable
R: Restricted

For each option, a weighted average use value (WAUV) is computed for (a) the consolidated order; (b) the current order with current use of milk; and (c) the current order with projected use of milk in the consolidated order. The difference between the weighted average use values in (b) and (c) represents the potential impact on producers.

For example, in this proposed rule, the New England (F.O. 1) market's WAUV using its current utilization is $13.52 per cwt. When the three markets are consolidated and the new consolidated utilization is used to calculate the WAUV, New England's WAUV would be $13.49 per cwt. In this comparison, the potential impact on producers supplying the New England market area would be a decrease of three cents per cwt.

Each of the three options assumes the pool distributing plant standards suggested for each of the consolidated orders in this proposed rule; thus the calculated values in the preceding table are not directly comparable to the WAUV values published with either the initial or the revised reports on order consolidation.

Economic Impact of Basic Formula Price Proposal

A number of options for determining a basic formula price were considered and analyzed in the process of developing the proposed basic formula price (BFP). In addition to the proposed method of pricing components based on their value in manufactured products, other options examined by both the Agricultural Marketing Service's *Basic Formula Price Replacement Committee* [7] and the *University Study Committee* (USC), led by Dr. Ronald D. Knutson of Texas A & M University, were: economic formulas, futures markets, cost of production, competitive pay pricing, and pricing differentials only.

Descriptions of the two Committees' analyses, and results of their work are included in ''A Preliminary Report on Alternatives to the Basic Formula Price,'' published in April 1997 by the Basic Formula Price Committee, Dairy Division, AMS; [8] and the following reports from the Agricultural and Food Policy Center, Texas A&M University System:

''An Economic Evaluation of Basic Formula Price (BFP) Alternatives,'' AFPC Working Paper 97–2, June 1997.

''Evaluation of Final Four Basic Formula Price Options,'' AFPC Working Paper 97–9, August 1997.[9]

The primary criterion used by the BFP Committee was that any replacement BFP option reflect the supply of and demand for milk used in manufactured dairy products. At the same time, one of the USC's critical criteria for a replacement BFP was that it reliably reflect market conditions for all manufactured products.

In trying to determine the most appropriate replacement for the current BFP, which uses a survey of prices paid by manufacturing plants for non-Grade A milk updated by a product price

[7] The Basic Formula Price Committee was established in May 1996 to consider replacements for the basic formula price during the Federal order reform process. This committee and others established are described further in the ''Background'' portion of this proposed rule.

[8] Copies of this report can be obtained from Dairy Programs at (202) 720–4392, any Market Administrator office, or via the Internet at http://www.ams.usda.gov/dairy/.

[9] Copies of these reports may be obtained by contacting Dr. Ronald Knutson, Agricultural and Food Policy Center, Dept. of Ag. Economics, Texas A&M University, College Station, TX 77843–2124, or (409) 845–5913.

formula, the goal of both groups was a market-based alternative. The BFP Committee measured the extent to which each pricing option met its primary goal by tracking the options against the current BFP for a period of prior months.[10] The USC Committee used an econometric procedure to test the ability of the alternatives they considered to reflect supply and demand.

To the extent the goal of identifying a BFP that reflects the value of milk used in manufactured products is capable of attainment, all market participants—handlers, producers, and consumers—would be affected by the BFP replacement in the same manner as if they were operating in a free market, with no external impacts caused by regulation. Consumers can be assured that the prices generally charged for dairy products are prices that reflect, as closely as possible, the forces of supply and demand in the market.

Of the options considered and analyzed, both groups studying the issue determined that the option of pricing components of milk according to their value in manufactured products, as reflected by the sales prices of those products, best approximates the intersection of supply and demand for milk used in manufactured dairy products.

Economic Impact of Multiple Component Pricing Provisions

Seven of the 11 proposed orders provide for milk to be paid for on the basis of its components (multiple component pricing, or MCP). Five of the 7 MCP orders also provide for milk values to be adjusted according to the somatic cell count of producer milk. The equipment needed for testing milk for its component content can be very expensive to purchase, and requires highly-skilled personnel to maintain and operate. The cost of infra-red analyzers ranges from just under $100,000 to $200,000. The infra-red machines that are used by most laboratories will test for total solids and somatic cells at the same time the butterfat and protein tests are done.

Some additional information is necessary from handlers on their monthly reports of receipts and utilization to assure that producers are paid correctly. In particular, handlers would be required to report pounds of protein, pounds of other solids, and, in 5 of the orders, somatic cell information. This data would be required from each handler for all producer receipts, including milk diverted by the handler, receipts from cooperatives as handlers pursuant to § 1000.9(c), and, in some cases, receipts of bulk milk received by transfer or diversion.

Since producers would be receiving payments based on the component levels of their milk, the payroll reports that handlers supply to producers must reflect the basis for such payment. Therefore, the handler would be required to supply the producer not only with the information currently supplied, but also: (a) the pounds of butterfat, the pounds of protein, and the pounds of other solids contained in the producer's milk, as well as the producer's average somatic cell count; and (b) the minimum rates that are required for payment for each pricing factor and, if a different rate is paid, the effective rate also. It should be noted that handlers already are required to report information relative to pounds of production, butterfat, and rates of payment for butterfat and hundredweight of milk.

Of over 74,000 producers whose milk was pooled in December 1996 under 23 orders that would be part of consolidated orders providing for multiple component pricing, the milk of 52,500 of these producers was pooled under 13 orders that currently have MCP. Handlers in these markets already have incurred the initial costs of testing milk for its component content and have already made the needed transition to reporting the additional information required for component pricing of milk.

Of the remaining 21,750 producers who would be affected by MCP provisions under a Federal order, the milk of approximately 13,000 of these producers currently is received by handlers who test or have the capability of testing for multiple components and, in many cases, somatic cells. Many of these handlers also report component results to the producers with their payments. Almost all of the producers whose milk currently is not being tested or paid for on the basis of components are located in the New England and New York-New Jersey marketing areas, which would be consolidated with the Middle Atlantic area into the proposed Northeast order.

Accommodation has been made to ameliorate handlers' expenses of testing producer milk for component content. As component pricing plans have been adopted under a number of the present Federal milk orders since 1988, the component testing needed to implement these pricing plans has been performed by the market administrators responsible for the administration of the orders involved for handlers who are not equipped to make all of the determinations required under the amended orders. This policy would continue under this proposed rule. Thus, handlers who are unable to obtain the equipment and personnel needed to accomplish the required testing for component pricing would be able to rely on the market administrators to verify or establish the tests under which producers are paid.

Economic Impacts of Class I Price Changes

Several different options were considered for pricing fluid or Class I milk. These pricing options included using a market-driven basic formula price plus differentials based on location, differentials based on the ratio of milk used for fluid purposes compared to all other uses, flat differentials, flat differentials modified in high Class I use areas, and differentials based on the demand for fluid milk within a designated marketing area and the associated transportation costs. Other options considered would have decoupled Class I pricing from the basic formula price or pooled Class I differentials only (i.e., eliminated the basic formula price entirely). Finally, suggestions were considered to base Class I pricing on the cost of production and to base differentials on only regional supply and demand conditions. After analyzing these options and more than 1400 letters that were submitted from interested persons, the Department narrowed the pricing options to four and conducted extensive quantitative and qualitative analysis on them. The four options selected include location-specific differentials, relative value-specific differentials, and decoupled Class I prices with adjustors. Although four Class I price structure options are analyzed in the RIA, only two options are considered as viable replacements for the current Class I price structure in the proposed rule. However, comments are requested on all options prior to determining which option should be adopted.

Three of the four pricing options in the RIA assume that milk would be classified in the four classes of use detailed in the proposed rule. One option in the RIA has only two classes of milk and thus is not detailed in the proposed rule. For purposes of the RIA analysis, Class IV milk is priced using the proposed butter-nonfat dry milk product formula, but since the product prices proposed for use in the formula are not presently available, the Chicago Mercantile Exchange spot price for

[10] It was assumed that the current BFP successfully reflects the supply and demand for milk used in manufactured products.

butter and the average nonfat dry milk wholesale price reported by USDA's Dairy Market News for the Western States are substituted. Also, Class III milk is priced using the proposed cheese product formula, and the Class II milk price for the month is equal to the Class IV price for the month plus 70 cents per hundredweight (cwt).

The initial RIA assesses costs and benefits for dairy farmers, fluid milk processors, dairy product manufacturers, and consumers. The impact of each of the four Class I pricing options is measured as a change from a baseline. The model baseline was adapted from the USDA dairy baseline estimate published as part of the President's Budget for Fiscal Year 1998.[11] That baseline, which is a national annual projection of the supply-demand-price situation for milk and dairy products, was the basis for the market-by-market baseline of the model. Both the President's Budget Baseline and the model baseline assume the same program assumptions: namely, that the price support program will be phased out by December 31, 1999, that the Dairy Export Incentive Program will continued to be utilized, and that the Federal Milk Order Program will be continued at the same level of class prices currently in existence. Assumptions also are made concerning the cost of production—especially feed, the commercial utilization of milk and dairy products, commercial inventories, and imports. All parameters, except those associated with the changes in the Federal Milk Order Program, are assumed to remain unchanged.

To evaluate the impacts on dairy farmers, fluid milk processors, and dairy product manufacturers of the four selected Class I pricing options, a baseline estimate was constructed assuming that the current 32 orders [12] would continue through the study period, 1999–2004. To make comparisons, proposed pricing points for the proposed 11 consolidated orders were identified to correspond with the base pricing zones of the 32 current marketing orders. For example, for the consolidated Appalachian Region order, which would have the city of Charlotte as its base pricing point, prices also were identified for Knoxville and Louisville. These 3 pricing points correspond with the base pricing points of the 3 markets that are to be combined into the Appalachian regional order.

Location-Specific Differentials (Option 1A) Analysis

This option would establish a nationally coordinated system of location-specific Class I price differentials reflecting the relative economic value of milk by location. An important feature of the option is that it would also include location adjustments that geographically align minimum Class I milk prices paid by fluid milk processors nationwide regardless of defined milk marketing area boundaries or order pooling provisions. It is based on the economic efficiency rationale presented in Cornell University research on the U.S. dairy sector.[13] A basic premise of this option is that the value of milk varies according to location across the United States. The concepts of spatial price value and relative price relationships together with marketing data and expert knowledge of local conditions and marketing practices and a review of supply and demand conditions are used to develop a national Class I price structure.

Overall, the magnitude of changes in price and income under this option compared to the baseline are small. The all-milk price for all Federal order markets combined during the 1999–2004 period is estimated to average 5 cents per cwt higher. For all of the U.S. the all-milk price is estimated to average 3 cents higher. The average all-milk price at the basing point of 18 current markets could experience increases of 1 to 29 cents per cwt. At the basing point of the 13 markets, the average all-milk price could decrease from 3 to 83 cents per cwt.

The 5 markets with the greatest increases in all-milk prices were Eastern Colorado ($0.29), New York-New Jersey ($0.28), Tampa Bay ($0.26), Southwest Plains ($0.25), and Upper Florida ($0.24). The market with the greatest reduction in price was Western Colorado (−$0.83), Central Illinois (−$0.66), Greater Kansas City (−$0.53), Eastern South Dakota (−$0.51), and Southern Illinois-Eastern Missouri (−$0.34). The annual average all-milk price in the previously-unregulated areas of New York and New England declined $0.87 per cwt.

Changes in gross cash receipts, as expected, moved in the same direction as the change in the all-milk price in a given market. Over the period 1999–2004, location-specific differentials raised gross receipts in 18 markets. It appears that the estimated average annual receipts for producers in the current New York-New Jersey market increased by $37.2 million. However, most of this increase was the result of adding to the all-milk price the current $0.15 reduction on all milk marketings for transportation. It is expected that this apparent increase in the all-milk price and dairy farmer income would be offset by a like amount by increased transportation costs paid by the producer. The markets with the greatest estimated increase in gross receipts for milk marketing were Southwest Plains ($11.8 million), Chicago Regional ($10.9 million), Southern Michigan ($10.7 million), New England ($7.4 million), and Eastern Colorado ($7.2 million). Gross receipts in the current Chicago Regional and Upper Midwest markets may have been expected to increase more since this option increased the Class I differentials at those points substantially. However, this option also envisions the expansion of transportation credits within the merged order to move milk which is expected to use 20 percent of the dollars generated by the higher Class I differentials. Over-order charges which currently fund transportation credits are expected to be reduced by a like amount.

The largest estimated decreases in cash receipts occur in the Southern Illinois-Eastern Missouri (−$8.5 million), Great Basin (−$4.1 million), Middle Atlantic (−$2.9 million), Texas (−$2.5 million), and Greater Kansas City (−$2.5 million) markets. Nine other current markets would lose average annual gross cash receipts during the period 1999–2004 of less than $2.0 million each. The previously unregulated areas of New York and New England would lose an estimated average of $16.9 million in annual gross receipts from milk marketings. Under location-specific differentials the estimated average annual gross receipts for all Federal order markets combined increased by $68.1 million and the entire US increased $53.1 million compared to the baseline for the 1999–2004 period.

Fluid processors in 21 of the 32 Federal order market areas face increased Class I differentials if this

[11] See *Agricultural Baseline Projections to 2005, Reflecting the 1996 Farm Act*, Interagency Agricultural Projections Committee, U.S. Department of Agriculture, Office of the Chief Economist, World Agricultural Outlook Board, Staff Report, WAOB–97–1 and ''Budget of the United States Government, Fiscal Year 1998.''

[12] The following analyses were completed prior to the termination of the Tennessee Valley marketing order and thus the results identify it as a pricing point. Most of the plants and milk of the former Tennessee Valley market have become regulated under either the Southeast order or the Carolina order.

[13] Bishop, Phillip, James Pratt, Eric Erba, Andrew Novakovic, and Mark Stephenson, An Economic and Mathematical Description of the U.S. Dairy Sector Simulator, Research Bulletin 97–09, A Publication of the Cornell Program on Dairy Markets and Policy, Department of Agricultural, Resource, and Managerial Economics, Cornell University, July 1997.

option were adopted compared with Class I differentials under the baseline. Fluid processors in four of the Federal order markets and in the previously-unregulated areas of New York and New England would see no changes in Class I differentials. Fluid processors in the remaining seven Federal order markets would see decreases in Class I differentials compared with the baseline. The increases in differentials ranged from $0.01 per cwt in the New England and New York-New Jersey markets to $0.50 per cwt in the Upper Midwest. Decreases in Class I differentials would range from $0.03 per cwt in the Middle Atlantic to $0.25 per cwt in New Mexico-West Texas. Those fluid processors facing higher Class I differentials would see their monthly obligations to the markets' producer-settlement funds increase while those facing lower Class I differentials would see their obligations decrease.

With virtually no change in the amount of milk available for manufacturing, manufacturers of dairy products would face nearly the same supply and demand conditions that they now face when buying milk or selling dairy products. Manufacturers in the Southwest, where milk marketings are expected to decline, may have less milk to process while manufacturers in the Upper Midwest may find that they have slightly more milk for manufacturing.

Relative Value-Specific Differentials (Option 1B) Analysis

Like a location-specific differential structure, a relative value-specific differential structure would also establish a nationally coordinated system of Class I price differentials and adjustments that recognizes several low pricing areas. Option 1B relies on a least cost optimal solution from the USDSS model to develop a Class I price structure that is based on the most efficient assembly and shipment of milk and dairy products to meet all market demands for milk and its products. Option 1B relies more on the market and the negotiating ability of processors and producers to generate higher prices when needed to provide the necessary incentive to move milk in order to satisfy demand.

Three methods of phasing into the Class I differentials under Option 1B were evaluated. First, a 20-percent gradual phase-in was analyzed; then, a transitional phase-in that would offset any lost revenue was analyzed; and finally, a revenue-enhancement phase-in that would add additional revenue into the Class I price structure was analyzed.

Phase-in Method 1

With the gradual phase-in, the estimated all-milk price for all Federal order markets combined during the 1999–2004 period could average 8 cents per cwt lower than the baseline. The estimated average all-milk price at the basing point of 11 Federal order markets could increase from 1 to 32 cents per cwt. At the basing point of the other 21 Federal order markets, the all-milk price is estimated to decrease from 1 to 58 cents per cwt.

The 5 markets with the greatest estimated increases in average all-milk prices, for the 1999–2004 period are: New Mexico-West Texas ($0.32), Chicago Regional ($0.19), Tampa Bay ($0.19), Nebraska-Western Iowa ($0.17), and Southwest Idaho-Eastern Oregon ($0.15). The 5 Federal order markets with the greatest estimated reductions in price are: Eastern South Dakota (−$0.58), Michigan Upper Peninsula (−$0.55), Western Colorado (−$0.55), Greater Kansas City (−$0.53), and Carolina (−$0.46). The annual average all-milk price in the previously unregulated areas of New York and the New England states is estimated to decline by $0.96 per cwt compared to the baseline.

Over the period 1999–2004, 1B differentials could lower producer gross cash receipts from minimum order prices in 21 of the Federal order markets. The five current markets that would have the greatest decreases were: Texas (−$36.8 million), Middle Atlantic (−$26.2 million), Upper Midwest (−$15.9 million), Carolina (−$15.2 million), and Southeast (−$12.5 million). The annual average reduction in estimated gross receipts in the previously unregulated areas of New York and the New England states is estimated at $18.5 million from the baseline. Estimated gross receipts increased in 11 markets. The five markets that would have the greatest increases in gross receipts were: Chicago Regional ($31.5 million), New Mexico-West Texas ($9.1 million), Southern Michigan ($6.6 million), Southwestern Idaho-Eastern Oregon ($5.8 million), and New York-New Jersey ($5.3 million).

Phase-in Method 2

A possible modification to the relative value-specific differentials would be to initially raise Class I differentials by 55 cents per cwt above the level called for in the first year of transition. During the second year, Class I differentials would be set at 35 cents above the transition level; the third year, 20 cents above; and the fourth year, 10 cents above the called-for transition differentials. At the beginning of the fifth year, Class I differentials would be fully phased in and no assistance provided.

Under this phase-in method, the estimated all-milk price for all Federal order markets combined during the 1999–2004 period could average 4 cents per cwt lower than the baseline. The estimated average all-milk price at the basing point of 12 Federal order markets could increase from 3 to 36 cents per cwt. At the basing point of 20 Federal order markets, the all-milk price is estimated to decrease from 2 to 53 cents per cwt from the baseline.

The five markets with the greatest estimated increases in average all-milk prices, per cwt, for the 1999–2004 period are: New Mexico-West Texas ($0.36), Tampa Bay ($0.32), Nebraska-Western Iowa ($0.22), Upper Florida ($0.20), and Chicago Regional ($0.23). The five markets with the greatest estimated reductions in price are: Eastern South Dakota (−$0.53), Western Colorado (−$0.52), Michigan Upper Peninsula (−$0.49), Greater Kansas City (−$0.48), and Texas (−$0.34). The annual average all-milk price in the previously unregulated areas of New York and the New England states is estimated to decline by $0.93 per cwt compared to the baseline.

Over the period 1999–2004, this phase-in option would lower estimated producer gross cash receipts attributable to minimum order prices in 19 of the Federal order markets. The 5 markets with the greatest estimated decreases were Texas (−$32.6 million), Middle Atlantic (−$22.8 million), Upper Midwest (−$13.9 million), Carolina (−$10.7 million), and Arizona-Las Vegas (−$7.6 million). The annual average reduction in estimated gross receipts in the previously unregulated areas of New York and the New England states is $17.8 million lower than the baseline. Gross receipts from milk marketings could increase in the following markets: Chicago Regional ($34.4 million), New York-New Jersey ($11.7 million), Southern Michigan ($10.4 million), New Mexico-West Texas ($10.4 million), and Tampa Bay ($7.0 million). Total estimated cash receipts for the combined current Federal orders would average $40 million less for the 6-year period.

Phase-in Method 3

Another phase-in option would enhance prices during the transition period by $1.10 for first year phase-in differentials, $0.70 in the second year, $.40 in the third year, and $.20 in the fourth year. The additional price enhancement provided to dairy farmers

under this method is intended to help producers make the necessary investments and other changes to compete in a more market-oriented economy. At the beginning of the fifth year, Class I differentials would be fully phased in at the Option 1B levels.

With the use of additional revenue under this phase-in option, the estimated all-milk price for all Federal order markets combined during the 1999–2004 period could be expected to be unchanged from the baseline. The estimated average all-milk price at the basing point of 15 Federal order markets would increase from 1 to 43 cents per cwt. At the basing point of the other 17 Federal order markets, the all-milk price is estimated to decrease from 3 to 52 cents per cwt.

The five markets with the greatest estimated increases in average all-milk prices, per cwt, for the 1999–2004 period were: Tampa Bay ($0.43) New Mexico-West Texas ($0.41), Upper Florida ($0.32), Nebraska-Western Iowa ($0.26), and South Eastern Florida ($0.26). The five markets with the greatest estimated reductions in price were: Western Colorado (−$0.52), Eastern South Dakota (−$0.49), Greater Kansas City (−$0.44), Michigan Upper Peninsula (−$0.43), and Texas (−$0.33). The annual average all-milk price in the previously unregulated areas of New York and the New England states is estimated to decline by $0.88 per cwt compared to the baseline. Total estimated cash receipts for the combined current Federal order markets would average $34.9 million higher for the 6-year period.

Over the period 1999–2004, this phase-in option could lower estimated producer gross cash receipts from milk marketings in 16 of the current markets. The five current markets with the greatest decreases were: Texas (−$28.2 million), Middle Atlantic (−$19.0 million), Upper Midwest (−$14.6 million), Carolina (−$6.5 million) and Arizona-Las Vegas (−$6.0 million). The annual average reduction in estimated gross receipts in the previously unregulated areas of New York and the New England states is estimated at $16.9 million from the baseline. Gross receipts from milk marketings increased in 16 markets. The five markets that would have the greatest increases were: Chicago Regional ($33.5 million), New York-New Jersey ($19.0 million), Southern Michigan ($14.4 million), New Mexico-West Texas ($11.7 million), and Tampa Bay ($9.8 million).

Decoupled Baseline Class I Price with Adjustors (Option 5) Analysis

A third option analyzed in the RIA would retain the current Class I differentials, but floor Class I prices in all markets at their 1996 average levels. Adjustments to this price would be made based on changes in fluid use rates and short term costs of production (i.e., feed costs). Under this option, the all-milk price for all Federal order markets combined would increase $0.07 per cwt and the U.S. is projected to increase $0.03 per cwt over the 6-year period. In 19 of the Federal order markets, the average all-milk price would be higher by $0.01 to $0.50 per cwt. In 12 Federal order markets, the average all-milk price would decrease from $0.03 to $0.82 per cwt.

Flooring the Class I prices at the average 1996 levels would result in higher Class I prices in all markets in 1999 and 2000 and higher all-milk prices in most markets when compared to the baseline. These increased incentives for milk production would result in greater volumes of milk for manufacturing and lower manufacturing prices.

Location-Specific Differentials (Option 6) Analysis

This option would establish minimum prices for milk used in Class I by adding market-specific Class I differentials to the proposed Class II price. Class II would contain all manufactured products and would be priced by a cheese product price formula using the National Agricultural Statistical Service surveyed 40-pound cheddar cheese price times 9.87 plus the Chicago Mercantile Exchange Grade A butter price times 0.238 less $1.80. The Class I differentials in this option would be phased in over a five-year period.

In general, the Class I differentials in the central section of the country would be reduced while those in the Northwest, New England and Florida are increased. After the proposed price surface is fully phased in, 20 markets would have Class I differentials that are reduced and 10 markets would have increases.

Under this option, the all-milk price for all Federal order markets combined would decline $0.10 per cwt over the six year period. In 23 of the Federal order markets, the average all-milk price would decline by less than $0.01 to $0.95 per cwt. In 9 orders, the all-milk price would increase $0.02 to $0.19 per cwt.

Gross cash receipts from milk marketings in the combined Federal orders would average $148.8 million less than the baseline for the 6-year period. Cash receipts would be lower in 23 markets and higher in 9 markets. Because of this decline in cash receipts and since it is inconsistent with the four-class system contained in the proposed rule, this Class I price option is not detailed in the Class I price structure section of the proposed rule. This two-class pricing system was found to be insufficient to recognize the different use-values of milk for reasons set forth in the Basic Formula Replacement and Classification portions of this proposed rule.

Other Impacts of Pricing Options

The potential impacts of the options analyzed in the initial RIA on retail prices, and thus consumers, is less certain than the impacts on other sectors of the dairy industry. In general, changes in farm milk prices and wholesale prices are passed onto consumers. However, the timing and the degree of these pass-throughs is uncertain. It is assumed that all changes in farm milk prices (fluid processor costs) and the wholesale costs of manufactured products would be passed on to the retail level without any changes in the farm-processor-retail or farm-wholesale-retail margins.

Because of the bulky and perishable nature of packaged fluid milk, all international trading of dairy products, with the exception of limited exports of fluid milk to Mexico, is in manufactured products. An appendix table in the initial RIA details USDA's baseline estimates of international and domestic prices for butter and nonfat dry milk.

Neither location-specific differentials nor relative value-specific differentials are expected to have a significant impact on domestic, wholesale dairy product prices and therefore little effect on international trade of manufactured dairy products.

Economic Impacts of Classification Changes

The classification of milk recommendations should not have a significant economic impact on any dairy industry participants. This proposed rule provides uniform milk classification provisions for the newly consolidated milk orders. The recommendations should improve reporting and accounting procedures for handlers and provide for greater market efficiencies.

Most of the changes regarding milk classification provisions proposed for the newly consolidated orders would simplify order language and remove obsolete language.

This proposed rule contains a modified fluid milk product definition and recommends that certain products be reclassified. The revised fluid milk product definition proposed for the new orders should provide more consistency in determining the classification of products. The inclusion of eggnog to the list of fluid milk products and the reclassification of cream cheese from Class III to Class II will cause a nominal increase in the cost of the finished product. However, these changes, which will be applicable to all handlers regulated under the new orders, should not have a significant impact on the retail price of these products. Although producers will benefit from these products being reclassified into higher utilization classes, the impact of the product classification changes on the blend price to producers will be marginal.

Another modification includes the reclassification of butter and whole milk powder from Class III to Class IV. This change merely places these market-clearing products in the new Class IV with nonfat dry milk. The change promotes market efficiency and should have a minimal impact on producers' blend prices.

One recommendation with possible economic implications concerns the treatment of milk used to produce bulk sweetened condensed milk/skim milk. Some commenters argued that the wide price difference that sometimes exists between the Class II price and the Class III–A price has put manufacturers of sweetened condensed milk at a competitive disadvantage with manufacturers of nonfat dry milk, which can be substituted for bulk sweetened condensed milk and skim milk in some higher-valued products.

Although this proposed rule does not recommend a reclassification for milk used in bulk sweetened condensed milk, it does propose a change in the relationship between the Class II and IV prices which should eliminate the price disparity that now, at times, exists. As discussed in the ''Class III and Class III–A (i.e., Class IV) Milk'' section of this proposed rule, the proposed new Class II price will be equal to the Class IV price plus a 70-cent differential. The coupling of the Class II and Class IV prices will largely remove the incentive to substitute nonfat dry milk for bulk sweetened condensed milk.

The recommendations regarding shrinkage provisions should provide equity among handlers, improve market efficiencies, and facilitate accounting procedures. This proposed rule provides that shrinkage be assigned pro rata based on a handler's utilization. As discussed in the ''Shrinkage and Overage'' section of this proposed rule, this modification should result in a slight increase (i.e., one cent per cwt.) in the blend price paid to producers.

For the reasons stated above, the milk classification provisions proposed herein should have little economic impact on dairy industry participants.

The Regulatory Flexibility Act and the Effects on Small Businesses

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) has considered the economic impact of the proposed rule on small entities and has prepared this initial regulatory flexibility analysis. The RFA provides that when preparing such analysis an agency shall address: the reasons, objectives, and legal basis for the proposed rule; the kind and number of small entities which would be affected; the projected recordkeeping, reporting, and other requirements; and federal rules which may duplicate, overlap, or conflict with the proposed rule. Finally, any significant alternatives to the proposal should be addressed. This initial regulatory flexibility analysis considers these points and the impact of this proposed regulation on small entities, and evaluates alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the dairy industry.

This regulatory action is being considered in accordance with Section 143 of the Federal Agriculture Improvement and Reform Act of 1996, 7 U.S.C. 7253, (the Farm Bill) which requires the Secretary of Agriculture (Secretary) to consolidate the existing 31 Federal milk marketing orders, as authorized by the Agricultural Marketing Agreement Act of 1937, into between 10 and 14 orders. The Secretary is also directed to designate the State of California as a Federal milk order if California dairy producers petition for and approve such an order. Finally, the Farm Bill specifies that the Department of Agriculture use informal rulemaking to implement these reforms. The Farm Bill requires that a proposed rule be published by April 4, 998, and all reforms of the Federal milk order program be completed by April 4, 1999.

In addition to these required mandates, the Farm Bill provides that the Secretary may address related issues such as the use of utilization rates and multiple basing points for the pricing of fluid milk and the use of uniform multiple component pricing when developing one or more basic formula prices for manufacturing milk. This proposed rule also sets forth two options for consideration as a replacement for the Class I price structure and proposes replacing the basic formula price with a multiple component pricing system. These changes are proposed to address concerns that the current system of pricing Class I milk may not adequately reflect the value of Class I milk at various locations or the value of milk used in manufacturing products. The 1996 Farm Bill identified these as related issues that may be addressed in the consolidation of milk marketing orders. The proposed rule further proposes changes to classification of milk by establishing a new Class IV which would include milk used to produce nonfat dry milk, butter, and other dry milk powders; the reclassification of eggnog and cream cheese; and other minor changes. These proposed changes should improve handler reporting and accounting procedures thereby providing for greater market efficiencies. Finally, this proposed rule expands Part 1000 to include provisions that are identical within each consolidated order to assist in simplifying the orders. These provisions include the definitions of route disposition, plant, distributing plant, supply plant, nonpool plant, handler, other source milk, fluid milk product, fluid cream product, cooperative association, and commercial food processing establishment. In addition, the milk classification section, pricing provisions, and most of the provisions relating to payments have been included in the General Provisions. These proposed changes adhere with the efforts of the National Performance Review—Regulatory Reform Initiative to simplify, modify, and eliminate unnecessary repetition of regulations. Unique regional issues or marketing conditions have been considered and included in each market's order provisions.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to the actions in order that small businesses would not be unduly or disproportionately burdened. To accomplish this purpose, it first is necessary to define a small business. According to the Small Business Administration's definition of a ''small business,'' a dairy farm is a ''small business'' if it has an annual gross revenue of less than $500,00 and a handler is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy

farms are ''small businesses,'' the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees. During the process of developing this proposed rule, USDA identified approximately 80,000 of the 83,000 dairy producers (farmers) that have their milk pooled under a Federal order as small businesses. Thus, small businesses represent approximately 96 percent of the producers in the United States. On the processing side, there are over 1,200 plants associated with Federal orders, and of these plants, approximately 700 qualify as ''small businesses'' representing about 55 percent of the total.

During August 1997, there were 524 fully regulated handlers (343 distributing and 181 supply plants), 134 partially regulated handlers and 111 producer-handlers submitting reports under the Federal milk marketing order program. During 1996, 83,012 dairy farmers delivered over 104.5 billion pounds of milk to handlers regulated under the milk orders. This volume represents 69 percent of all milk marketed in the U.S. and 72 percent of the milk of bottling quality (Grade A) sold in the country. The value of the milk delivered to Federal milk order handlers at minimum order blend prices was nearly $14.6 billion. Producer deliveries of milk used in Class I products (mainly fluid milk products) totaled 45.5 billion pounds—43.5 percent of total Federal order producer deliveries. More than 200 million Americans reside in Federal order marketing areas—77 percent of the total U.S. population.

The Federal milk order program is designed to set forth the terms of trade between buyers and sellers of fluid milk. A Federal order enforces the minimum price that processors (handlers) in a given marketing area must pay producers or farmers for milk according to how it is utilized. A Federal order further requires that the payments for milk be pooled and paid to individual dairy farmers or cooperative associations on the basis of a uniform or average price. It is important to note that a Federal milk order, including the pricing and all other provisions, only becomes effective after approval, through a referendum, by dairy farmers associated with the order.

Development of the proposed rule began with the premise that no additional burdens should be placed on the industry as a result of Federal order consolidation and reform. As a step in accomplishing the goal of imposing no additional regulatory burdens, a review of the current reporting requirements was completed pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). In light of this review, it was determined that this proposed rule would have little impact on reporting, recordkeeping, or other compliance requirements because these would remain almost identical to the current Federal order program. No new forms have been proposed; however, some additional reporting would be necessary in the proposed orders that would be adopting multiple component pricing if the current orders do not already have these provisions.

There are two principal reporting forms for handlers to complete each month that are needed to administer the Federal milk marketing orders. The forms are used to establish the quantity of milk used and received by handlers, the pooling status of the handler, the class-use of the milk used by the handler, and the butterfat content and amounts of other components of the milk. This information is used to compute the monthly uniform price paid to producers in each of the markets. Handlers in the marketing areas adopting multiple component pricing would be required to complete additional information regarding the components of the milk. This information would be necessary to enable their values of milk to be determined on the basis of these components and to assure that producers are paid correctly. Many handlers already collect and report this information.

This proposed rule does not require additional information collection that requires clearance by the OMB beyond the currently approved information collection. The primary source of data used to complete the forms are routinely used in most business transactions. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than industry average.

New territory, or pockets of unregulated territory within and between current order areas has been included in the proposed consolidated marketing areas where such expansion would not have the effect of fully regulating plants that are not now regulated. The addition can benefit regulated handlers by eliminating the necessity of reporting sales outside the Federal order marketing area for the purpose of determining pool qualification. Where such areas can be added to a consolidated area without having the effect of causing the regulation of any currently-unregulated handler, they are proposed to be added.

Handlers not currently fully regulated under Federal orders may become regulated for two main reasons: first, in the process of consolidating marketing areas, some handlers who currently are partially regulated may become fully regulated because their sales in the combined marketing areas would meet the pooling standards of a suggested consolidated order area. Second, previously unregulated area in New York, Vermont, New Hampshire and Massachusetts was added on the basis of requests and supporting information. As a result, previously unregulated handlers would become fully regulated. Because of these two reasons, 24 additional plants are expected to become fully regulated under the program. Of these 24 plants, it is estimated that 15 are small businesses that would need to comply with the reporting, recordkeeping, and compliance requirements. The completion of these reports would require a person knowledgeable about the receipt and utilization of milk and milk products handled at the plant. This most likely would be a person already on the payroll of the business such as a bookkeeper, controller or plant manager. The completion of the necessary reporting, recordkeeping, and compliance requirements would not require any highly specialized skills and should not require the addition of personnel to complete. In fact, much of the information that handlers report to the market administrator is readily available from normally maintained business records, and as such, the burden on handlers to complete these recordkeeping and reporting requirements is expected to be minimal. In addition, assistance in completing forms is readily available from market administrator offices. A description of the forms and a complete Paperwork Reduction Act analysis follows this section.

No other burdens are expected to fall upon the dairy industry as a result of overlapping Federal rules. This proposed regulation does not duplicate,

overlap or conflict with any existing Federal rules.

To ensure that small businesses are not unduly or disproportionately burdened based on this proposed regulation, consideration was given to several options with the intention of mitigating negative impacts. Three options, including two suggested in the preliminary reports issued by AMS in December 1996 and May 1997, were considered with regard to the consolidation of Federal orders, five options were considered as replacements for the basic formula price, and seven options were considered with regard to the development of a new Class I price structure. The following options were considered by AMS prior to and during the development of the proposed regulation.

Consolidation Options

It is impossible to determine the economic effects of marketing area consolidation on handlers, producers and consumers without using assumptions about the specific order provisions contained in the consolidated order areas. The only effect consolidation, as a single factor, can have on the various market participants is through changes in the percentage of milk used in different classes within the proposed consolidated orders. Without assumptions that include the specific class prices and milk uses in different products, there are no means of quantifying the economic effects of consolidation.

Handlers would be affected by class prices, which would be determined by the Class I price surface option that is selected, and by the minimum prices contained in all of the orders for milk used in Classes II, III and IV. The Class I price surface options considered could have impacts on small handler entities, however, handlers similarly located would be subject to the same minimum Class I prices, regardless of the size of their operations, and all handlers would be subject to the same minimum prices for Class II, Class III and Class IV milk. Such handlers would also be subject to the same minimum prices to be paid to producers.

Producers may be somewhat more affected by consolidation of marketing areas because changes in utilization percentages would result in changes in blend prices. As in the case of effects on handlers, however, it is impossible to determine a separate consolidation effect on producers, defined in monetary terms. The closest approximation to such an estimate would be the ''weighted average utilization value'' (WAUV). These ''prices'' reflect only the change in value that can be attributed to changes in utilization rates, with no assumptions about changes in the levels of the various class prices. Such estimates, of necessity, reflect only anticipated changes in blend prices, using class prices that would no longer be in effect under the consolidated orders. To the extent that the WAUV computations reflect some of the effect of consolidation on producer prices, they are included in this analysis under each option discussion. It should be noted, however, that all producers in any given current area would be affected to an equal extent by the consolidation factor, with no disproportionate effect on small dairy farmer entities.

The following table shows the potential impact of three order consolidation options on producers who supply each of the current Federal milk marketing order areas via WAUV ''prices''. The three consolidated options are (1) the consolidated marketing areas suggested in the December 1996 initial Preliminary Report on Order Consolidation; (2) the consolidated marketing areas suggested in the May 1997 Revised Preliminary Report on Order Consolidation; and (3) the consolidated marketing areas suggested in this proposed rule.

WEIGHTED AVERAGE UTILIZATION VALUES (WAUV)

[Based on October 1995 information ($/cwt)]

Consolidated Market	Marketing Areas in Initial Consol. Report (Dec. 96) (Option 1)		Marketing Areas in Revised Consol. Report (May 97) (Option 2)		Marketing Areas in Proposed Rule (Option 3)	
	Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)	
Current Markets	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)
Northeast		$13.46		$13.48		$13.47
New England (F.O. 1)	13.50	13.48	13.52	13.51	13.52	13.49
NY–NJ (F.O. 2)	13.44	13.48	13.48	13.50	13.45	13.48
Middle Atlantic (F.O.4)	13.45	13.39	13.45	13.41	13.44	13.40
Appalachian		14.13		13.96		13.97
Carolina (F.O. 5)	14.23	14.21	14.23	14.19	14.23	14.20
Tenn. Valley (F.O. 11)	13.92	13.95	13.92	13.93	13.92	13.94
Lville-Lex-Evan (F.O. 46)	n/a	n/a	13.35	13.39	13.35	13.40
Florida		15.05		15.05		15.05
Upper Florida (F.O. 6)	14.67	14.78	14.67	14.78	14.67	14.78
Tampa Bay (F.O. 12)	15.09	15.04	15.09	15.04	15.09	15.04
SE Florida (F.O. 13)	15.42	15.31	15.42	15.31	15.42	15.31
Southeast		14.26		14.25		14.24
Southeast (F.O. 7)	14.26	14.26	14.25	14.25	14.24	14.27
Mideast		12.96		12.94		12.92
Ohio Valley (F.O. 33)	12.99	13.02	12.99	13.01	12.99	13.00
E. Ohio-W. PA (F.O. 36)	13.07	13.00	13.10	12.99	13.07	12.97
S. Michigan (F.O. 40)	12.75	12.86	12.75	12.84	12.75	12.83
MI Upper Penin. (F.O. 44)	12.81	12.62	12.81	13.262	12.81	12.61
Lville-Lex-Evan (F.O. 46)	13.35	13.06	n/a	n/a	n/a	n/a
Indiana (F.O. 49)	12.97	12.94	12.97	12.93	12.97	12.92
Upper Midwest		12.60		12.62		12.60

WEIGHTED AVERAGE UTILIZATION VALUES (WAUV)—Continued

[Based on October 1995 information ($/cwt)]

Consolidated Market / Current Markets	Marketing Areas in Initial Consol. Report (Dec. 96) (Option 1)		Marketing Areas in Revised Consol. Report (May 97) (Option 2)		Marketing Areas in Proposed Rule (Option 3)	
	Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)	
	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)
Chicago Reg. (F.O. 30)	12.62	12.62	12.62	12.61	12.62	12.62
MI Upper Penin. (F.O. 44)	R	R	R	R	R	R
Neb.-W. Iowa (F.O. 65)	n/a	n/a	12.63	12.74	n/a	n/a
Upper Midwest (F.O. 68)	12.55	12.56	12.55	12.54	2.55	12.56
E. South Dakota (F.O. 76)	n/a	n/a	12.81	12.65	n/a	n/a
Iowa (F.O. 79)	n/a	n/a	12.69	12.67	n/a	n/a
Central		13.16		13.21		12.95
S. IL–E MO (F.O. 32)	12.93	12.90	13.00	12.95	13.00	12.88
Central IL (F.O. 50)	13.03	12.74	13.03	12.78	13.03	12.72
Greater K. City (F.O. 64)	13.22	12.90	13.22	12.95	13.22	12.88
Neb.-W. Iowa (F.O. 65)	12.63	12.81	n/a	n/a	12.63	12.79
E. South Dakota (F.O. 76)	12.81	12.68	n/a	n/a	12.81	12.67
Iowa (F.O. 79)	12.71	12.71	n/a	n/a	12.71	12.70
SW Plains (F.O. 106)	13.31	13.33	13.31	13.41	13.08	13.29
E. Colorado (F.O. 137)	13.27	13.31	13.27	13.38	13.27	13.27
Southwest		13.36		13.39		13.39
Texas (F.O. 126)	13.49	13.48	13.49	13.46	13.49	13.46
Central AZ (F.O. 131)	13.26	13.17	n/a	n/a	n/a	n/a
NW–W Texas (F.O. 138)	13.00	13.09	13.00	13.07	13.00	13.07
Arizona–Las Vegas		n/a		13.26		13.26
Central AZ (F.O. 131)	n/a	n/a	13.26	13.29	13.26	13.29
Western		12.79		12.78		12.78
W. Colorado (F.O. 134)	13.41	12.84	13.41	12.82	13.41	12.82
SW ID–E. OR (F.O. 135)	12.63	12.68	12.63	12.68	12.63	12.68
Great Basin (F.O. 139)	12.83	12.81	12.81	12.79	12.81	12.79
Pacific Northwest		12.45		12.44		12.44
Pacific NW (F.O. 124)	12.45	12.45	12.44	12.44	12.44	12.44

n/a: not applicable.
R: Restricted.

For each option, a weighted average use value (WAUV) is computed for (a) the consolidated order; (b) the current order with current use of milk; and (c) the current order with projected use of milk in the consolidated order. The difference between the weighted average use values in (b) and (c) represents the potential impact on producers.

For example, in this proposed rule, the New England (F.O. 1) market's WAUV using its current utilization is $13.52 per cwt. When the three markets are consolidated and the new consolidated utilization is used to calculate the WAUV, New England's WAUV would be $13.49 per cwt. In this comparison, the potential impact on producers supplying the New England market area would be a decrease of three cents per cwt.

Each of the three options assumes the pool distributing plant standards suggested for each of the consolidated orders in this proposed rule; thus the calculated values in the preceding table are not directly comparable to the WAUV values published with either the initial or the revised reports on order consolidation.

During the process of developing this proposed rule, AMS issued two reports suggesting 10 and 11 marketing area boundaries, respectively, to meet the requirements of the 1996 Farm Bill. The marketing areas defined in these reports were based primarily on an analysis of receipt and distributing data from fluid distributing plants in October 1995. Over 900 comments regarding consolidation issues received thus far in the development process also have been considered: almost 50 comments prior to the December 1996 release of the Preliminary Report on Order Consolidation (Option 1); an additional 60 comments prior to the May 1997 release of the Revised Preliminary Report on Order Consolidation (Option 2); and another 800 comments since release of the revised report. These comments were filed primarily by producers and handlers. Incorporated in the marketing area boundaries suggested in the revised report and in the proposed consolidation in this rule (Option 3) are both information contained in the comments as well as data gathered to update the information on which the earlier report(s) were based where questions were raised about the boundaries of suggested marketing areas and where marketing changes had occurred.

Option 1 (Preliminary Report on Order Consolidation, December 1996)

Based on seven criteria: ((1) Overlapping route disposition; (2) overlapping areas of milk supply; (3) number of handlers within a market; (4) natural boundaries; (5) cooperative association service areas; (6) features common to existing orders, such as similar multiple component pricing plans; and (7) milk utilization in common dairy products), 10 marketing areas (Northeast, Appalachian, Florida, Southeast, Mideast, Upper Midwest, Central, Southwest, Western and Pacific Northwest) were suggested in this

report. Data were gathered relating to the receipts and distribution of fluid milk products for all known distributing plants located in the 47 contiguous States, not including the State of California, for the month of October 1995.

The current Federal orders that comprise the initially-suggested consolidated areas are as follows: NORTHEAST—current marketing areas of the New England, New York-New Jersey, and Middle Atlantic Federal milk orders; APPALACHIAN—current marketing areas of the Carolina and Tennessee Valley Federal milk orders, and a portion of the Louisville-Lexington-Evansville Federal milk order; FLORIDA—current marketing areas of the Upper Florida, Tampa Bay, and Southeastern Florida Federal milk orders; SOUTHEAST—current marketing areas of the Southeast Federal milk order, plus 1 county from the Louisville-Lexington-Evansville Federal milk order marketing area, 15 currently unregulated Kentucky counties, and 2 currently unregulated northeast Texas counties; MIDEAST—current marketing areas of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, and Indiana Federal milk orders, plus most of the current marketing area of the Louisville-Lexington-Evansville Federal milk order, Zone 2 of the Michigan Upper Peninsula Federal milk order, and 12 counties of the Southern Illinois-Eastern Missouri Federal milk order; UPPER MIDWEST—current marketing areas of the Chicago Regional and Upper Midwest Federal milk orders, plus Zones I and I(a) of the Michigan Upper Peninsula Federal milk order and seven unregulated or partly regulated Wisconsin counties; CENTRAL—current marketing areas of the Southern Illinois-Eastern Missouri (less 12 counties included in the suggested Mideast marketing area), Central Illinois, Greater Kansas City, Nebraska-Western Iowa (less 11 currently-regulated counties suggested to be unregulated), Eastern South Dakota, Iowa, Southwest Plains, and Eastern Colorado Federal milk orders, plus 63 currently-unregulated counties in seven of the states; SOUTHWEST—current marketing areas of the Texas, New Mexico-West Texas, and Central Arizona Federal milk orders; WESTERN—current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon, and Great Basin Federal milk orders; and PACIFIC NORTHWEST—current marketing area of the Pacific Northwest Federal milk order plus 1 currently-unregulated county in Oregon.

Based on the WAUV calculations shown in the previous table, utilization rate changes due to consolidation could affect producer prices. The column labeled ''Option 1'' shows the WAUV for the consolidated order and each of the current orders suggested in the December 1996 report.

In the Northeast market, producers currently affiliated with the New England and Middle Atlantic would have negative impacts on their WAUV, respectively, while New York-New Jersey producers would be positively impacted. In the Appalachian market, Carolina producers should expect some negative impacts due to consolidation, while Tennessee Valley producers would experience positive effects from this consolidation. In the Florida market, Upper Florida producers would gain while Tampa Bay and Southeastern Florida producers would have a negative impact resulting from this consolidation. The Southeast market remains virtually the same as it does currently and thus, no or little impact on producer prices would be expected. In the Mideast market, producers affiliated with the Ohio Valley and Southern Michigan Federal orders would probably see increases in blend prices due to this consolidation, while producers affiliated with the Eastern Ohio-Western Pennsylvania, Michigan Upper Peninsula, Louisville-Lexington-Evansville and Indiana Federal orders would see decreases. In the Upper Midwest market, the Upper Midwest producers should see slight increases while Chicago Regional producers would probably have no impact due to this consolidation. Of all the consolidated markets, producers in the current Orders that compose the Central market probably would see the largest changes due to this consolidation: producers with the Nebraska-Western Iowa, Southwest Plains and Eastern Colorado markets may see increases, while producers affiliated with the Southern Illinois-Eastern Missouri, Central Illinois, Greater Kansas City, and Eastern South Dakota markets may see decreases. Producers with the Iowa market would probably have no impact due to this suggested Central market consolidation. In the Southwest market, producers affiliated with the New Mexico-West Texas would see increases due to this consolidation while Texas and Central Arizona producers would see decreases. In the Western market, Southwestern Idaho-Eastern Oregon producers would see increases but Western Colorado and Great Basin producers would see decreases. The Pacific Northwest market remains virtually the same as it does currently and thus, no or little impact on producer prices would be expected.

Of approximately 83,000 dairy producers delivering milk to handlers regulated under the milk orders, about 80,000 are considered to be small businesses under the production guideline of less than 326,000 pounds per month.

As stated above, handlers are impacted more significantly by class prices and minimum prices than by expected utilization changes resulting from consolidation. Of the 371 distributing plants expected to be fully regulated under this 10-market suggested configuration under the assumptions used in the December 1996 report, an estimated 193 plants are small businesses under the criteria provided by the SBA (under 500 employees).

Option 2 (Revised Preliminary Report on Order Consolidation, May 1997)

Eleven marketing areas were suggested in this second report. Because numerous comments indicated that the boundaries of some marketing areas should be re-evaluated, and also because regulatory shifts and distributing plant distribution areas had occurred, more detailed and updated data was obtained. The same seven criteria used in Option 1 were applied in this option as well. Modifications were made to the Northeast, Appalachian, Southeast, Mideast, Upper Midwest, Central, Southwest and Western regions, as follows (only the changes to these orders are noted): NORTHEAST—Addition of contiguous unregulated areas of New Hampshire, Vermont and New York; the western non-Federally regulated portion of Massachusetts, the Western New York State order area, and Pennsylvania Milk Marketing Board Areas 2 and 3 in northeastern Pennsylvania; APPALACHIAN—Addition of all of the Louisville-Lexington-Evansville Federal order (with the exception of one county included in the suggested Southeast market) and 26 currently-unregulated counties in Indiana and Kentucky; SOUTHEAST—Minus 2 currently-unregulated counties in northeast Texas (in the suggested Southwest market); MIDEAST—Addition of Pennsylvania Milk Marketing Board Area 6 (in western/central Pennsylvania) and 2 currently-unregulated counties in New York, and minus the Louisville-Lexington-Evansville Federal order area, 12 counties in Illinois, and unregulated counties in Indiana and Kentucky (in the suggested Appalachian market); UPPER MIDWEST—Addition of the Iowa, Eastern South Dakota, and most of

the Nebraska-Western Iowa Federal order areas, plus currently-unregulated counties in Iowa and Nebraska; CENTRAL—Addition of 12 counties in the current Southern Illinois-Eastern Missouri Federal order that initially were suggested as part of the consolidated Mideast area, and minus the Eastern South Dakota, Iowa, and most of the Nebraska-Western Iowa Federal order marketing area; SOUTHWEST—Addition of 2 currently-unregulated northeast Texas counties that initially were suggested as part of the consolidated Southeast market and 47 currently-unregulated counties in southwest Texas, and minus the Central Arizona marketing area; ARIZONA-LAS VEGAS—this new eleventh marketing area composed of the current marketing area of the Central Arizona Federal order and the Clark County, Nevada, portion of the current Great Basin marketing area, plus eight currently-unregulated Arizona counties; and WESTERN—Minus Clark County, Nevada. The FLORIDA and PACIFIC NORTHWEST marketing areas did not change from the preliminary report.

Based on the WAUV calculations shown in the previous table, utilization rate changes due to consolidation could affect producer prices. The column labeled ''Option 2'' shows the WAUV for the consolidated order and each of the current orders suggested in the May 1997 report.

In the Northeast market, producers currently affiliated with the New England and Middle Atlantic orders would have negative impacts on their WAUV, respectively, while New York-New Jersey producers would remain unchanged. In the Appalachian market, Carolina producers should expect some negative impacts due to consolidation, while Tennessee Valley and Louisville-Lexington-Evansville producers would experience positive effects from this consolidation. In the Florida market, Upper Florida producers would gain while Tampa Bay and Southeastern Florida producers would have a negative impact resulting from this consolidation. The Southeast market remains virtually the same as it does currently and thus, little impact on producer prices would be expected. In the Mideast market, producers affiliated with the Ohio Valley and Southern Michigan Federal orders would probably see increases in blend prices due to this consolidation, while producers affiliated with the Eastern Ohio-Western Pennsylvania, Michigan Upper Peninsula, and Indiana Federal orders would see decreases. In the Upper Midwest market, the Nebraska-Western Iowa producers should see increases, while Chicago Regional, Upper Midwest, Eastern South Dakota, and Iowa producers would have a decrease in producer prices due to this consolidation. In the Central market, producers with the Southwest Plains and Eastern Colorado markets would see increases, while producers affiliated with Southern Illinois-Eastern Missouri, Central Illinois, and Greater Kansas City markets may see decreases. In the Southwest market, producers affiliated with New Mexico-West Texas would see increases due to this consolidation while Texas producers would see decreases. The added Arizona-Las Vegas market is virtually the same as the Central Arizona market but a positive impact on producer prices may result from an additional handler. In the Western market, Southwestern Idaho-Eastern Oregon producers would see increases but Western Colorado and Great Basin producers would see decreases. The Pacific Northwest market remains virtually the same as it does currently and thus, no or little impact on producer prices would be expected.

Of approximately 83,000 dairy producers delivering milk to handlers regulated under the milk orders, about 80,000 are considered to be small businesses under the production guideline of less than 326,000 pounds per month. In addition, it is estimated that about 13 percent of the total milk production in Pennsylvania is represented only by the Pennsylvania Milk Marketing Board. Under this option, this production would be added to the Federal order pool and affect an undetermined number of businesses which would include both small and large producers.

As stated above, handlers are impacted more significantly by class prices and minimum prices than by expected utilization changes resulting from consolidation. Of the 379 plants expected to be fully regulated under this 11-market suggested configuration under the assumptions used in the May 1997 report, 175 plants are estimated to be small businesses on the basis of fewer than 500 employees.

The preliminary consolidation report (Option 1) stated that the Farm Bill requirement to consolidate existing marketing areas did not specify expansion of regulation to previously non-Federally regulated areas where such expansion would have the effect of regulating handlers not currently regulated. However, on the basis of data, views and arguments filed by interested persons in response to the initial Preliminary Report (Option 1) requesting that currently non-Federally regulated areas be added to some consolidated marketing areas, the revised Preliminary Report (Option 2) suggests that such areas be added to several consolidated areas, the Northeast and Mideast market areas in particular. Approximately 20 handlers who would have been affected by the expansion of Federal order areas into currently non-Federally regulated areas were notified of the possible change in their status and encouraged to comment.

Handlers located in Pennsylvania Milk Marketing Board Areas 2, 3 and 6 are regulated under the State of Pennsylvania if they do not have enough sales in any Federal order area to meet an order's pooling standards. If such plants do meet Federal order pooling standards, the State continues to enforce some of its regulations in addition to Federal order regulations. As state-regulated handlers, they must pay a Class I price for milk used in fluid products which is often higher than the Federal order price would be. Inclusion of the Pennsylvania-regulated handlers in the consolidated marketing area would have little effect on handlers' costs of Class I milk (or might reduce them), while reducing producer returns.

Option 3: The Proposed Consolidation

The proposed consolidation is a result of extensive analysis of data as previously indicated and consideration of public comments submitted in response to Options 1 and 2. Extensive outreach, which is explained in the ''Public Input'' section, was completed. After compiling this information, the proposed order consolidation was developed to ensure industry integrity.

Eleven marketing areas are proposed in this rule, including modifications to some of the 11 marketing orders suggested in Option 2. Marketing data was further examined for some of the suggested consolidated marketing areas to determine the most appropriate configurations of the consolidated areas. Primary criteria continues to be the seven used in the two earlier reports on order consolidation. As a result of further analysis, the configurations of the Northeast, Mideast, Southeast, Upper Midwest and Central areas have changed significantly from those suggested in Option 2, and minor changes have been made to the Appalachian area. The modifications for these areas from the revised preliminary report (Option 2) are as follows: NORTHEAST—Minus some previously suggested area to be included in the Northeast (the southern tier of 3 western New York counties and Pennsylvania Milk Marketing Board Areas 2 and 3); APPALACHIAN—Minus five Kentucky counties that were part of the former

Paducah order area, now suggested to be in the Southeast market; SOUTHEAST—Addition of 11 northwest Arkansas and 22 entire and 1 partial Missouri counties currently part of the Southwest Plains Federal order, 6 Missouri counties currently part of the Southern Illinois-Eastern Missouri Federal order, 16 currently unregulated southeast Missouri counties, 20 currently unregulated Kentucky counties (were suggested to be in the Appalachian market); MIDEAST—Minus the current Pennsylvania Milk Marketing Board Area 6 and two southwestern New York counties, all currently non-Federally regulated; UPPER MIDWEST—Minus the Iowa, Eastern South Dakota, Nebraska-Western Iowa Federal order areas; CENTRAL—Addition of the Iowa, Eastern South Dakota, Nebraska-Western Iowa Federal order areas, 68 currently-unregulated counties in Kansas, Missouri, Illinois, Iowa, Nebraska and Colorado, and minus 11 northwest Arkansas and 22 entire and 1 partial Missouri counties currently part of the Southwest Plains Federal order, 6 Missouri counties currently part of the Southern Illinois-Eastern Missouri Federal order, and 16 currently unregulated southeast Missouri counties. The FLORIDA, SOUTHWEST, ARIZONA-LAS VEGAS, WESTERN and PACIFIC NORTHWEST marketing areas did not change from the revised preliminary report.

Based on the WAUV calculations shown in the previous table, utilization rate changes due to consolidation could affect producer prices. The column labeled ''Proposed Rule'' shows the WAUV for the consolidated order and each of the current orders suggested in this proposed rule.

In the Northeast market, for producers currently affiliated with the New York-New Jersey order, the proposed option would have positive impacts on their WAUV, while New England and Middle Atlantic producers would be negatively impacted. In the Appalachian market, Carolina producers should expect some negative impacts due to consolidation, while Tennessee Valley and Louisville-Lexington-Evansville producers would experience positive effects from this consolidation. In the Florida market, Upper Florida producers would gain while Tampa Bay and Southeastern Florida producers would have a negative impact resulting from this consolidation. With the addition of marketing area to the Southeast, the WAUV for Southeast producers may be expected to be positively impacted. In the Mideast market, producers affiliated with the Ohio Valley and Southern Michigan Federal orders would probably see increases in blend prices due to this consolidation, while producers affiliated with the Eastern Ohio-Western Pennsylvania, Michigan Upper Peninsula, and Indiana Federal orders would see decreases. In the Upper Midwest market, the Upper Midwest producers should see slight increases, while Chicago Regional producers would have no impact due to this consolidation. In the Central market, producers with the Nebraska-Western Iowa and Southwest Plains markets would see increases, producers affiliated with Southern Illinois-Eastern Missouri, Central Illinois, Greater Kansas City, Eastern South Dakota, and Iowa markets may see decreases, and Eastern Colorado producers would see no impact. In the Southwest market, producers affiliated with New Mexico-West Texas would see increases due to this consolidation while Texas producers would see decreases. Producers in the Arizona-Las Vegas market may receive a positive impact on producer prices due to an additional handler regulated in this order area. In the Western market, Southwestern Idaho-Eastern Oregon producers would see increases but Western Colorado and Great Basin producers would see decreases. The Pacific Northwest market remains virtually the same as it does currently and thus, no or little impact on producer prices would be expected.

Of approximately 83,000 dairy producers delivering milk to handlers regulated under the milk orders, about 80,000 are considered to be small businesses under the production guideline of less than 326,000 pounds per month. The additional estimated 13 percent of Pennsylvania's total milk production represented by the Pennsylvania Milk Marketing Board which would have been added in Option 2, would not be included under this option.

As stated above, handlers are impacted more significantly by class prices and minimum prices than by expected utilization changes resulting from consolidation. Of the 337 plants expected to be fully regulated under this 11-market proposed configuration, 164 plants are estimated to be small businesses on the basis of fewer than 500 employees.

Based on the comments received in response to the revised preliminary report (Option 2) it has been determined that consolidation of the existing orders does not necessitate expansion of the consolidated orders into areas in which handlers are subject to minimum Class I pricing under State regulation, especially when the states' Class I prices exceed or equal those that would be established under Federal milk order regulation. Such regulation would have the effect of reducing returns to producers already included under State regulation without significantly affecting prices paid by handlers who compete with Federally-regulated handlers.

In an effort to avoid extending Federal regulation to handlers whose primary sales areas are outside current Federal order marketing areas, but who already are subject to similar minimum uniform pricing under State regulation, the in-area Class I disposition percentage portion of the pool distributing plant definition is proposed to be 25 percent for the Northeast order and 30 percent for the Mideast order, instead of the 10 or 15 percent used in the other nine consolidated order areas. It is estimated that five plants in Pennsylvania, Maryland and Virginia that would have been fully regulated using 15 percent would remain partially regulated, as they currently are, using 25 and 30 percent, respectively. At least three of these five handlers meet the small business criteria.

Exempt Plants

Options 2 and 3 both recognize the Identical Provisions Committee [14] determination than a handler distributing less than 150,000 pounds per month of fluid milk products does not have a significant competitive effect on the market, and that handlers of such size should, therefore, be exempt from the pricing and pooling provisions of the orders. The level of route disposition required before an exempt plant becomes regulated varies in the current orders. As recommended, any plant with route disposition during the month of 150,000 pounds or less would be exempt in the consolidated orders. This limit reflects the maximum amount of fluid milk products allowed by an exempt plant in any current Federal milk order and ensures plants that are currently exempt from regulation would remain so. Under this proposed rule, it is expected that 36 distributing plants that otherwise would be identified as fully regulated plants are identified as exempt plants. Therefore under this provision, these plants would not be subject to the pricing and pooling provisions of their respective order.

Although 150,000 pounds of fluid milk disposition per month may

[14] The Identical Provisions Committee was established in May 1996 to address uniformity in order provisions during the Federal order reform process. This committee and others established are described further in the ''Background'' portion of this proposed rule.

represent a level at which exempting a distributing plant could be expected not to have a serious detrimental impact on the ability of a Federal milk order to provide for uniform pricing to handlers and producers, it would be quite difficult to select a higher level of exemption without compromising the purposes of the regulation. The under-500-employee definition of a small business assures that nearly all single-plant milk handlers would qualify as a small business. Many of the ''small'' businesses may be among the largest competitors in a particular market.

In addition, numbers of employees could be expected to vary greatly with the nature of a plant's operation. For instance, the number of persons employed by two plants processing and distributing equal volumes of fluid milk products could be very different if one plant contracts out its producer milk hauling, laboratory operations and packaged product distribution, while the other plant performs all of these operations with its own employees. For this reason alone, it would be inappropriate to exempt handlers from regulation, or to impose differing regulatory burdens, on the basis of their size beyond the minimal size determined to be less than a significant competitive force in the market.

Many current Federal orders also provide regulatory exemption for a plant operated by a state or Federal government agency. For example, some states have dairy farm and plant operations that provide milk for their prison populations. As recommended, regulatory exemption would be continued under the consolidated orders unless pool plant status is desired. Additionally, regulatory exemption is intended to include colleges, universities and charitable institutions because these institutions generally handle fluid milk products internally and have little or no impact in the mainstream commercial market. However, in the event that these entities do distribute fluid milk through commercial channels, route sales by such entities, including government agencies, would be monitored to determine if Federal regulations should apply. Under this proposed rule, it is expected that 18 distributing plants would be identified as exempt based on their institutional status.

Producer-handlers

Also exempt from full regulation would be those entities that operate as both a producer and a handler. A primary basis for exempting producer-handlers from the pricing and pooling provisions of a milk order is that these entities are customarily small businesses that operate essentially in a self-sufficient manner. During August 1997, 111 producer-handlers submitted reports under the Federal milk marketing order program.

Basic Formula Price Options

A number of options for determining a basic formula price were considered and analyzed in the process of developing the proposed basic formula price (BFP). In addition to the proposed method of pricing components based on their value in manufactured products, other options examined, by both the Agricultural Marketing Service's Dairy Division Basic Formula Price Replacement Committee and by the University Study Committee (USC), led by Dr. Ronald D. Knutson of Texas A & M University, were: economic formulas, futures markets, cost of production, competitive pay pricing, and pricing differentials only.

Descriptions of the two Committees' analyses, and results of their work are included in ''A Preliminary Report on Alternatives to the Basic Formula Price,'' published in April 1997 by the Basic Formula Price Committee, Dairy Division, AMS; and the following reports from the Agricultural and Food Policy Center, Texas A&M University System:

''An Economic Evaluation of Basic Formula Price (BFP) Alternatives,'' AFPC Working Paper 97–2, June 1997.

''Evaluation of 'Final' Four Basic Formula Price Options,'' AFPC Working Paper 97–9, August 1997.[15]

The primary criterion used by the Dairy Division BFP Committee was that any replacement BFP option reflect the supply of and demand for milk used in manufactured dairy products. At the same time, one of the USC's critical criteria for a replacement BFP was that it reliably reflect market conditions for all manufactured products.

In trying to determine the most appropriate replacement for the current BFP, which uses a survey of prices paid by manufacturing plants for non-Grade A milk updated by a product price formula, the goal of both groups was a market-based alternative. The BFP Committee measured the extent to which each pricing option met its primary goal by tracking the options against the current BFP for a period of prior months, on the basis of the assumption that the current BFP successfully reflects the supply and demand for milk used in manufactured products. The USC Committee used an econometric procedure to test the ability of the alternatives they considered to reflect supply and demand.

To the extent the goal of identifying a BFP that reflects the value of milk used in manufactured products is capable of attainment, all market participants would be affected by the BFP replacement in the same manner as if they were operating in a free market, with no external impacts caused by regulation. To the extent the goal is achieved, then, there would be no uneven impact on market participants on the basis of size. All market participants, (handlers, producers and consumers), would be affected in the same manner as if there were no regulation. However, the existence of minimum order pricing serves to assure that small handlers pay no more for their milk than larger entities (unless the market allows higher prices to be exacted from small buyers), and that small producers receive the same minimum uniform price for the milk or components of milk they produce as large producers. Consumers can be assured that the prices generally charged for dairy products are prices that reflect, as closely as possible, the forces of supply and demand in the market.

Of the options considered and analyzed, both groups studying the issue determined that the option of pricing components of milk according to their value in manufactured products, as reflected by the sales prices of those products, best approximates the intersection of supply and demand for milk used in manufactured dairy products.

Manufacturing Allowances

Make allowances or manufacturing allowances, one of the factors incorporated in the formulas for determining component values, may reflect more closely the manufacturing costs of large firms than those of small firms. These manufacturing costs would be used to adjust the sales prices of dairy products to the value of milk purchased to make the products. To the extent these allowances fail to reflect the full cost of manufacturing, they may require handlers to pay more for milk than they can realize from the sale of their products. On the other hand, if the manufacturing allowances more than cover the cost of manufacturing, handlers may be assured of extra margins.

Although it may appear that the use of make allowances in the computation

[15] These reports can be obtained from the Agricultural and Food Policy Center, Department of Agricultural Economics, Texas A&M University, College Station, Texas 77843–2124, telephone (409) 845–5913 or on the Internet at http://AFPC1.TAMU.EDU.

of component prices would advantage large processors because of possible economies of scale, these economies exist regardless of whether they are recognized in price computations. If the assumption is made that economies of scale exist in dairy plants and that large plants are more efficient than small plants, a manufacturing allowance that fully covers a small handler's cost of making products would merely increase the profit margin of its larger competitors. At the same time, producers unfairly would be required to subsidize the manufacturing costs of handlers who use their milk, and consumers would pay more for their dairy products than the costs of production and processing would justify.

An attempt has been made, using Cornell University studies of manufacturing costs at a number of manufacturing plants distributed around the U.S., to arrive at economically defensible make allowances. Since it is difficult to distinguish the differential effects of market-based component pricing on small and large firms engaged in manufacturing dairy products, reliance would be placed on industry participants to comment on these facets of the proposed BFP replacement.

Impact of Multiple Component Pricing Provisions on Small Entities

Seven of the eleven proposed orders provide for milk to be paid for on the basis of its components (multiple component pricing, or MCP). Five of the seven MCP orders also provide for milk values to be adjusted according to the somatic cell count of producer milk. The equipment needed for testing milk for its component content can be very expensive to purchase, and requires highly-skilled personnel to maintain and operate. The cost of infra-red analyzers ranges from just under $100,000 to $200,000. The infra-red machines that are used by most laboratories would test for total solids and somatic cells at the same time the butterfat and protein tests are done.

No new report forms are needed under multiple component pricing; however, some additional reporting is necessary to enable handlers' values of milk to be determined on the basis of components, and to assure that producers are paid correctly. For the market administrators to compute the producer price differential, handlers would need to supply additional information on their currently-required monthly reports of receipts and utilization. In addition to the product pounds and butterfat currently reported, handlers would be required to report pounds of protein, pounds of other solids, and, in 5 of the orders, somatic cell information. This data would be required from each handler for all producer receipts, including milk diverted by the handler, receipts from cooperatives as 9(c) handlers (that is, the cooperative acts as a handler); and, in some cases, receipts of bulk milk received by transfer or diversion.

Since producers would be receiving payments based on the component levels of their milk, the payroll reports that handlers supply to producers must reflect the basis for such payment. Therefore the handler would be required to supply the producer not only with the information currently supplied, but also, (a) the pounds of butterfat, the pounds of protein, and the pounds of other solids contained in the producer's milk, as well as the producer's average somatic cell count, and (b) the minimum rates that are required for payment for each pricing factor and, if a different rate is paid, the effective rate also. Many handlers already report this additional information. It should be noted that handlers already are required to report information relative to pounds of production, butterfat and rates of payment for butterfat and hundredweight of milk to the appropriate Market Administrator.

Of over 74,000 producers whose milk was pooled in December 1996 under 23 of the current orders that would be part of consolidated orders providing for multiple component pricing, the milk of 52,500 of these producers was pooled under 13 current orders that have MCP. Handlers in these markets already have incurred the initial costs of testing milk for its component content, and have made the needed transition to reporting the component contents of milk receipts on their handler reports to the market administrators, and on their reports of what they have paid producers.

Of the remaining 21,750 producers who would be affected by MCP provisions under a Federal order (including an estimated 20,650 producers qualifying as small businesses), the milk of approximately 13,000, or 60 percent, currently is received by handlers who test or have the capability of testing for multiple components and, in many cases, somatic cells. Many of these handlers also report component results to the producers with their payments. Almost all of the producers whose milk currently is not being tested or paid for on the basis of components are located in the New England and New York-New Jersey marketing areas, which would be consolidated with the Middle Atlantic area into the proposed Northeast order.

Accommodation has been made to ameliorate handlers' expenses of testing producer milk for component content

As component pricing plans have been adopted under a number of the present Federal milk orders since 1988, the component testing needed to implement these pricing plans has been performed by the market administrators responsible for the administration of the orders involved for handlers who have not been equipped to make all of the determinations required under the amended orders. It has been made clear in the decisions under which these plans have been adopted that handlers who would find it unduly burdensome to obtain the equipment and personnel needed to accomplish the required testing may rely on the market administrators to verify or establish the tests under which producers are paid. As noted above, however, many handlers not now subject to MCP provisions under Federal orders have nevertheless already undertaken multiple component testing and payment programs.

Pricing Options

Several pricing options, as discussed below, were considered as replacements for the current Class I price structure. Five of the options were determined to have a negative impact on small businesses, albeit slight or significant. These options included relative use differentials, flat differentials, modified flat differentials, demand based differentials, and a decoupled baseline Class I price with adjustors. In addition to the impacts on small businesses, these options were not considered viable based on additional qualitative analysis contained in the findings and conclusions of the proposed rule.

Relative Use Differentials

The use of relative use differentials based on Class I utilizations was considered as an option for replacing the Class I price structure. Using this concept, the relative use Class I differential would equal $1.60 per hundredweight plus the relative use ratio times $1.00. A 25 percent limit would be applied so the new differential would not exceed 125 percent of the current differential nor fall to less than 75 percent of the current differential. A percentage limit was placed on the differential changes to temper adjustments based on market supply and demand conditions.

The advantages of the system are that it allows Class I differentials to adapt to

supply and demand conditions within a given marketing area based on changes in the utilization. However, because the differentials would be allowed to change independently from neighboring areas, serious problems arise with order-to-order alignment.

The next table illustrates the Class I differentials under the proposed consolidated orders. These differentials are not location-specific within the applicable orders. For purposes of this analysis and to provide a basis for comparison within the proposed consolidated orders, a weighted average Class I differential has been calculated for each order, based on October 1995 data. This weighted average differential is computed by multiplying the percentage of Class I milk in each of the current orders that comprise the consolidated order by the applicable current order differential and adding the resulting amounts. This weighted average differential is not location specific for the consolidated order.

RELATIVE USE CLASS I DIFFERENTIALS IN PROPOSED ORDERS

[Based on October 1995 Data]

Proposed order [1]	Relative use ratio [2] (percent)	+ $1.60 = class I diff. ($/cwt)	Weighted average diff. ($/cwt) [3]	Maximum diff. range (75%–125%)	New diff ($/cwt)	Change in diff. ($/cwt)
Northeast	0.92	2.52	3.14	2.35–3.93	2.52	−0.62
Appalachian	4.60	6.20	2.79	2.09–3.49	3.49	0.70
Southeast	5.76	7.36	3.04	2.28–3.80	3.80	0.76
Florida	7.54	9.14	3.89	2.92–4.86	4.86	0.97
Mideast	1.26	2.86	1.91	1.43–2.39	2.39	0.48
Central	0.95	2.55	2.52	1.89–3.15	2.55	0.03
Up. Midwest	0.53	2.13	1.32	0.99–1.65	1.65	0.33
Southwest	0.93	2.53	3.01	2.26–3.76	2.53	−0.48
AZ-Las Vegas	1.04	2.64	2.46	1.85–3.08	2.64	0.18
Western	0.42	2.02	1.84	1.38–2.30	2.02	0.18
Pacific NW	0.55	2.15	1.90	1.43–2.38	2.15	0.25

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Relative use ratio = Class I ÷all other uses.
[3] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

The review of this option indicates that differentials would probably have a minimal impact on small businesses, both processors and producers. For a majority of the Federal order system, producers and processors would experience Class I price increases. However, due to offsetting factors impacts would be reduced.

Class I differentials are estimated to increase from $0.00 to $0.48 in the Central, Mideast, and Midwestern regions. Currently, over-order charges are significantly higher and would largely absorb these differential increases. Impacts on small producers and processors would be minimal.

The Northeastern marketing area could be affected significantly by the adoption of a relative use differential because of the decrease in Class I prices and because this area has a high concentration of small businesses, both producers and processors. There are approximately 18,860 small producers and 280 small processors located in this region. Processors would pay on average $0.62 less for Class I milk as compared to the current system. Producers would likely turn to over-order charges to try to make up for their lost revenue. If this were to occur, then small processors and producers would be placed at a competitive disadvantage to large businesses because often the small businesses do not maintain the resources needed to effectively negotiate for supplies of milk. However, historically this region has had difficulty maintaining a large over-order premium structure and assumptions are that this would continue. If so, then all producer income would decrease slightly possibly impacting the market's milk supplies.

Large increases in Class I differentials would occur in the orders located in the Southeast. There are approximately 4,000 small producers and 30 small handlers in the Florida and Southeast areas. Class I handlers would experience increased competition from lower cost handlers in nearby markets. This may have a greater impact on small processors because of their ability to compete based on available resources. Although higher differentials would be returned to producers through the Federal order uniform price, overall producers in the Southeast markets would probably not experience any significant gains from these increased differentials due to reduced over-order premiums being charged. However, this would benefit small producers who may not be able to negotiate as effectively for over-order prices.

The Southwest market is the other market to experience decreases in differentials. Approximately 1,400 small producers and 30 small handlers would be impacted by the decrease in Class I prices. Over-order charges currently are relatively small in this market and an attempt to increase the charges would likely occur. However, producer groups have had the same difficulty as the Northeast in maintaining an over-order structure. A $0.48 drop in the average differential in the Southwestern market would surely be felt by producers and accelerate the exodus of producers from the East Texas supply area, most likely smaller producers who may not have significant resources to adapt to the lowered prices or who would not be able to negotiate for higher over-order prices. Producers in New Mexico and West Texas would also be affected, but the impact may not be as severe.

Processors in this region may benefit from the decrease in Federal order prices. However, if there is an increase in the over-order prices that the processors must pay, then the amount gained from the decrease would be lessened. In fact, if over-order pricing is implemented then small processors may be at a disadvantage because they may not be able to compete for milk beyond the reduction in Class I prices.

In the Western regions, Class I differentials are expected to increase slightly. Over-order charges in these markets are not as great as in the Midwestern markets and would probably be unable to totally absorb the Class I price increase. Producer pay

prices and Class I handler costs would increase slightly. All producers would benefit from the price increase, including about 690 small producers. However, about 50 small processors may be at a disadvantage. Small processors may not have the additional revenue necessary to adapt to the $0.18 to $0.25 per hundredweight increase in Class I prices.

Because of the limited effect of overall Class I differential changes within individual orders, relative use differentials would have a minimal effect on small businesses, both producers and processors. Areas that have decreases in Class I differentials would have a minimal negative impact on producer pay prices. Over 20,000 producers, or about 95 percent of all producers, in these regions are categorized as small businesses. On the other hand, handlers in areas with larger increases in the Class I differentials would experience increased competition from lower cost regions. Location advantages of some small handlers would disappear while others emerge. Handler equity in these competing markets could erode placing some small handlers under greater risk. Approximately 300 handlers in the Northeast and Southwest markets are categorized as small handlers, about half of the total number of handlers.

However, the adoption of a relative use differential could have a significant impact on small businesses, both producers and processors that are located in adjacent orders. Because Class I prices would be able to change independently from each other, significant Class I price variances may begin to exist. As Class I utilization changes, these changes may be significant. This lack of alignment between bordering orders would increase competition in areas where Class I price differences are significant having a greater impact on small businesses.

Flat Differentials

The use of flat differentials was considered as an option for replacing the Class I price structure. Under this system, all Class I differentials would be established at $1.60 regardless of the location. Establishing the differentials at an equal level throughout the United States does not recognize the location value associated with milk. Because this value would not be reflected in the minimum price under the Federal order program, flat differentials could affect small businesses, as shown by the following table.

FLAT CLASS I DIFFERENTIALS IN PROPOSED ORDERS

(Based on October 1995 Data)

Suggested consolidated order [1]	Flat differential ($/cwt)	Weighted average differential ($/cwt) [2]	Change ($/cwt)
Northeast	1.60	3.14	−1.54
Appalachian	1.60	2.79	−1.19
Southeast	1.60	3.04	−1.44
Florida	1.60	3.89	−2.29
Mideast	1.60	1.91	−0.31
Central	1.60	2.52	−0.92
Upper Midwest	1.60	1.32	0.28
Southwest	1.60	3.01	−1.41
AZ-Las Vegas	1.60	2.46	−0.86
Western	1.60	1.84	−0.24
Pacific NW	1.60	1.90	−0.30

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

The review of this option indicates that flat differentials could change the competitive relationship between large and small processors and producers. Large processors could have a competitive advantage over small processors in negotiating with producers for supplies of milk at prices above the established minimum price. Likewise, large producers could have a better bargaining position when competing with small producers to supply a processor.

In all areas of the United States, with the exception of the Upper Midwest, producers and processors would experience significant decreases in the Class I price. The largest decrease would occur in the Florida order with the Class I price decreasing $2.29 per hundredweight. This would result in approximately a $2.06 decrease in the uniform price paid to producers. Although over-order pricing has been effective in Florida, it is unlikely that the over-order prices would be able to offset this total decrease. Data regarding over-order pricing are not published but an indication of the level is provided by comparing the Federal order Class I milk price to the announced cooperatives Class I price. In Miami, Florida, during 1996, the cooperatives announced price averaged $2.25 per hundredweight higher than the Southeastern Florida Federal order Class I price.[16]

Not only could producers suffer from a loss in the value of the Class I price reflected under the order, but inequity among processors could occur in the marketplace. More of the value of milk would be negotiated above the Federal order minimum. Because this value is outside of the regulatory minimum price, there is little that would ensure that processors are paying similar prices for milk. This could impact small processors more than larger processors because of their lack of resources needed to negotiate and obtain needed supplies of milk.

The results of implementing flat Class I pricing would be the same throughout the United States where decreases occur. Areas where flat differentials would have the greatest impact are located in the Northeast, Southeast, Southwest, and Central areas. Approximately 34,400 small producers and 480 small handlers are located in these regions of the United States.

[16] Table 35—1996 Annual Average Announced Cooperative Class I Prices in Selected Cities, Dairy Market Statistics, 1996 Annual Summary, USDA, AMS.

The Upper Midwest would experience a slight increase in Class I prices if a $1.60 flat differential were implemented. The Class I price would increase by $0.19 per hundredweight which would result in about a $0.04 increase in the uniform price. Although there are a substantial number of small producers located in this region, approximately 28,400, this increase would not impact the price that producers in this area receive for their milk. Over-order pricing is predominant in this region. Next to Florida, the Upper Midwest region has the highest announced cooperative Class I prices, between $1.19 to $1.79 [17] higher than the Federal order Class I price. Because the over-order prices are substantial in this area, the $0.19 increase in Class I prices would likely be offset by a slight decrease in over-order prices, thus the 180 small handlers and the 28,400 small producers would likely not see any increase in overall prices.

Although the use of flat differentials would require no additional reporting, recordkeeping, or compliance requirements it is not being considered as a viable replacement for the current Class I price surface because, in addition to other reasons addressed in the proposed rule, of the impact that flat differentials could have on a substantial number of small businesses both producers and processors. Flat differentials of $1.60 per hundredweight would negatively impact more than 52,000 total small businesses.

Modified Flat Differentials

The use of modified flat differentials was considered as an option for replacing the Class I price structure. This option is based on the flat Class I price concept modified by the relative use price concept. Under this system, an equal differential would be established in all orders and then, in orders that were determined to be deficit based on a Class I utilization percentage, an additional value would be added to the flat differential. Deficit orders were deemed to have a Class I utilization greater than 70 percent. If Class I use exceeds 70 percent, the Class I differential in an order would be $2.00 + $0.075* (Class I use percent—70 percent). This option assumes that markets with Class I use equal to or below 70 percent have an adequate reserve supply of milk to meet fluid needs and that markets with Class I use about 70 percent require additional milk supplies to meet fluid demand.[18]

As with the relative use option (Option 2), the estimated Class I differentials presented in the table are not entirely location-specific within the consolidated order. To provide a basis for comparison, a weighted average differential has been calculated based on current differentials for the consolidated orders using October 1995 data, as shown in the following table. These differentials are also not location-specific.

MODIFIED FLAT CLASS I DIFFERENTIALS IN PROPOSED ORDERS

[Based on October 1995 Data]

Proposed order [1]	Class I use (percent)	Mod. flat diff. ($/cwt)	Weighted avg diff.[2] ($/cwt)	Change ($/cwt)
Northeast	47.9	2.00	3.14	−1.14
Appalachian	81.5	2.86	2.79	0.07
Southeast	85.2	3.07	3.04	0.03
Florida	88.3	3.37	3.89	−0.52
Mideast	55.8	2.00	1.91	0.09
Central	48.8	2.00	2.52	−0.52
Upper Midwest	34.5	2.00	1.32	0.68
Southwest	48.1	2.00	3.01	−1.01
AZ-Las Vegas	48.9	2.00	2.46	−0.46
Western	29.6	2.00	1.84	0.16
Pacific NW	35.6	2.00	1.90	0.10

[1] Based on the eleven proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

Like flat differentials, modified flat differentials do not recognize location values associated with milk. Because this value would not be reflected in the minimum price under the Federal order program, modified flat differentials could have a dramatic effect on small businesses because modified flat differentials would change the competitive relationship between large and small processors and producers. Just as with flat differentials, large processors could maintain a competitive advantage over small processors in negotiating with producers for supplies of milk at prices above the established minimum price. Likewise, large producers might retain strong bargaining positions when competing with small producers to supply a processor.

Under this modified flat differential, only three orders would meet the necessary requirement to have a differential established above the $2.00 flat portion, Appalachian, Southeast, and Florida. Basically, this system would be equivalent to adopting a flat Class I pricing system in most of the United States. Although in this example the impacts appear to be different, with five of the proposed orders reflecting differential increases, this is only because the flat portion of the Class I differential is established at $2.00 instead of $1.60.

As with the flat differential, the Upper Midwest producers and processors would experience Federal order Class I price increases. In this example, the estimated price would increase by $0.59 which would return approximately $0.12 to the producers in a higher uniform price. The largest decrease would occur in the Southwest and Northeast orders with a Class I price decrease of $1.01 and $1.13, respectively. The use of a modifier to the flat differential based on the Class I utilization would help to mitigate the price decreases in the Southeast orders.

[17] Table 35—1996 Annual Average Announced Cooperative Class I Prices in Selected Cities, Dairy Market Statistics, 1996 Annual Summary, USDA, AMS.

[18] The 70 percent figure was merely selected for illustrative purposes and no analysis has been conducted to determine if this is an appropriate percentage.

With the use of the modifier, the three Southeast orders would not all experience decreases in Class I prices. The Appalachian order would have a $0.07 increase while the Florida order and the Southeast order would lose $0.52 and $0.01, respectively. Ultimately about 4,000 producers in the Southeast and Florida areas would experience a decline in the Class I price received under Federal orders, while nearly 4,200 producers in the Appalachian area would find their Class I price increasing.

The competitive position among processors could become altered under modified Class I differentials. More of the value of milk would be negotiated above the Federal order minimum. Because this value is outside of the regulatory minimum price, nothing would ensure that processors are paying similar prices for milk. This could impact small processors more than larger processors if the smaller processors lack the resources needed to negotiate and obtain needed supplies of milk. In addition, processors in areas where the modifier becomes effective would be placed at a disadvantage because the regulated minimum price would be allowed to fluctuate and their minimum costs would not be the same as those with the flat differential or where the Class I price is allowed to adjust. The use of $2.00 per hundredweight modified flat differentials would require no additional reporting, recordkeeping, or compliance requirements. However, up to 34,000 small businesses could be impacted by this proposal.

Demand Based Differentials

The use of demand based differentials was also considered as an option for the Class I price structure. Under this system, an equal differential would be applied to all orders, and in defined demand centers, an additional component would be added to reflect the costs of transporting milk from reserve supply areas to demand centers. This option would increase the regulatory burden on all businesses, both small and large, through additional reporting, recordkeeping, and compliance requirements. Small processors could be disadvantaged under this option.

This proposal involves establishing a fluid supply area for each market from which milk production around the major bottler locations is procured and a reserve supply area would be established that would be outside the fluid supply area from which milk production is sometimes supplied to fluid handlers in the major fluid bottling locations. The Class I differential for the reserve area under this proposal would be set at $1.00 per hundredweight. For fluid supply areas, the differential would be $1.00 plus transportation costs from the reserve area to the fluid demand area. Monies paid by Class I handlers through the second part of the Class I differential would be used to fund the order's system of transportation credits and balancing payments. These transportation credits and balancing payments would be provided to organizations that supply the order's fluid market.

To encourage movement of the nearest milk supply for fluid use, two restrictions would be needed. First, a handler's total transportation credits would be limited to the variable amount paid in by the handler for transportation. Second, a handler's total transportation credit would not exceed 80 percent of the handler's transportation bill on each Class I shipment or 2.8 cents per hundredweight per 10 miles (28 cents per 100 miles), whichever is less. Any residual left after paying transportation credits would be added to the $1.00 differential and paid to all producers in the pool.

The following table contains a few examples of differentials that would apply to specific locations. These differentials are based on the farthest distance that milk for fluid use is transported, using the USDSS [19] model to solve for each consumption point individually as a guide for establishing the differentials.

DEMAND-BASED CLASS I DIFFERENTIALS FOR SELECTED CITIES

Selected location	Current differential ($/cwt)	Demand-based differential ($/cwt)	Change ($/cwt)
Miami, FL	4.18	3.88	−0.30
Tampa, FL	3.88	2.05	−1.83
Orlando, FL	3.88	3.08	−0.80
New Orleans, LA	3.65	1.28	−2.37
Atlanta, GA	3.08	2.38	−0.70
New York City, NY	3.14	1.80	−1.34
Chicago, IL	1.40	1.49	−0.09
Minneapolis, MN	1.20	1.11	−0.09
Phoenix, AZ	2.52	1.00	−1.52
Dallas, TX	3.16	1.40	−1.76
Denver, CO	2.73	1.19	−1.54
Portland, OR	1.90	1.13	−0.77
Seattle, WA	1.90	1.31	−0.59
Boise, ID	1.50	1.06	−0.44

The review of this option from a producer viewpoint reveals that a demand based differential system is comparable to a flat differential option. Producers would only be ensured that the $1.00 portion of the differential would be returned through the blend price. Ultimately, this option could result in income losses for all producers, both large and small. Although additional money is generated by the demand based differential above the $1.00, this additional money would be used to fund transportation costs associated with servicing the Class I market. The differentials are established at a lower level that would negatively impact all 82,900 producers because of the decrease in the actual value of Class I revenue that is reflected in the Federal order minimum price. Thus, the disadvantages that producers, especially small producers, might experience under a flat or modified flat differential

[19] US Dairy Sector Simulator model developed and run by Cornell University to solve for the geographical spatial relationships of milk for particular uses of milk, primarily fluid.

system are applicable to demand based differentials.

Like the two previous options, small handlers also could be disadvantaged, because less of the actual value of Class I milk is reflected under the regulated price which may lead to both processors and producer inequity. The potential negative effects discussed under flat differentials and modified flat differentials also apply to demand based differentials. In addition, the adoption of demand-based differentials would result in a significant increase in reporting, recordkeeping, and compliance activities which would impact all 1,450 handlers, but is likely to be a greater burden on small handlers. To ensure reimbursement for a portion or all of a processors handling charges, complete and detailed transportation records must be kept. New forms would be required for submission, along with copies of all transportation invoices. The additional information could require more personnel, training, and technology to automatically keep track of such information. While the costs associated with this degree of recordkeeping are not available, they could be significant enough to disadvantage small businesses.

Because the use of demand-based differentials could result in a significant increase in regulatory burdens to all handlers as well as inequity among producers and processors, demand-based differentials are not considered a viable alternative.

Decoupled Baseline Class I Price with Adjustors

The use of a decoupled baseline Class I price with adjustors was considered as an option for replacing the Class I price structure. Under this system, the Class I price would be decoupled from the basic formula price, or the Class I price mover, and a base price would be established at a specified level. Adjustments to this base price would be made utilizing a supply/demand adjustor and possibly a cost of production indicator.

Under this option for Class I purposes the base price would be floored at $13.63 per hundredweight, the November 1995 to October 1996 average BFP. This price level would be used to establish Class I prices using current differentials. A supply/demand adjustor of $0.12 per hundredweight for each 2 percent change in the rolling average utilization would be used to change prices in each of the orders to reflect long-term trends. For example, a Class I utilization change from 44 percent to 46 percent in a market would result in a $0.12 per hundredweight gain in the market's Class I differential. Once the utilization level changes, the new utilization rate becomes the base for future changes. Thus, if a market falls from 44 percent to 42 percent, the new base for comparing a 2-percentage point change up or down is 42 percent.

In addition to the supply/demand adjustor, a cost of production indicator would be developed whereby Class I prices would be increased in a timely manner when input costs to dairy farmers are increasing. One such economic indicator might be feed costs. While one such adjustor was developed and submitted, it was received too late to be included in this analysis.

The following table illustrates the initial Class I differentials under the proposed consolidated orders. These differentials are not location-specific within the applicable orders. For purposes of this analysis and to provide a basis for comparison within the proposed consolidated orders, a weighted average Class I differential has been calculated for each order based on October 1995 data. This weighted average differential is computed by multiplying the percentage of Class I milk in each of the current orders that comprise the consolidated order by the applicable current order differential and adding the resulting amounts. The weighted average differential is not location-specific for the consolidated order.

Initially the differentials would be the same. However, as this option impacts production (supply) and use (demand), there would be a change in the utilization percentage, thereby causing the differentials to vary.

INITIAL CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON 1995 DATA UNDER DECOUPLED BASELINE CLASS I PRICE WITH ADJUSTORS SYSTEM

Proposed order	Weighted average differential ($/cwt) [1]	Initial class I differential ($/cwt)	Change in differential ($/cwt)
Northeast	3.14	3.14	0.00
Appalachian	2.79	2.79	0.00
Southeast	3.04	3.04	0.00
Florida	3.89	3.89	0.00
Mideast	1.91	1.91	0.00
Central	2.52	2.52	0.00
Up Midwest	1.32	1.32	0.00
Southwest	3.01	3.01	0.00
AZ-Las Vegas	2.46	2.46	0.00
Western	1.84	1.84	0.00
Pacific NW	1.90	1.90	0.00

[1] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

The review of this option indicates that the decoupled baseline Class I price with adjustors would create some disruption in inter-market price alignment because Class I differentials would be allowed to adjust independently from each other and may have a serious impact on producers and processors, particularly small producers and processors. If Class I differentials are allowed to adjust frequently, price alignments established between and among markets would disappear causing inequity among competing handlers. It is this inequity amongst handlers that would have a significant impact on a small business's ability to compete in the marketplace.

Analysis completed by the multi-regional ERS model [20] indicates that the increase in prices experienced would

[20] Economic Research Service multi-regional model of the dairy industry.

not be sustainable. The results of the model analysis indicate that the higher floored Class I prices would impact the all milk price and after 3 years, producers would begin experiencing a decrease in the revenue initially generated by this option. This would occur because the higher blend prices (caused by higher Class I prices) would stimulate milk production which would then lead to lower manufacturing prices. Because it is the blend price that is paid to producers, the increase in the Class I prices would not be enough to offset the decrease in prices of the other classes of use and the changes in utilization which would affect the differential levels.

Initially Class I differentials would not change however, Class I prices would increase because of the inclusion of a higher floor price. With the use of a floor, the variability in Class I prices would be moderated. However, the use of the floor price may impact the 79,600 smaller producers differently than the 8,400 larger producers because the smaller producers may not have the necessary financial resources to endure such a transition.

The Proposed Class I Price Options

The options proposed in this rule are a result of extensive review of the current marketing structure and other pertinent information. Extensive outreach, as explained previously, resulted in substantial input from the public. After gathering the necessary information, two options were developed and are advanced in this proposed regulation as viable Class I price structures.

Currently, the Class I price structure recognizes that milk has value by location. By recognizing that milk has value by location, small businesses are placed more on the same competitive footing as large businesses in the minimum prices they pay for milk. The use of either location-specific differentials or relative-value differentials would provide the necessary recognition of the location value of milk but at different levels.

Location-Specific Differentials (Option 1A)

This option would establish a nationally coordinated system of location-specific Class I price differentials reflecting the relative economic value of milk by location. An important feature of the option is including location adjustments that geographically align minimum Class I milk prices paid by fluid milk processors nationwide regardless of defined milk marketing area boundaries or order pooling provisions. A basic premise of this option is that the value of milk varies according to location across the United States.

The level of the location-specific differentials proposed in this regulation are such that small businesses would experience minimal impacts if the regulations were implemented. The differentials are based on economic model results,[21] current marketing conditions, and the costs of obtaining alternative supplies of milk. Since a price is established for every county under this option, the following table sets forth examples of adjusted differentials at selected cities. Map 2 and General Provisions § 1000.52, as contained in the discussion on price structure, set forth the location adjusted differentials in every county.

COMPARATIVE LOCATION-SPECIFIC CLASS I DIFFERENTIALS AT SELECTED CITIES

City	Class I differential		Difference
	Current	Loc.-specific diff	
	Dollars Per Hundredweight		
New York City, NY	3.14	3.15	.01
Charlotte, NC	3.08	3.10	.02
Atlanta, GA	3.08	3.10	.02
Tampa, FL	3.88	4.00	.12
Cleveland, OH	2.00	2.00	.00
Kansas City, MO	1.92	2.00	.08
Minneapolis, MN	1.20	1.70	.50
Chicago, IL	1.40	1.80	.40
Dallas, TX	3.16	3.00	(.16)
Salt Lake City, UT	1.90	1.90	.00
Phoenix, AZ	2.52	2.35	(.17)
Seattle, WA	1.90	1.90	.00

Other than in the southwestern portions of the United States, this proposed option would have little impact on most producers both large and small. Likewise, processors should not experience any substantial changes in their abilities to compete for milk supplies. In fact, producers and processors should experience improvements because location-specific differentials provide improvements in areas under the current system that are not as well aligned. In addition processors would experience improvements in competing for milk because the price is established for each county regardless of where the milk is pooled. Because more of the actual value of Class I milk is reflected in the minimum regulated price, both small producers and processors can be assured of maintaining their ability to compete for a supply of milk.

A review of the six year average quantitative analysis conducted using the ERS model, assuming implementation of the consolidated orders, four classes of use, BFP as proposed, and using location-specific differentials would result in a decrease in Class I utilization but an increase of $0.03 in the all-milk price. Overall, this pricing option would result in $55 million increase in cash receipts.

The use of location-specific differentials would require no additional reporting, recordkeeping, or compliance requirements.

Relative-Value Specific Differentials (Option 1B).

A nationally coordinated system of relative-value specific Class I price differentials and adjustments that recognizes several low pricing areas is the second of two options proposed. These differentials rely on a least cost

[21] USDSS results using May and October 1996 data.

optimal solution from the USDSS Cornell model to develop a Class I price structure that is based on the most efficient assembly and shipment of milk and dairy products to meet all market demands for milk and its products. This option relies more on the market and the negotiating ability of processors and producers to generate higher prices when needed to provide the necessary incentive to move milk in order to satisfy demand.

Relative-value specific differentials are designed to move the dairy industry into more market-oriented environment by reducing reliance on Federal regulations in establishing actual Class I milk prices. By lowering the differentials in most of the United States, marketing practices would have a greater impact on Class I values in the form of over-order prices and only the producers who perform for the market would benefit. Hence, the adoption of relative-value differentials would move the dairy industry to rely on the negotiating abilities of both dairy farmers and processors to determine actual Class I values. Less efficient small businesses could be disadvantaged because of the lack of resources and knowledge necessary to effectively negotiate and maintain necessary price levels. Map 3 and General Provisions § 1000.52, as contained in the proposed rule, set forth the differentials in every county. The following table sets forth adjusted differentials at selected cities.

COMPARATIVE RELATIVE VALUE-SPECIFIC CLASS I DIFFERENTIALS AT SELECTED CITIES

City	Current diff.	Rel. value-specific diff.	Difference
	Dollars Per Hundredweight		
New York City, NY	3.14	2.07	(1.07)
Charlotte, NC	3.08	1.89	(1.19)
Atlanta, GA	3.08	2.46	(0.62)
Tampa Bay, FL	3.88	3.81	(0.07)
Cleveland, OH	2.00	1.54	(0.46)
Kansas City, MO	1.92	1.45	(0.47)
Minneapolis, MN	1.20	1.20	0.00
Chicago, IL	1.40	1.65	0.25
Dallas, TX	3.16	1.68	(1.48)
Salt Lake City, UT	1.90	1.08	(0.82)
Phoenix, AZ	2.52	1.14	(1.38)
Seattle, WA	1.90	1.00	(0.90)

The level of the relative value-specific differentials proposed in this rule are such that without a phase-in and a transitional program, small businesses, particularly producers, would experience significant economic impacts. Reviewing the change in Class I differentials on an individual order basis reveals that, with the exception of producers located in the Upper Midwest region, all producers would likely face reduced income due to lower minimum Class I prices if relative value-specific differentials were implemented immediately. Producers located in the Northeast and Southwest would experience the greatest decrease.

However, with the use of a phase-in together with one of the proposed transitional program alternatives, the impacts on small businesses could be mitigated during the transition period. The use of a transition program alternative would also allow both producers and processors the opportunity to adapt their marketing practices to adjust to a new level of Class I differentials. At the conclusion of the transition period, small businesses should have adjusted to lower regulated Class I differentials and be able to compete in a more market-oriented environment.

Three possible alternatives are presented for consideration of phasing in relative value-specific differentials to minimize the market disruption that may initially occur. Each utilizes the difference between the current differentials and the final relative value-specific differentials as the basis of the phase-in. This difference is then reduced by 20 percent during each phase-in year until the final relative value-specific differential price is achieved. The phase-in would begin in 1999 and be completed by 2003. The base differentials resulting from this transitional phase-in are set forth in the following table. The first alternative would be to phase-in to these differentials.

RELATIVE VALUE-SPECIFIC BASE DIFFERENTIALS FOR USE IN PHASE-IN PROGRAM OPTIONS

City	Current	Relative Value-Specific Base Differentials [1]				
		1999	2000	2001	2002	2003
	Dollars Per Hundredweight					
New York City	3.14	2.93	2.71	2.50	2.28	2.07
Charlotte	3.08	2.84	2.60	2.37	2.13	1.89
Atlanta	3.08	2.96	2.83	2.71	2.58	2.46
Tampa Bay	3.88	3.87	3.85	3.84	3.82	3.81
Cleveland	2.00	1.91	1.82	1.72	1.63	1.54
Kansas City	1.92	1.83	1.73	1.64	1.54	1.45
Minneapolis	1.20	1.20	1.20	1.20	1.20	1.20
Chicago	1.40	1.45	1.50	1.55	1.60	1.65
Dallas	3.16	2.86	2.57	2.27	1.98	1.68
Salt Lake City	1.90	1.74	1.57	1.41	1.24	1.08

RELATIVE VALUE-SPECIFIC BASE DIFFERENTIALS FOR USE IN PHASE-IN PROGRAM OPTIONS—Continued

City	Current	Relative Value-Specific Base Differentials [1]				
		1999	2000	2001	2002	2003
Phoenix	2.52	2.24	1.97	1.69	1.42	1.14
Seattle	1.90	1.72	1.54	1.36	1.18	1.00

[1] Base differential obtained by taking the difference between the current differential and the final relative value-specific differential (year 2003) and multiplying by 20 percent. This value is then subtracted from the current differential to yield the 1999 base differential. This value is then deducted from each consecutive year's value until the relative value-specific differentials are achieved in 2003.

The second alternative for phasing-in to the relative value-specific differentials would consist of adding a decreasing ''transitional payment'' to the base differential. It would be equal to the decrease in revenue that would occur with the implementation of relative value-specific differentials during the four years of transitioning to these differentials (1999 to 2002). During this four-year period, it is projected that $388.6 million would be removed from the Federal order system through lowered Class I differentials in most markets. To provide the industry an opportunity to prepare for this change, a transitional payment would be added to the base differential for Class I milk. The payment would be higher in the first year and gradually be reduced thereafter to result in implementation of the relative value-specific differentials by 2003. The additional payment would equal $0.55 per hundredweight in 1999, $0.35 per hundredweight in 2000, $0.20 per hundredweight in 2001, and $0.10 per hundredweight in 2002. This offsetting of revenue is designed to temporarily reduce the impacts of implementing relative value-specific differentials, thus allowing producers an opportunity to adjust their marketing practices to adapt to more market-determined Class I pricing. The following table sets forth the adjusted Class I differentials under this revenue-neutral phase-in option for selected cities.

RELATIVE VALUE-SPECIFIC CLASS I DIFFERENTIALS WITH REVENUE NEUTRAL PHASE-IN PAYMENTS

City	Current	Class I diff. with revenue neutral phase-in				
		1999 [1]	2000 [2]	2001 [3]	2002 [4]	2003 [5]
	Dollars Per Hundredweight					
New York City, NY	3.14	3.48	3.06	2.70	2.38	2.07
Charlotte, NC	3.08	3.39	2.95	2.57	2.23	1.89
Atlanta, GA	3.08	3.51	3.18	2.91	2.68	2.46
Tampa Bay, FL	3.88	4.42	4.20	4.04	3.92	3.81
Cleveland, OH	2.00	2.46	2.17	1.92	1.73	1.54
Kansas City, MO	1.92	2.38	2.08	1.84	1.64	1.45
Minneapolis, MN	1.20	1.75	1.55	1.40	1.30	1.20
Chicago, IL	1.40	2.00	1.85	1.75	1.70	1.65
Dallas, TX	3.16	3.41	2.92	2.47	2.08	1.68
Salt Lake City, UT	1.90	2.29	1.92	1.61	1.34	1.08
Phoenix, AZ	2.52	2.79	2.32	1.89	1.52	1.14
Seattle, WA	1.90	2.27	1.89	1.56	1.28	1.00

[1] 1999 applicable base differential from the previous table plus $0.55.
[2] 2000 applicable base differential from the previous table plus $0.35.
[3] 2001 applicable base differential from previous table plus $0.20.
[4] 2002 applicable base differential from the previous table plus $0.10.
[5] Final relative value-specific differentials.

The use of a revenue-neutral phase-in program would decrease the amount of cash receipts removed from the Federal order system from $388.6 million during the four-year phase-in to a gain of $47.8 million with the offsetting compensation implementation and then effective relative-value differentials. The decrease in the all-milk price paid to producers would also be reduced from $0.04 per cwt to $0.02 per cwt for the six-year average.

In fact, during the first year of offsetting compensation implementation the Class I price would increase for all but one of the Federal orders. On average, for all markets, the Class I price would increase $0.39 per cwt, the all-milk price would increase an average of $0.13 per cwt, and total cash receipts would be increased by $193.9 million compared with the baseline. Although these values would be decreased by the sixth year, with Class I prices projected to decrease for all Federal order an average of $0.51, the all-milk prices projected to decrease an average of $0.09, and total cash receipts projected to decrease $128.5 million, all producers would benefit from the lessening of the impacts of moving towards the relative-value differentials.

The third approach to phasing in the relative value-specific differentials would consist of adding a decreasing ''transitional payment'' to the base differential that would enhance revenue beyond what the Class I system would have generated during the four years of transitioning to the relative value-specific differentials. During this four-year period, it is projected that $878.4 million would be added to the Federal order system through the revenue-enhanced payment. This would result in a net increase of $489.8 million added to the system once the projected decrease resulting from the relative value-specific differentials during this period is deducted. This additional money would not only provide producers with an opportunity to prepare for and restructure their marketing practices to adapt to more

market determined Class I pricing but would also allow producers to obtain the education and resources necessary to become more effective in a more market-oriented environment. Again, the payment in the first year would be the highest with reductions occurring thereafter to result in implementation of the relative value-specific differentials by 2003. The additional payment would equal $1.10 per hundredweight of Class I in 1999, $0.70 per hundredweight in 2000, $0.40 per hundredweight in 2001, and $0.20 per hundredweight in 2002. The following table sets forth the adjusted Class I differentials under this revenue-enhancement phase-in option for selected cities.

RELATIVE VALUE-SPECIFIC CLASS I DIFFERENTIALS WITH REVENUE ENHANCEMENT PHASE-IN PAYMENTS

City	Current	Class I diff. with revenue enhancement				
		1999 [1]	2000 [2]	2001 [3]	2002 [4]	2003 [5]
	Dollars Per Hundredweight					
New York City, NY	3.14	4.03	3.41	2.90	2.48	2.07
Charlotte, NC	3.08	3.94	3.30	2.77	2.33	1.89
Atlanta, GA	3.08	4.06	3.53	3.11	2.78	2.46
Tampa Bay, FL	3.88	4.97	4.55	4.24	4.02	3.81
Cleveland, OH	2.00	3.01	2.52	2.12	1.83	1.54
Kansas City, MO	1.92	2.93	2.43	2.04	1.74	1.45
Minneapolis, MN	1.20	2.30	1.90	1.60	1.40	1.20
Chicago, IL	1.40	2.55	2.20	1.95	1.80	1.65
Dallas, TX	3.16	3.96	3.27	2.67	2.18	1.68
Salt Lake City, UT	1.90	2.84	2.27	1.81	1.44	1.08
Phoenix, AZ	2.52	3.34	2.67	2.09	1.62	1.14
Seattle, WA	1.90	2.82	2.24	1.76	1.38	1.00

[1] 1999 applicable base differential from the second previous table plus $1.10.
[2] 2000 applicable base differential from the second previous table plus $0.70.
[3] 2001 applicable base differential from the second previous plus $0.40.
[4] 2002 applicable base differential from the second previous plus $0.20.
[5] Final relative value-specific differentials.

The use of a revenue-enhancement phase-in program would increase the amount of cash receipts within the Federal order system by an average $34.9 million for a six-year period that includes implementing and then effective relative value-specific differentials. For the six-year average, the all-milk price would be unchanged. During the first year of implementation Class I prices would increase an average of $0.91 per cwt, all-milk prices would increase an average of $0.30 per cwt, and total cash receipts would increase $425 million. Although these values would decrease by the sixth year, with Class I prices down an average of $0.48, all-milk prices down $0.06, and total cash receipts down $80.5 million, all producers would benefit from the lessening of the impacts of moving towards relative value-specific differentials that are more market-oriented and less governmentally regulated.

Although producers would benefit from the initial increases in the Class I prices, this may put small businesses at a disadvantage because the cost of the raw product during the initial implementation years would be higher than the current regulated minimum prices. In areas such as the Upper Midwest and Southeast where over-order pricing has been effective in establishing the actual value of Class I milk, small processors may actually benefit from having more of the total cost of the milk reflected in the minimum price. This may increase the equity amongst the competing handlers in these regions. There are approximately 200 small handlers located in these two regions. About 600 small handlers located most other places in the United States may find that the increase in the Class I price could change their competitive relationships.

No additional recordkeeping, reporting, or compliance requirements would be necessary to implement the relative value-specific differentials discussed above.

The Proposed Classification Options

The classification of milk recommendations should not have a significant economic impact on a substantial number of small businesses. This proposed rule provides uniform milk classification provisions for the newly consolidated milk orders. The recommendations should improve reporting and accounting procedures for handlers and provide for greater market efficiencies.

Most of the changes regarding milk classification provisions proposed for the newly consolidated orders would simplify order language and remove obsolete language.

This proposed rule contains a modified fluid milk product definition and recommends that certain products be reclassified. The revised fluid milk product definition proposed for the new orders should provide more consistency in determining the classification of products. The inclusion of eggnog to the list of fluid milk products and the reclassification of cream cheese from Class III to Class II will cause a nominal increase in the cost of the finished product. However, these changes, which will be applicable to all handlers regulated under the new orders, should not have a significant impact on the retail price of these products. Although producers will benefit from these products being reclassified into higher utilization classes, the impact of the product classification changes on the blend price to producers will be marginal.

Another modification includes the reclassification of butter and whole milk powder from Class III to Class IV. This change merely places these market-clearing products in the new Class IV with nonfat dry milk. The change promotes market efficiency and should have a minimal impact on producers' blend prices.

One recommendation with possible small business implications concerns the treatment of milk used to produced bulk sweetened condensed milk/skim milk. Some commenters argued that the wide price difference that sometimes exists between the Class II price and the

Class III–A price has put manufacturers of sweetened condensed milk at a competitive disadvantage with manufacturers of nonfat dry milk, which can be substituted for bulk sweetened condensed milk and skim milk in some higher-valued products.

Although this proposed rule does not recommend a reclassification for milk used in bulk sweetened condensed milk, it does propose a change in the relationship between the Class II and IV prices which should eliminate the price disparity that now, at times, exists. As discussed in the ''Class III and Class III–A (i.e., Class IV) Milk'' section of this proposed rule, the proposed new Class II price will be equal to the Class IV price plus a 70-cent differential. The coupling of the Class II and Class IV prices will largely remove the incentive to substitute nonfat dry milk for bulk sweetened condensed milk.

The recommendations regarding shrinkage provisions should provide equity among handlers, improve market efficiencies, and facilitate accounting procedures. This proposed rule provides that shrinkage be assigned pro rata based on a handler's utilization. As discussed in the ''Shrinkage and Overage'' section of this proposed rule, this modification should result in a slight increase (i.e., one cent per cwt.) in the blend price paid to producers.

For the reasons stated above, the milk classification provisions proposed herein should have little economic and regulatory impact on small businesses.

Paperwork Reduction Act of 1995

The information collection requirements contained in this proposed rule previously were approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0581–0032, through May 31, 1998. A notice of request for a three-year extension and revision of this currently approved information collection was published in the December 2, 1997, **Federal Register** (62 FR 63693), which invited comments from the public through February 2, 1998.

The amendments set forth in this proposed rule do not contain additional information collections that require clearance by the OMB under the provisions of 44 U.S.C. Chapter 35. Following is a general description of the reporting and recordkeeping requirements, reasons for these requirements and an estimate of the annual burden on the dairy industry.

Title: Report Forms Under Federal Milk Orders (From Milk Handlers and Milk Marketing Cooperatives).

OMB Control Number: 0581–0032.

Expiration Date of Approval: May 31, 1998.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Federal Milk Marketing Order regulations authorized under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), require milk handlers to report in detail the receipt and utilization of milk and milk products handled at each of their plants that are regulated by a Federal Order. The data are needed to administer the classified pricing system and related requirements of each Federal Order.

Rulemaking amendments to the orders must be approved in referenda conducted by the Secretary.

The terms of each of the current milk marketing orders are found at 7 CFR Parts 1001–1199; the terms of each of the proposed orders in this document are found at 7 CFR Parts 1001–1134. The authority for requiring reports is found at 8c (5) and (7) and 8d of the Act. The current authority for requiring records to be kept is found in the general provisions at 7 CFR Part 1000.5. In this proposed rule, this authority is found in the general provisions at 7 CFR Part 1000.27. The Act also provides for milk marketing agreements, but there are none in effect.

A Federal milk marketing order is a regulation issued by the Secretary of Agriculture that places certain requirements on the handling of milk in the area it covers. It requires that handlers of milk for a marketing area pay not less than certain minimum class prices according to how the milk is used. These prices are established under an order on the basis of evidence concerning the supply and demand conditions for milk in the market. A milk order requires that payments for milk be pooled and paid to individual farmers or cooperative associations of farmers of the basis on a uniform or average price. Thus, all eligible farmers (producers) share in the market wide use-values of milk by regulated handlers.

The Report of Receipts and Utilization and the Producer Payroll Report are completed by regulated milk handlers and milk marketing cooperatives and are the principal reporting forms needed to administer the 31 Federal milk marketing orders.

The orders also provide for the public dissemination of market statistics and other information for the benefit of producers, handlers, and consumers. Each milk order is administered by a market administrator who is an agent of the Secretary of Agriculture. Part of the market administrator's duties are to prescribe reports required of each handler, and to assure that handlers properly account for milk and milk products, and that such handlers pay producers and associations of producers according to the provisions of the order. The market administrator employs a staff that verifies handlers' reports by examining records to determine that the required payments are made to producers. Most reports required from handlers are submitted monthly to the market administrator. Confidentiality of information collection is assured through Section 608(d) of the Act, which imposes substantial penalties on anyone violating these confidentiality requirements.

The forms used by the market administrators are required by the respective milk orders that are authorized by the Act. The forms are authorized either in the general provisions (Part 1000) or in the sections of the respective orders. The forms are used to establish the quantity of milk received by handlers, the pooling status of handlers, the class-use of the milk used by the handler and the butterfat content and amounts of other components of the milk.

The frequency of performing these recordkeeping and reporting duties varies according to the form; the frequency ranges from ''on occasion'' to ''annually'' but ''monthly'' is perhaps most common. In general, most of the information that handlers report to the market administrator is readily available from normally maintained business records. Thus, the burden on handlers to complete these recordkeeping and reporting requirements is expected to be minimal. In addition, assistance in completing forms is readily available from market administrator offices.

Regarding the use of improved information technology to reduce the reporting and recordkeeping burden, the information requested is the minimum necessary to carry out the program. Since the type of information required to be collected and the certification and reporting of that information is required, no other alternative to the mode of information collection has been found. However, where possible, reported information is accepted using computer tapes or diskettes as alternatives to submitting the requested information on these report forms. Comments are requested to help assess the number of handlers using computers, word processors and other electronic equipment to create and store documents, as well as the extent to

which the Internet is used to exchange information.

We are confident that the information we collect does not duplicate information already available. Dairy Programs has an ongoing relationship with many organizations in the dairy industry that also respond to other governmental agencies. Thus, we are aware of the reports dairy industry organizations are submitting to other government agencies.

Information collection requirements have been reduced to the minimum requirements of the order, thus minimizing the burden on all handlers—those considered to be small as well as large entities. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. The primary source of data used to complete the forms is routinely used in all business transactions. Thus, the information collection and reporting burden is relatively small. Requiring the same reporting requirements for all handlers does not significantly disadvantage any handler that is smaller than industry average.

If the collection of this information were conducted less frequently, data needed to keep the Secretary informed concerning industry operations would not be available. Timing and frequency of the various reports are such to meet the needs of the industry and yet minimize the burden of the reporting public.

The collection of the required information is conducted in a manner consistent with guidelines in 5 CFR 1320.6. The orders require that the market administrator compute monthly minimum prices to producers based on monthly information. Without monthly information, the market administrator, for example, would not have the information to compute each monthly price, nor to know if handlers were paying producers on dates prescribed in the order, such as the advance payment for milk received the first 15 days of the month and the final payment which is payable after the end of the month. The Act imposes penalties for order violations, such as the failure to pay producers not later than prescribed dates. The orders require payments to and from the producer-settlement fund to be made monthly. Also, class prices are based on the monthly Basic Formula price series.

Annual Reporting and Recordkeeping Burden

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.87 hours per response.

Respondents: Milk Handlers and Milk Marketing Cooperatives.

Estimated Number of Respondents: 772.

Estimated Number of Responses per Respondent: 35.

Estimated Total Annual Burden on Respondents: 23,858 hours.

Estimated annual cost to respondents for report preparation: $276,514 (23,858 hours at $11.59 per hour). Although hourly rates vary among handlers in various localities, the wage paid to clerical workers engaged in report preparation is estimated to be comparable to about a grade GS–7, step 1.

It is important to note that the burden being reported is an estimate of the amount of time that would be required of current program participants, as was published in the Notice of Request for Extension, referenced in the introductory text of this section.

It is expected that this proposed rule would have little impact on the reporting and recordkeeping burden on handlers regulated under the Federal milk marketing order program. In fact, as a result of the consolidation of Federal orders from 31 to 11 as proposed, an overall reduction in reporting and recordkeeping requirements may occur due to greater uniformity in forms used and fewer ''special'' forms that currently apply to one or a few orders.

Non-substantial changes would be necessary on the required reports and records to correctly identify the new Federal market order (e.g. the current—and separate—reports for the Upper Florida, Tampa Bay and Southeastern Florida marketing areas would be combined into one report for the Florida marketing area).

Request for Public Input

Comments on the Executive Order 12866 analysis, the initial regulatory flexibility analysis, and the paperwork reduction analysis are requested. Specifically, interested parties are invited to submit comments on the regulatory and informational impacts of this proposed rule on small businesses. Comments are requested within 60 days of publication of this proposed rule in the **Federal Register**. Comments should be mailed to USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, D.C. 20090–6456.

Preliminary Statement

The material issues in this proposed rule relate to:

1. Consolidation of marketing areas.
2. Basic formula price replacement and other class price issues.
3. Class I price structure.
4. Classification of milk and related issues.
5. Provisions applicable to all orders.
6. Regional issues:
   a. Northeast Region.
   b. Southeast Region.
   c. Midwest Region.
   d. Western Region.
7. Miscellaneous and administrative matters.
   a. Consolidation of the marketing service, administrative expense, and producer-settlement funds.
   b. Consolidation of the transportation credit balancing funds.
   c. Proposed general findings.

II. Discussion of Material Issues and Proposed Amendments to the Orders

A discussion and explanation of the material issues and proposals contained in this rule are as follows:

1. Consolidation of Marketing Areas

Subtitle D, Chapter 1 of the 1996 Farm Bill, entitled ''Consolidation and Reform of Federal Milk Marketing Orders,'' requires, among other things, that the Federal milk marketing orders be limited to not less than 10 and not more than 14. Over 400 public comments have been received in response to requests from USDA for public input on the subject of order consolidation. Two preliminary reports on order consolidation have been issued by the Agricultural Marketing Service's Dairy Division. The initial Preliminary Report on Order Consolidation was issued in December 1996, and the Revised Preliminary Report was issued in May 1997. The December 1996 Report suggested that the 32 Federal milk marketing orders then in existence be consolidated to 10, and the May 1997 Report suggested 11. All comments received by the Department have been considered in the development of this proposed rule.

Although the Farm Bill specifically provides for the inclusion of California as a separate Federal milk order, the provision is contingent upon petition and approval by California producers. Interest in a Federal milk order has been expressed by some California producers, but the degree of interest expressed and the input provided by the producers has not been adequate to proceed with a proposed order for California.

The preliminary reports concerning order consolidation and this proposal were prepared using data gathered about receipts and distribution of fluid milk products by all known distributing

plants located in the 47 contiguous states, not including the State of California. Data describing the sources and disposition of fluid milk products for the month of October 1995 was used to compile the initial Preliminary Report. In response to comments and questions about certain marketing area boundaries and changes in marketing conditions in some of the markets after publication of the initial Preliminary Report, data concerning these markets was updated to January 1997, and more detailed information was gathered regarding the geographic distribution of route sales by individual handlers and their specific sources of producer milk. Specifically, such information was gathered for all or parts of the initially-suggested Northeast, Appalachian, Southeast, Mideast, Central, and Western marketing areas.

The eleven marketing areas suggested in the Revised Preliminary Report on Order Consolidation have, in some cases, been modified for this proposed rule. Several of the suggested marketing areas were the subjects of numerous comments containing information that indicated that the boundaries of those areas should be re-evaluated. As a result of the comments received, marketing data was further examined and analyzed for some of the suggested consolidated marketing areas to determine the most appropriate configurations of the consolidated areas to be included in this proposed rule. The result of the examination and analysis was to modify significantly from the Revised Preliminary Report the marketing areas of the proposed Northeast, Mideast, Upper Midwest, Central, and Southeast orders, and to make minor modifications to the marketing area of the proposed Appalachian order.

As in the case of data referring to the operations of less than three handlers or producers in the initial and Revised Preliminary Consolidation Reports, some of the data used to arrive at the proposed consolidated areas is restricted from use by the public because it refers to individual fluid milk distributing plants and the origins of producer milk supply for those plants. However, the basis for the proposed marketing area boundaries is described as specifically as possible without divulging such proprietary information.

Seven primary criteria were used in determining which markets exhibit a sufficient degree of association in terms of sales, procurement, and structural relationships to warrant consolidation. These are the same criteria which were used in the two reports on order consolidation issued by the Dairy Division (November 1996 and May 1997). The criteria are as follows:

1. Overlapping Route Disposition

The movement of packaged milk between Federal orders indicates that plants from more than one Federal order are in competition with each other for Class I sales. In addition, a degree of overlap that results in the regulatory status of plants shifting between orders creates disorderly conditions in changing price relationships between competing handlers and neighboring producers. This criterion is considered to be the most important.

2. Overlapping Areas of Milk Supply

This criterion applies principally to areas in which major proportions of the milk supply are shared between more than one order. The competitive factors affecting the cost of a handler's milk supply are influenced by the location of the supply. The pooling of milk produced within the same procurement area under the same order facilitates the uniform pricing of producer milk. Consideration of the criterion of overlapping procurement areas does not mean that all areas having overlapping areas of milk procurement should be consolidated. An area that supplies a minor proportion of an adjoining area's milk supply with a minor proportion of its own total milk production while handlers located in the area are engaged in minimal competition with handlers located in the adjoining area likely do not have a strong enough association with the adjoining area to require consolidation.

For a number of the proposed consolidated areas it would be very difficult, if not impossible to find a boundary across which significant quantities of milk are not procured for other marketing areas. In such cases, analysis was done to determine where the minimal amount of route disposition overlap between areas occurred, and the criterion of overlapping route disposition generally was given greater weight than overlapping areas of milk supply. Some analysis also was done to determine whether milk pooled on adjacent markets reflects actual movements of milk between markets, or whether the variations in amounts pooled under a given order may indicate that some milk is pooled to take advantage of price differences rather than because it is needed for Class I use in the other market.

3. Number of Handlers Within a Market

Formation of larger-size markets is a stabilizing factor. Shifts of milk and/or plants between markets becomes less of a disruptive factor in larger markets. Also, the existence of Federal order markets with handlers too few in number to allow meaningful statistics to be published without disclosing proprietary information should be avoided.

4. Natural Boundaries

Natural boundaries and barriers such as mountains and deserts often inhibit the movement of milk between areas, and generally reflect a lack of population (limiting the range of the consumption area) and lack of milk production. Therefore, they have an effect on the placement of marketing area boundaries. In addition, for the purposes of market consolidation, large unregulated areas and political boundaries also are considered a type of natural barrier.

5. Cooperative Association Service Areas

While not one of the first criteria used to determine marketing areas, cooperative membership often may be an indication of market association. Therefore, data concerning cooperative membership can provide additional support for combining certain marketing areas.

6. Features or Regulatory Provisions Common to Existing Orders

Markets that already have similar regulatory provisions that recognize similar marketing conditions may have a head start on the consolidation process. With calculation of the basic formula price replacement on the basis of components, however, this criterion becomes less important. The consolidation of markets having different payment plans will be more dependent on whether the basic formula component pricing plan is appropriate for a given consolidated market, or whether it would be more appropriate to adopt a pricing plan using hundredweight pricing derived from component prices.

7. Milk Utilization in Common Dairy Products

Utilization of milk in similar manufactured products (cheese vs. butter-powder) was also considered to be an important criterion in determining how to consolidate the existing orders.

Comments on Consolidation Criteria

Most of the comments received relative to order consolidation criteria agreed that overlapping route disposition and milk procurement are the most important criteria to consider in the consolidation process. In

addition, Class I use percentages and regulation on the basis of handler location were noted as criteria to consider. To some extent, the consolidated marketing areas included in this proposed rule do combine markets with similar Class I utilization rates rather than markets that would result in Class I use percentages being more uniform between markets. This result occurs because adjoining markets, where most of the sales and procurement competition takes place between handlers regulated under different orders, tend to have similar utilization rates rather than because the criterion is one that should be used to determine appropriate consolidations. Also, Class I utilization rates are a function of how much milk is pooled on an order with a given amount of Class I use. Differences in rates, to the extent they result in differences in blend prices paid to producers, provide an incentive for milk to move from markets with lower Class I utilization percentages to markets with higher Class I use.

Regulation of processors on the basis of their location rather than their sales areas has largely been incorporated in the proposed orders by a provision that would pool a handler under the order for the area in which the handler is located unless more than 50 percent of the handler's Class I route dispositions are distributed in another order area. This provision should help to assure that the order under which a distributing plant is pooled will change from month to month, and that a plant operator is subject to the same provisions, such as producer pay prices, as are its primary competitors.

The proposed orders also include a provision that locks plants processing primarily ultra-high temperature (UHT) milk into regulation under the order for the area in which the plant is located. Such plants often have widely dispersed route sales into a number of order areas, with sporadic deliveries to different areas. Without some type of lock-in provision, a UHT plant may be pooled in several different orders in as many months. At the same time, the plant's milk supply generally is procured from a given group of producers located in the same area as the UHT plant. Having the plant pooled under a succession of different orders with widely varying blend prices creates a disorderly condition for the producers involved.

On the basis of the distributing plant pooling standards included for all eleven orders in this proposed rule, there are only two distributing plants that would be fully regulated under an order other than the ones in which they are located. These plants are the Superbrand Dairy Products distributing plant in Greenville, South Carolina; and the Ryan Milk Company plant in Murray, Kentucky. The Superbrand plant likely will qualify for pooling under the proposed Southeast order, and the Ryan Milk Company plant, due to the nature of its extended shelf-life products, may qualify under any of several orders, depending on its dispositions in any particular month. Additional lock-in provisions are incorporated in both of these cases to assure that the plants are pooled in the area in which they compete for a producer milk supply and, in the case of the Ryan plant, that it will be pooled consistently under one order.

Several comments advocated that all of a state's territory should be included in one Federal order to assure that all producers in a state are paid on an equitable basis, or to make it easier to maintain state statistical data. One of the primary reasons for Federal milk orders is that milk marketing occurs readily across state boundaries, making state milk marketing regulation more difficult to enforce. It is important that Federal milk marketing areas continue to recognize the free interstate movement of milk to and from milk plants. There are cases where natural boundaries such as mountains or rivers may result in part of a state having a closer marketing relationship with an adjoining state than with other areas of the same state.

The initial Preliminary Report on Order Consolidation stated that the Farm Bill requirement to consolidate existing marketing areas does not specify expansion of regulation to previously non-Federally regulated areas where such expansion would have the effect of regulating handlers not currently regulated. However, on the basis of data, views and arguments filed by interested persons in response to the initial Preliminary Report requesting that currently non-Federally regulated areas be added to some consolidated marketing areas, the Revised Preliminary Report suggested that such areas be added to several of the consolidated areas. Handlers who would be affected by the expansion of Federal order areas into currently non-Federally regulated areas were notified of the possible change in their status, and encouraged to comment.

Handlers located in Pennsylvania Milk Marketing Board (PMMB) areas 2, 3, and 6 are regulated under the State of Pennsylvania if they do not have enough sales in any Federal order area to meet an order's pooling standards. (If such plants do meet Federal order pooling standards, the State of Pennsylvania continues to enforce some of its regulations in addition to Federal order regulations). As State-regulated handlers, they must pay a Class I price for milk used in fluid products, often higher than the Federal order price would be. Inclusion of the Pennsylvania-regulated handlers in the consolidated marketing area, as in the case of including Maine or Virginia, would have little effect on handlers' costs of Class I milk (or might reduce them), while reducing producer returns.

Based on the comments received in response to the Revised Preliminary Report on Order Consolidation it has been determined that consolidation of the existing orders does not necessitate expansion of the consolidated orders into areas in which handlers are subject to minimum Class I pricing under State regulation, especially when the states' Class I prices exceed or equal those that would be established under Federal milk order regulation. Such regulation would have the effect of reducing returns to producers already included under State regulation without significantly affecting prices paid by handlers who compete with Federally-regulated handlers.

In order to avoid extending Federal regulation to handlers whose primary sales areas are outside current Federal order marketing areas, but who already are subject to similar minimum uniform pricing under State regulation, the in-area Class I disposition percentage portion of the pool distributing plant definition is proposed to be 25 percent for the Northeast order and 30 percent for the Mideast order, instead of the 10 or 15 percent used in the other nine consolidated order areas. The higher level of in-area sales required for pool status under these proposed orders will allow State-regulated plants to operate at their current level of sales within Federal order areas without being subject to full Federal order regulation.

As in both the initial and revised preliminary reports, ''pockets'' of unregulated areas within and between current order areas are included in the proposed consolidated marketing areas. The addition of currently-unregulated areas to Federal milk order areas can benefit regulated handlers by eliminating the necessity of reporting sales outside the Federal order marketing area for the purpose of determining pool qualification. Where such areas can be added to a consolidated order area without having the effect of causing the regulation of any currently-unregulated handler, they are proposed to be added.

Cornell University Study

In addition to AMS' analysis of the receipt and distribution data in the development of this proposal, researchers at Cornell University also provided input on potential consolidated marketing areas. This input was part of Cornell's partnership agreement with AMS to provide alternative analyses on Federal order reform issues. These researchers used an econometric model (the Cornell U.S. Dairy Sector Simulator, or USDSS), to determine 10–14 optimal marketing areas. Cornell's first options for 10–14 marketing areas were presented at an October 1996 invitational workshop for dairy economists and policy analysts held in Atlanta, Georgia. Based on USDSS model results, these options would result in minimum cost flows of milk using the known concentrations of milk production and population, without considering the location of milk plants. The marketing area maps that were circulated using these first results were those referenced by interested persons who cited the Cornell results in their comments on the initial Preliminary Report on Order Consolidation.

A second set of options was presented by Cornell researchers in spring 1997. These options were generated with a further-developed USDSS model. In updating the model, the researchers enhanced the inputs to its model as a means of better reflecting the actual structure of the national market for fluid milk products. These model updates allowed for determination of the minimum cost flows of: milk, intermediate and final products from producers to plants; from plants to plants; and from plants to consumers on the basis of the locations of milk supplies, dairy product processing plants, and consumers. The enhanced model is intended to provide for geographic market definition on the basis of a resulting set of optimal, efficient simulated flows of milk and dairy products between locations.

Although the USDSS model considers important factors such as milk supply, processing, and demand locations and transportation constraints in determining the optimal consolidated marketing areas, it does not include several other important circumstances that influence dairy industry and Federal order participants or the movement of milk which must be considered in this reform process. The USDSS model does not recognize that large areas, such as California, Virginia, Maine, Montana, large portions of Pennsylvania, and Wyoming, currently are not included in Federal milk order regulation, and does not recognize the Farm Bill requirement that, if included as a Federal order, the State of California be brought in as one order confined to the borders of California. Although the USDSS model incorporates highway mileage between milk production areas and milk plants, and between milk plants and consumers, it does not recognize features such as mountain ranges that affect hauling costs and may inhibit milk from moving. By attempting to maximize efficiencies in milk marketing, the model also does not recognize the existence of competing handlers operating plants in the same city or having the extent of handlers' route dispositions influenced by the existence of plants operated by the same handler in other locations. In addition, the model does not recognize that movements of producer milk often are determined by supply contracts between cooperatives and handlers or by the location of a handler's nonmember supply.

AMS is unaware of any other analyses performed to determine or suggest consolidated marketing areas.

As noted before, AMS' analysis focused primarily on distributing plant receipts and distribution information for October 1995, with more current information used as needed for further analysis. The data gathered by the Dairy Division from Federal Milk Market Administrators reflects actual movements of milk, both from production areas to processing plants, and from processing plants to consumption areas. This proposal considers this data, the seven criteria described fully above, and the factors not recognized in the USDSS model. Use of the USDSS may be an excellent way of determining where processing plants should be located to maximize the efficiencies of milk assembly and distribution, but is a less accurate means of determining where existing handlers actually compete for milk supplies and sales. The consolidated marketing area options presented by Cornell are not adopted because the USDSS model does not adequately reflect issues or factors that strongly affect which current marketing areas are most closely related. For this reason, this proposed rule is based on data reflecting actual distribution and procurement by fluid milk processing plants.

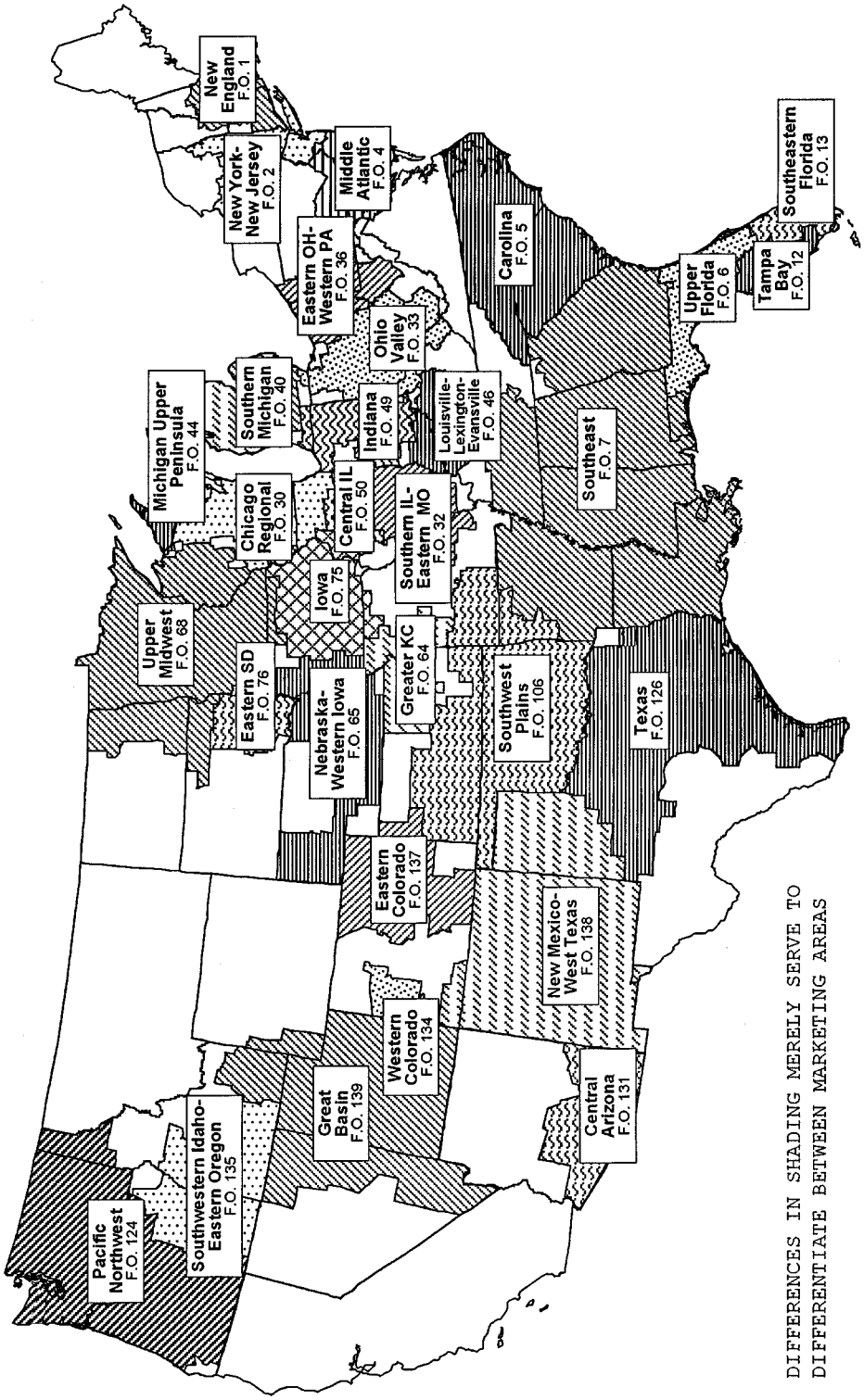
Proposed Marketing Areas

Following are maps of the current marketing areas and the 11 proposed marketing areas, followed by brief descriptions of the proposed areas (with those modified from the Revised Preliminary Report, and the modifications, marked by *) and the major reasons for consolidation. A more detailed description of each proposed consolidated order follows this summary.

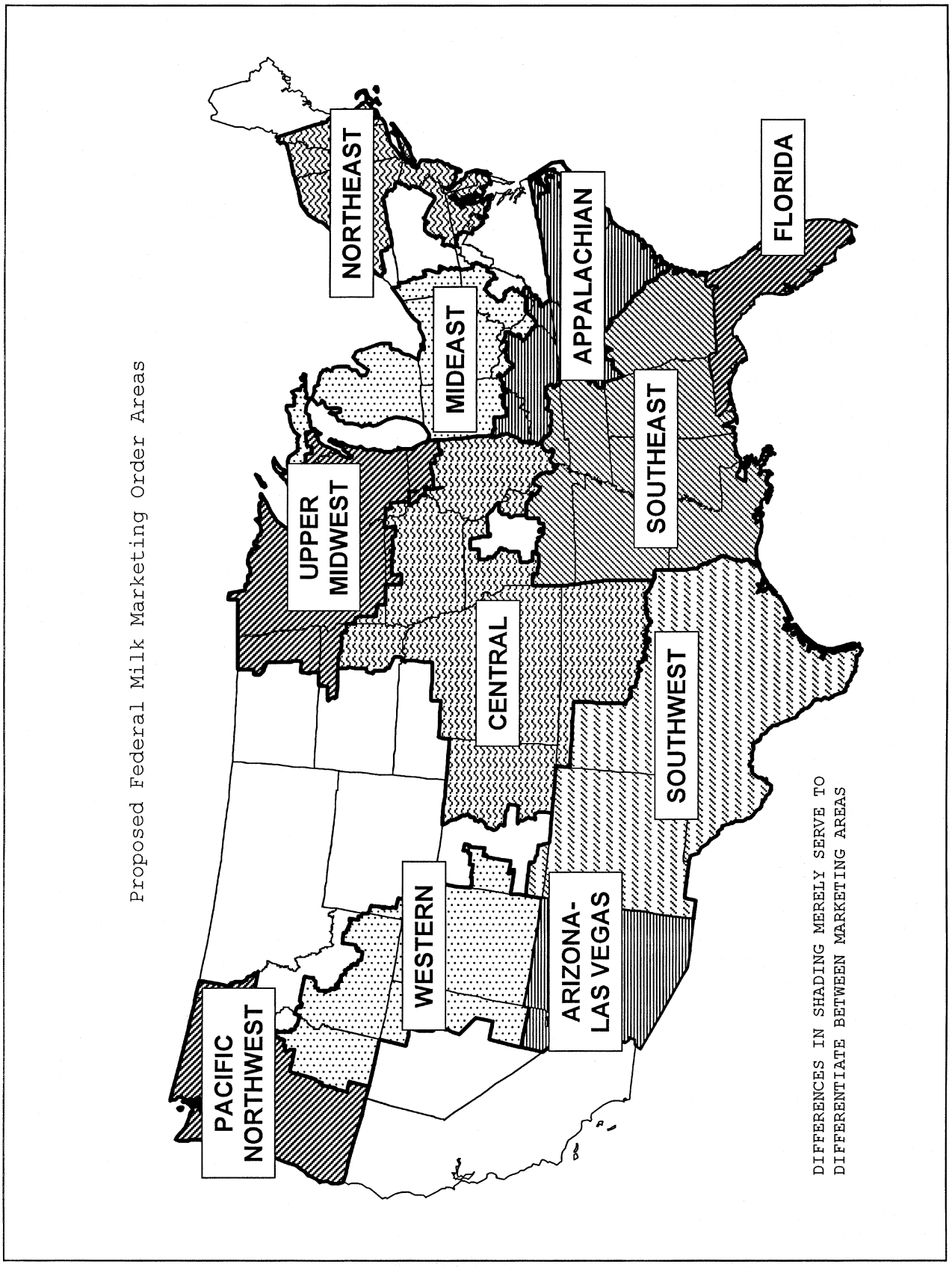
At the end of the Order Consolidation portion of the proposed rule is appended a list of distributing plants associated with each proposed marketing area, with each plant's expected regulatory status.

BILLING CODE 3410–02–P

Marketing Areas Under Federal Milk Orders as of October 1, 1997



DIFFERENCES IN SHADING MERELY SERVE TO DIFFERENTIATE BETWEEN MARKETING AREAS



BILLING CODE 3410–02–C

Proposed Eleven Marketing Areas

*1. *Northeast*—current marketing areas of the New England, New York-New Jersey and Middle Atlantic Federal milk orders, with the addition of: the contiguous unregulated areas of New Hampshire, northern New York and Vermont; the non-Federally regulated portions of Massachusetts; and the Western New York State order area. * The areas previously suggested to be included in the expanded Northeast order area (the southern tier of 3 western New York counties and Pennsylvania Milk Marketing Board Areas 2 and 3) have not been included in the proposed Northeast marketing area. The handlers who would be added to those currently fully regulated under the three separate orders either have a sufficient percentage of their route disposition within the consolidated marketing area to meet the proposed pooling requirements or are those located in the area proposed to be added.

Reasons for consolidation include the existence of overlapping sales and procurement areas between New England and New York-New Jersey and between New York-New Jersey and Middle Atlantic. An important measure of association is evidenced by industry efforts to study and pursue consolidation of the three Federal orders prior to the 1996 Farm Bill.

*2. *Appalachian*—current marketing areas of the Carolina and Louisville-Lexington-Evansville (minus Logan County, Kentucky) Federal milk orders plus the recently-terminated Tennessee Valley area, with the addition of * 21 currently-unregulated counties in Indiana and Kentucky. Five Kentucky counties that were part of the former Paducah order area and previously were suggested to be added to the Appalachian order area have been proposed for addition to the Southeast order instead.

Overlapping sales and procurement areas between these marketing areas are major factors for proposing this consolidation.

3. *Florida*—current marketing areas of the Upper Florida, ampa Bay, and Southeastern Florida Federal milk orders.

Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders.

*4. *Southeast*—current marketing area of the Southeast Federal milk order, plus 1 county from the Louisville-Lexington-Evansville Federal milk order marketing area; * plus 11 northwest Arkansas counties and 22 entire and 1 partial Missouri county that currently are part of the Southwest Plains marketing area; * plus 6 Missouri counties that currently are part of the Southern Illinois-Eastern Missouri marketing area; * plus 16 currently unregulated southeast Missouri counties (including 4 that were part of the former Paducah marketing area); plus 20 currently-unregulated Kentucky counties (* including 5 from the former Paducah marketing area that previously had been suggested for inclusion with the Appalachian area).

Major reasons for this consolidation include sales and procurement area overlaps between the Southeast order and these counties. The proposed addition of the Kentucky portion of the former Paducah, Kentucky, order area to the Southeast is in the nature of a fine-tuning adjustment in order boundaries. The addition of the Arkansas and Missouri counties recognizes a number of industry comments.

*5. *Mideast*—current marketing areas of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan and Indiana Federal milk orders, plus Zone 2 of the Michigan Upper Peninsula Federal milk order, and currently-unregulated counties in Michigan, Indiana and Ohio. * The current Pennsylvania Milk Marketing Board Area 6 and the two most western of the southern tier of counties in New York are not included in the proposed Mideast marketing area.

Major criteria for this proposed consolidation include the overlap of fluid sales in the Ohio Valley marketing area by handlers from the other areas proposed to be consolidated. With the consolidation, most route disposition by handlers located within the suggested Mideast order would be within the marketing area. Also, nearly all milk produced within the area would be pooled under the consolidated order. The portion of the Michigan Upper Peninsula marketing area proposed to be included in the Mideast consolidated area has sales and milk procurement areas in common with the Southern Michigan area and has minimal association with the western end of the current Michigan Upper Peninsula marketing area.

*6. *Upper Midwest*—current marketing areas of the Chicago Regional, Upper Midwest, Zones I and I(a) of the Michigan Upper Peninsula Federal milk orders, and unregulated portions of Wisconsin. The * Iowa, * Eastern South Dakota and * Nebraska-Western Iowa Federal order areas suggested to be added to this consolidated area in the revised report are proposed instead to be included in the Central consolidated area.

Major consolidation criteria include an overlapping procurement area between the Chicago Regional and Upper Midwest orders and overlapping procurement and route disposition area between the western end of the Michigan Upper Peninsula order and the Chicago Regional order. A number of the same cooperative associations market member milk throughout the proposed area.

The overlapping of procurement between the Chicago Regional and Upper Midwest order areas and the Iowa, Eastern South Dakota and Nebraska-Western Iowa order areas is, it was pointed out in comments received in response to the Revised Preliminary Report, due largely to milk pooled on the more southern orders when advantageous because of price differences. As a result, the volume of milk pooled on the Iowa, Eastern South Dakota and Nebraska-Western Iowa orders from Minnesota and Wisconsin fluctuates greatly, without any discernable relationship to amounts of milk needed from those areas at plants in the more southern areas.

The other consolidation criteria mentioned in the Revised Preliminary Report as reasons for consolidating the Iowa, Eastern South Dakota and Nebraska-Western Iowa order areas with the Chicago Regional and Upper Midwest areas also are applicable to the combination of these areas with the consolidated Central area.

*7. *Central*—current marketing areas of the Southern Illinois-Eastern Missouri, Central Illinois, Greater Kansas City, Southwest Plains, Eastern Colorado, * Nebraska-Western Iowa, * Eastern South Dakota and * Iowa Federal milk orders, minus * 11 northwest Arkansas counties and 22 entire and 1 partial Missouri county that are part of the current Southwest Plains marketing area, minus * 6 Missouri counties that are part of the current Southern Illinois-Eastern Missouri marketing area, plus * 54 currently-unregulated counties in Kansas, Missouri, Illinois, Iowa, Nebraska and Colorado, * plus 14 counties in central Missouri that are not considered to be part of the distribution area of an unregulated handler in central Missouri. This configuration would leave 25 unregulated counties in central Missouri

that are intended to delineate the distribution area of Central Dairy at Jefferson City, Missouri.

Major criteria on which this proposed consolidation is based include overlapping route disposition and procurement between the current orders. The proposed consolidation would result in a concentration of both the sales and supplies of milk within the consolidated marketing area. The proposed consolidation would combine several relatively small orders and provide for the release of market data without revealing proprietary information. In addition, many of the producers in these areas share membership in several common cooperatives.

8. Southwest—current marketing areas of Texas and New Mexico-West Texas Federal milk orders, with the addition of two currently-unregulated northeast Texas counties and 47 currently-unregulated counties in southwest Texas.

Major criteria supporting this proposed consolidation include sales and procurement area overlaps and common cooperative association membership between the Texas and New Mexico-West Texas marketing areas, and similar marketing concerns with respect to trade with Mexico for both orders. Addition of the currently-unregulated Texas counties will result in the regulation of no additional handlers, and will reduce handlers' recordkeeping and reporting burden and the market administrator's administrative costs.

9. Arizona-Las Vegas—current marketing area of Central Arizona, plus the Clark County, Nevada, portion of the current Great Basin marketing area, plus eight currently-unregulated Arizona counties.

The major criterion on which the proposed consolidation is based is sales overlap between the sole Las Vegas, Nevada, handler and handlers regulated under the Central Arizona order in both Clark County, Nevada, and unregulated portions of northern Arizona. The Grand Canyon and sparsely populated areas in the northwest part of Arizona, and the sparsely populated desert region of eastern Arizona constitute natural barriers between this and adjacent marketing areas. In addition, significant volumes of bulk and packaged milk are exchanged between the Arizona-Las Vegas area and Southern California.

10. Western—current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon, and Great Basin Federal milk orders, minus Clark County, Nevada. The major criteria on which the proposed consolidation is based include overlapping sales between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in five Idaho counties. The two orders also have similar multiple component pricing plans. The Western Colorado order is included because it is a small market where data cannot be released without revealing confidential information unless combined with data pertaining to another marketing area, and has at least as great a relationship with the adjacent Great Basin market as with any other.

Collection of detailed data for individual handlers indicates that the strength of earlier relationships between the former Great Basin and Lake Mead orders that justified their 1988 merger have dwindled significantly, with the Las Vegas area now more closely related to southern California and competing most heavily with Central Arizona handlers.

11. Pacific Northwest—current marketing area of the Pacific Northwest Federal milk order plus 1 currently-unregulated county in Oregon. The degree of association with other marketing areas is insufficient to warrant consolidation.

TABLE 1.—MARKET INFORMATION: POPULATION, UTILIZATION, PRODUCER MILK AND WEIGHTED AVERAGE UTILIZATION VALUE (WAUV) IN PROPOSED MARKETING AREAS

Market	Population [1] (millions)	Class I utilization [2] (percent)	Producer milk [2] (1000 lbs.)	WAUV [2,3] (per cwt)
Northeast	51.3	47.7	2,031,976	$13.47
Appalachian	17.1	82.2	440,965	13.97
Florida	13.8	88.3	204,541	15.05
Southeast	26.7	85.2	486,301	14.24
Mideast	31.0	55.8	1,050,656	12.92
Upper Midwest	18.5	34.5	1,034,318	12.60
Central	21.0	48.8	859,405	12.95
Southwest	20.9	48.1	680,232	13.39
Arizona-Las Vegas	5.5	48.9	181,075	13.26
Western	3.3	29.6	293,714	12.78
Pacific Northwest	8.8	35.6	493,207	12.44
Total	216.0	N/A	7,756,390	N/A

[1] Based on July 1, 1996 estimates.
[2] Based on October 1995 information, for plants which would be fully regulated under assumptions used in this report.
[3] Not a blend price—shown solely for the purpose of showing impact of consolidation on utilization.

TABLE 2.—MARKET INFORMATION: NUMBER OF PLANTS IN PROPOSED MARKETING AREAS

Market	Distributing plants [1]			Manufacturing and supply plants [3]
	Fully regulated (FR)	Exempt [2]	FR small businesses	
Northeast	79	17	42	106
Appalachian	29	1	13	13
Florida	15	2	3	4
Southeast	36	1	20	37
Mideast	56	2	36	59
Upper Midwest	29	1	15	301

TABLE 2.—MARKET INFORMATION: NUMBER OF PLANTS IN PROPOSED MARKETING AREAS—Continued

Market	Distributing plants [1]			Manufacturing and supply plants [3]
	Fully regulated (FR)	Exempt [2]	FR small businesses	
Central	34	2	8	83
Southwest	23	3	7	17
Arizona-Las Vegas	5	1	2	3
Western	11	3	6	19
Pacific Northwest	20	3	12	27
Total	337	36	164	669

[1] Based on October 1995 information. Excludes: (1) out-of-business plants through May 1997; and (2) new plants since October 1995.
[2] Exempt based on size (less than 150,000 lbs. route distribution per month).
[3] Based on May 1997 information.

Descriptions of Proposed Consolidated Marketing Areas

Each of the proposed consolidated order areas is described in the text following this introduction. The criteria which were used to determine which areas should be consolidated are explained in detail. For each proposed area, the following information is included:

Geography. The political units (states, counties, and portions of counties) included in each area, the topography, and the climatic conditions are described for the purpose of delineating the territory to be incorporated in each proposed marketing area and describing its characteristics pertaining to milk production and consumption. This information was derived principally from Microsoft® Encarta® 96 Encyclopedia, and augmented by several U.S. atlases.

Population. The total population of each area and its distribution within the area is included for the purpose of identifying where milk is consumed. July 1, 1996, population estimates were obtained from ''CO–96–8 Estimates of the Population of Counties and Demographic Population Change,'' Population Estimates Division of the U.S. Bureau of the Census.

Metropolitan Statistical Area (MSA) information is provided by the United States Office of Management and Budget (OMB), which defines metropolitan areas according to published standards that are applied to Census Bureau data. To be described as an MSA, an area (one or more counties) must include at least one city with 50,000 or more inhabitants, or a Census Bureau-defined urbanized area (of at least 50,000 inhabitants) and a total metropolitan population of at least 100,000 (75,000 in New England). Areas with more than 1 million population may be described as ''consolidated metropolitan statistical areas'' (CMSAs) made up of component parts designated as primary metropolitan statistical areas (PMSAs). For purposes of the marketing area descriptions in this proposed rule, the term ''MSA'' also includes CMSAs and PMSAs.

Per capita consumption. Available data pertaining to per capita consumption is discussed to help describe how much milk is needed to supply the fluid needs of the population of each proposed marketing area. Per capita consumption numbers were estimated by state using data from a report on ''Per Capita Sales of Fluid Milk Products in Federal Order Markets,'' published in the December 1992 issue of Federal Milk Order Market Statistics, #391, issued May 1993.

Production. A description of the amount and sources of milk production for the market is included for the purpose of identifying the supply area for each proposed marketing area. Production data by state and county for each Federal milk order was compiled from information collected by the offices administering the current Federal milk orders (market administrators' offices).

Distributing plants-route disposition. For each marketing area the number and types of distributing plants are included, with the locations of plants by population centers, to identify where milk must be delivered. This information was collected by market administrators' offices.

Utilization. The utilization percentages of the current individual orders and the effect of consolidation on the proposed consolidated orders are described for each proposed marketing area, with an estimate of the effect of consolidation on each current individual order's blend price. The current utilization data is published each month for each Federal milk order market. Pool data was used to calculate the effects of consolidation on utilization.

Other plants. The presence of manufacturing and supply plants in and near the proposed order areas, and the products processed at these plants, are described for each proposed consolidated area. This information was collected by market administrators' offices.

Cooperative Associations. The number of cooperative associations pooling member milk under each of the current individual orders included in each consolidated area, and the number that pool milk in more than one of the areas. This information was obtained from market administrators' offices.

Criteria for Consolidation. The extent to which the criteria used in identifying markets to be consolidated are supported by the marketing conditions present in each of the proposed consolidated areas is discussed.

Discussion of comments and alternatives. Comments filed in response to the two preliminary reports on consolidation and alternatives to the proposed consolidation are summarized and discussed for each proposed consolidated area.

Northeast

The proposed consolidated Northeast marketing area is comprised of the current New England, New York-New Jersey, and Middle Atlantic Federal milk order marketing areas (Orders 1, 2, and 4), with currently-unregulated areas in western and northern New York and northern Vermont and New Hampshire added. The entire areas of the States of Connecticut (8 counties), Delaware (3 counties), Massachusetts (14 counties), New Hampshire (10 counties), New Jersey (21 counties), Rhode Island (5 counties), and Vermont (14 counties) would be contained within the proposed Northeast order area. In addition, the District of Columbia, 21 counties and the City of Baltimore in Maryland, 54 complete and 2 partial counties and New York City in New

York, the 15 Pennsylvania counties currently included in the Middle Atlantic marketing area, and 4 counties and 5 cities in Virginia would be included in the consolidated order. There are 169 complete and 2 partial counties and 8 cities, including the District of Columbia, in the proposed Northeast marketing area.

Geography

The proposed Northeast marketing area extends from the Canadian border on the north, south to northern Virginia, eastern Maryland and Delaware, with its eastern edge along the western border of Maine at the northern end of the marketing area, and along the Atlantic Ocean for the remainder. The total northeast-southwest extent of the marketing area is approximately 600 miles. The marketing area extends westward to Lake Ontario and Lake Erie in New York State (about 450 miles east to west), goes only as far west as the northern part of New Jersey (about 60 miles), and expands westward again across the eastern half of southern Pennsylvania, taking in a small part of northeast Virginia, eastern Maryland, and Delaware (about 230 miles east to west). There would be a large State-regulated area in Pennsylvania just to the west of the Northeast marketing area; and most of the State of Virginia to the south of the marketing area also is regulated under a State order. The proposed Northeast marketing area is contiguous to no other proposed consolidated marketing areas, but parts of it, in western New York State and south central Pennsylvania, are very close to the proposed Mideast area.

The northern and northwestern parts of the Northeast area are large areas of coniferous forests that are somewhat mountainous. To the south and southeast of the forested areas are areas where dairy farming predominates as the primary type of agriculture. In fact, for 4 of the 10 states that are contained within the proposed Northeast marketing area (New Hampshire, New York, Pennsylvania and Vermont) dairy products were the number 1 agricultural commodity in terms of cash receipts during 1996. Principally along the Atlantic coastline is a flatter area where other agricultural activities, including greenhouse and nursery, fruit, truck and mixed farming, take place. A near-continuous strip along the east coast of the area, from northeast Massachusetts southwest to the Baltimore area, is a major industrial area and is heavily populated.

Population

According to July 1, 1996, population estimates, the total population in the proposed consolidated Northeast marketing area is 51.3 million. The area is very densely populated, especially along a coastal strip extending from Boston, Massachusetts, in the northeast to Washington, D.C., in the southwest. In this proposed marketing area of approximately 170 counties, 103 are included within Metropolitan Statistical Areas (MSAs). The 22 Metropolitan Statistical Areas in the proposed Northeast marketing area account for 91.7 percent of the total market area population.

Over half of the marketing area population is located in 6 interconnected MSAs in 48 counties, extending from central New Jersey to southern New Hampshire. The six MSAs are: Springfield, Massachusetts; Boston-Worcester-Lawrence, Massachusetts/New Hampshire/Maine/Connecticut; Providence-Fall River-Warwick, Rhode Island/Massachusetts; New London-Norwich, Connecticut/Rhode Island; Hartford, Connecticut; and New York-N. New Jersey-Long Island, New York/New Jersey/Connecticut/Pennsylvania. The population in this northeastern portion of the marketing area is concentrated most heavily at its northern and southern ends—the New York City area has a population of approximately 20 million, and the Boston area's population is approximately 5.5 million. Two of the other MSAs, Hartford and Providence, each have over 1 million population. Although each of these six MSAs is described as a separate area in the population data, many of the counties involved are divided between separate MSAs.

Just southwest of the New York City MSA is the Philadelphia-Wilmington-Atlantic City, Pennsylvania/New Jersey/Delaware/Maryland MSA, with a population of 6 million. Some counties of these two MSAs are adjacent. Southwest of the Philadelphia MSA and separated from it by only one county is the Washington, DC/Baltimore, Maryland/northern Virginia MSA, with a population in the proposed marketing area of 5.7 million.

Of the 14 other MSAs in the proposed marketing area, 8 are located in New York State, with an average population of nearly 600,000 each. Two are located in Pennsylvania, with populations of .6 and .45 million. One MSA in Vermont, 1 in Delaware, and 2 in Massachusetts have average populations of 160,000.

Fluid Per Capita Consumption

Fluid per capita consumption estimates vary within the Northeast from 16.7 pounds per month in the more southern parts of the region to 20 pounds per month in New England. These rates would result in a weighted average of 18 pounds per month, and an estimated total fluid milk consumption rate of 920 million pounds per month for the Northeast marketing area. Approximately 730 million pounds of this fluid milk consumption would be required along the heavily-populated coastal area extending from northeast Massachusetts southwest through Washington, D.C. and northern Virginia. Northeast handlers distributed 883.7 million pounds within the proposed marketing area during October 1995. Sales within the proposed marketing area by handlers that would be regulated by other orders totaled 9.3 million pounds, sales by partially regulated handlers within the area were 10.8 million, and an additional .8 million pounds were distributed by handlers who would be partially regulated under other orders. Sales in the marketing area by exempt and government plants, and by producer-handlers totaled 6.2 million pounds.

Milk Production

In December 1996, over 19,000 producers from 13 states pooled 1.9 billion pounds of milk on the three orders comprising the proposed Northeast order. With the addition of the Western New York State milk order and several currently-unregulated handlers, it is probable that the Northeast pool regularly will exceed 2 billion pounds of milk per month.

Eleven of the 13 states supplying milk to the three Federal order pools are at least partly in the marketing area, and 83 percent of the producer milk pooled under the three orders in December 1996 came from just 3 states—New York (41.5 percent), Pennsylvania (31.7 percent), and Vermont (10 percent). Over 10 million pounds of milk was produced in each of fifty-eight counties: 1 county in northeast Connecticut, 3 in the most northwestern of the Maryland portion of the marketing area, 31 spread over most of New York, 1 on the western edge of northern Virginia, and 22 in southeast to south central Pennsylvania and in the eastern part of the northern tier of Pennsylvania counties, with an additional Pennsylvania county, Lancaster, accounting for over 150 million pounds of milk. Eighty percent of the markets' total producer milk was produced within the proposed marketing area. In

addition, of the 81.1 million pounds pooled under the Western New York State milk order, over 90 percent was produced within the proposed marketing area.

Less than 40 percent of the milk production for the consolidated market was produced within 100 miles of the heavily populated coastal corridor. Although the Northeast area contains two out of the top five milk-producing states in the U.S. (New York and Pennsylvania), the population of the proposed marketing area is 20 million more than the next most-populated proposed consolidated area (the Mideast area, with 31 million people). The Northeast, therefore, is a very significant milk production area with a very high demand for fluid milk and dairy products.

Distributing Plants—Route Disposition

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports, with the pooling standards used in the Revised Preliminary Report adjusted to 25 percent of route dispositions as in-area sales (as discussed previously in Comments on Consolidation), and updated for known plant closures through May 1997, 156 distributing plants would be expected to be associated with the Northeast marketing area. The plants associated would include 79 fully regulated distributing plants (64 currently fully regulated, 10 currently partially regulated, and 5 currently unregulated), 15 partially regulated (3 currently fully regulated, 11 currently partially regulated and 1 currently unregulated), 17 exempt plants having less than 150,000 pounds of total route disposition per month (2 currently fully regulated, 4 currently partially regulated, 2 currently exempt based on size, and 9 currently unregulated), 43 producer-handlers (42 currently producer-handlers and 1 currently unregulated), and 2 exempt plants based on institutional status (1 currently unregulated and 1 currently exempt based on institutional status).

Since October 1995, 10 distributing plants (3 in New York, 3 in Massachusetts, 3 in Pennsylvania, and 1 in Connecticut), have gone out of business.

Over half (88) of the Northeast distributing plants which were identified as being in business in October 1995 were located in the 8 Northeast MSAs that have over a million people each. This number includes 49 (or two-thirds) of the pool distributing plants. Under the proposed consolidation, it is anticipated that there would be 12 pool distributing plants in the Boston-Worcester-Lawrence area, 10 in the Philadelphia-Wilmington-Atlantic City area, and 11 in the New York-Northern New Jersey-Long Island area. The Hartford, Connecticut, area would have 3 pool distributing plants, Providence-Fall River-Warwick would have 3, and the Washington-Baltimore area would have 6 pool distributing plants. Three pool distributing plants would be located in the Buffalo-Niagara Falls area, and 1 in the Rochester, New York, area.

Of the remaining 70 distributing plants, 14 pool distributing plants were located in other MSAs as follows: 8 in New York; 5 in Pennsylvania; and 1 in Massachusetts. Thirty-nine of the remaining distributing plants, including 11 pool distributing plants, were not located in MSAs.

For the proposed Northeast order, the in-area route disposition standard has been adjusted to 25 percent of total route dispositions from the 15-percent standard that was common to all of the suggested consolidated areas in the Revised Preliminary Report. This adjustment has been made to assure that State-regulated plants in Virginia and Pennsylvania that have sales in the proposed marketing area will not be pooled under Federal order regulation.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Northeast order, the Class I utilization percentages for the New England, New York-New Jersey, and Middle Atlantic markets were 51, 44, and 53 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Northeast order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: New England, a 3-cent per cwt decrease (from $13.52 to $13.49); New York-New Jersey, a 3-cent per cwt increase (from $13.45 to $13.48); and Middle Atlantic, a 4-cent per cwt decrease (from $13.44 to $13.40). The weighted average use value for the consolidated Northeast order market is estimated to be $13.47 per cwt. For December 1996, combined Class I utilization for Orders 1, 2 and 4 was 44.4 percent based on 852.7 million pounds of producer milk used in Class I out of 1.919 billion total producer milk pounds.

The Northeast area is one of two proposed consolidated marketing areas that would have a significantly higher-than-average percentage of its milk used in Class II. Currently, all three of the orders have Class II utilization between 15 and 20 percent. When the markets are combined the average for the consolidated market will be approximately 17 percent.

Other Plants

Located within the proposed consolidated Northeast marketing area during May 1997 were 106 supply or manufacturing plants: 13 in Vermont (4 in the Burlington area), 1 in New Hampshire and 10 in Massachusetts (all in the Boston-Worcester-Lawrence area), 1 in Rhode Island (in the Providence-Fall River-Warwick area), 7 in Connecticut (3 in the Hartford area and 4 in the New York-Northern New Jersey-Long Island area), 12 in New Jersey (all in the New York-Northern New Jersey-Long Island area), 2 in Delaware (one in the Philadelphia-Wilmington-Atlantic City area), 7 in Maryland (four in the Washington-Baltimore area), 13 in Pennsylvania (5 in the Philadelphia-Wilmington-Atlantic City area), and 40 in New York (9 in the New York-Northern New Jersey-Long Island area, 6 in the Buffalo-Niagara Falls area and 2 in the Rochester area).

Seventeen of the 106 plants are pool plants. Of these pool plants, 9 are manufacturing plants—1 manufactures primarily Class II products, 5 manufacture primarily powder, 2 manufacture primarily cheese and 1 manufactures primarily other products. There are 8 pool supply plants—1 has no primary product, but ships only to distributing plants; 5 are supply plants that manufacture primarily Class II products, and 2 supply plants manufacture primarily cheese. Of the remaining 89 nonpool plants in the Northeast marketing area, 82 are manufacturing plants—41 manufacture primarily Class II products, 1 manufactures primarily butter, 1 manufactures primarily powder, 37 manufacture primarily cheese and 2 manufacture primarily other products. Seven of the remaining nonpool plants are supply plants—2 are supply plants that manufacture primarily Class II products and 5 are supply plants that manufacture primarily cheese.

A pool supply plant that manufactures primarily cheese and a nonpool cheese manufacturing plant are located in the currently-unregulated portions of Steuben County that are proposed to be added to the consolidated Northeast marketing area.

There are also four supply or manufacturing plants in the unregulated area of New York—one in the unregulated county of Chautauqua, one in the unregulated portion of

Cattaraugus County, and two in the unregulated portion of Allegany County. One is a pool supply plant manufacturing primarily Class II products, and the remaining three are nonpool manufacturing plants—two manufacture primarily cheese and one manufactures primarily Class II products.

Cooperative Associations

During December 1995, 43 cooperative associations pooled their members' milk on the three Northeast orders. Three of the cooperatives pooled milk on all three orders, 2 pooled milk on both the New England and New York-New Jersey orders, and 2 others pooled milk on both the New York-New Jersey and Middle Atlantic orders. Sixty-eight percent of the milk pooled in the Northeast is cooperative association milk, with 79.3 percent of Federal Order 1 milk, 50.5 percent of Federal Order 2 milk, and 91.8 percent of Federal Order 4 milk pooled by cooperatives.

The 5 cooperatives that market milk only under Order 1 account for 25.5 percent of the milk marketed under that order by cooperative associations, and 20.2 percent of total milk marketed under Order 1. In Order 2, only 28 percent of cooperative association milk is marketed by the 27 co-ops that market milk only under Order 2. Milk marketed by these 27 cooperatives represent 14.1 percent of the total milk pooled for December 1995. Four cooperative associations marketed 45.4 percent of the milk marketed by cooperatives under Order 4. This amount of milk represented 41.7 percent of total milk pooled under Order 4 in December 1995.

Criteria for Consolidation

The current New England, New York-New Jersey, and Middle Atlantic Federal milk order marketing areas (Orders 1, 2, and 4) should be consolidated because of the interrelationship between Orders 1 and 2 and between Orders 2 and 4 regarding route disposition and milk supply. Ninety-four percent of fluid milk disposition by handlers who would be fully regulated under the consolidated order is distributed within the proposed marketing area. Fully regulated handlers account for 97 percent of the fluid milk products distributed within the proposed marketing area. The utilization of the three markets is similar, and several cooperative associations market their members' milk in all three markets. The three markets are surrounded by unregulated areas to the west and south, the Atlantic ocean to the east, and Canada to the north. The adjoining Maine State milk order also serves as somewhat of a barrier to milk marketing in the northeast by limiting the association of non-Maine milk with the Maine pool.

The merger of these markets has been previously proposed by interested parties. A committee comprised chiefly of Northeast region cooperatives was formed over two years ago to study a merger of the three Federal orders. In support of a Northeast consolidation, the committee and other interested parties, including handlers and regulatory agencies, have noted: overlapping sales and procurement areas; a trend toward consolidation of cooperative processors and handlers in the region (leaving the remaining handlers with larger distributing areas and volumes); and regulation of plants by an order in which they are not located. The proponents of consolidation have indicated that consolidation would tend to solve some of the presently existing inequities and would lead to greater efficiency for handlers and order administration.

Discussion of Comments and Alternatives

A large number of comments, primarily from producers and producer groups, supported expansion of the Northeast consolidated marketing area into non-federally regulated areas. Comments supported the suggestions in the Revised Preliminary Report on Order Consolidation that would have extended federal order marketing areas to non-federally regulated areas which are part of the same milksheds and fluid milk markets, arguing that the surrounding federal order pool(s) are carrying the necessary surplus for the Class I sales distributed by non-regulated handlers.

Comments favoring expansion into the non-federally regulated Northeast tended to include the unregulated areas of Pennsylvania, and sometimes the unregulated counties in Maryland and West Virginia. Among the comments supporting regulation of the entire state of Pennsylvania, there were differing opinions on whether the Pennsylvania Milk Marketing Board (PMMB) area 6 should be in the Northeast or the Mideast. Comments on behalf of the Association of Dairy Cooperatives in the Northeast (ADCNE), for example, supported including PMMB Area 6 in the Northeast. These comments also supported expansion to include Allegany and Garrett counties in western Maryland. Comments from the Pennsylvania State Grange supported regulating the entire state, but including all of it in the Northeast area.

Several comments suggested including currently-unregulated portions of Massachusetts in the Northeast marketing area. According to comments from a cooperative association, the ''corridor'' in Massachusetts that was suggested to remain unregulated has raised questions from handlers and producers regarding equity, since the handler within the corridor competes with regulated handlers. This association also stated that the wide dispersion of the towns suggested to remain unregulated would cause added expense to handlers in reporting Class I sales inside and outside the marketing area of the Northeast order. The Massachusetts Farm Bureau Federation, Inc., comments favored regulating all areas in the Federal order to protect Massachusetts dairy producers from the unfair marketing conditions created by current ''pass-through'' provisions of the New York-New Jersey order. In addition, a comment filed by the Commissioner of the Massachusetts Department of Food and Agriculture favored including all of Massachusetts in the consolidated order, stating that inclusion of the currently-unregulated ''corridor'' would not disadvantage any handlers currently located there. The letter stated that the dairy farmers of Massachusetts will be best served with uniform regulation, which would also foster fair competition.

A comment filed by the State of Vermont favored inclusion of the currently-unregulated portions of that State in the consolidated area on the basis that expansion creates cost equity between processors.

Maine has been and continues under this proposal to be excluded from Federal order regulation. Although limited support was expressed for Maine's inclusion in the Northeast consolidated order, approximately 5 comments supporting Maine's exclusion from Federal orders have been received. Comments filed by the Maine Milk Commission stated that Maine successfully regulates prices, resulting in Maine producers receiving higher prices than farmers whose milk is pooled under Federal orders. The comments further stated that consumer prices in Maine are lower than those in New England's states and counties. The American, New York and New Jersey Farm Bureaus all supported Maine's exclusion.

Over 115 comments, including petitions with numerous signatures, opposed expansion into Pennsylvania. Some of the comments cited the enjoyment by Pennsylvania producers of price stability for the more than 50

years during which the PMMB has been regulating milk marketing within the state. Comments from producers stated a desire to avoid additional government regulations and fees. Comments stated that the PMMB individual handler pools result in greater returns to producers, and producer returns would decline if handlers are required to pay the additional fluid value into the marketwide pool to subsidize cheese/powder plants.

As stated in the introduction to the consolidation discussion, it has been determined that consolidation of the existing orders does not necessitate expansion of the consolidated orders into areas in which handlers are subject to minimum Class I pricing under State regulation, especially when the states' Class I prices exceed those that would be established under Federal milk order regulation. Handlers located in PMMB areas 2, 3, and 6 are regulated under the State of Pennsylvania if they do not have enough sales in any Federal order area to meet an order's pooling standards. When such plants do meet Federal order pooling standards, the State of Pennsylvania continues to enforce some of its regulations in addition to Federal order regulations. As State-regulated handlers, they must pay a Class I price for milk used in fluid products that often is higher than the Federal order price would be. Inclusion of the Pennsylvania-regulated handlers in the consolidated marketing area, as in the case of including Maine, would have little effect on handlers' costs of Class I milk (or might reduce them), while reducing producer returns. In view of these situations, it appears that stable and orderly marketing conditions can be maintained without extending full Federal regulation to State-regulated handlers.

Regulated plants competing for Class I sales with unregulated distributing plants in northern Vermont and New York would be subject to a competitive disadvantage if the currently-unregulated handlers are not included within the consolidated marketing area. This result would occur because the ''pass-through'' provision of the current New York-New Jersey order, which exempts from minimum pricing a volume of milk equivalent to a regulated handler's sales in unregulated areas in competition with unregulated handlers, is not proposed for inclusion in the consolidated Northeast order. Inclusion of the currently unregulated areas of northern New York and Vermont in the consolidated Northeast order area will assure that distributing plant operators that currently are fully regulated would be placed on an equal competitive footing with handlers currently unregulated, while having no negative effect on the producers who would be affected.

The ''corridor'' cited in Massachusetts should be included in the consolidated order area, partly because the sole handler who would be affected by the regulation of that area has gone out of business. Inclusion of the area at this time would not have the negative effect of imposing regulation on a small handler, as was feared earlier, but would lighten handlers' reporting burden and the market administrator's administrative burden in keeping separate data on sales in this small unregulated area. In addition, the offshore Massachusetts counties of Dukes and Nantucket should be added to the marketing area. The only entity currently operating in those counties (a producer-handler on Martha's Vineyard) would be exempt from the pooling and pricing provisions of the order by virtue of its status as a producer-handler and by having fewer than 150,000 pounds of route disposition per month. Mainland handlers distributing milk in these two counties would find their reporting burden eased if these counties become part of the marketing area.

The Western New York State order area is proposed to be added to the consolidated Northeast area because the persons regulated under that order have so requested. Regarding New York State, only the southern tier of western New York counties should not be included in the consolidated area because their addition would make more likely the full regulation of PMMB-regulated distributing plants with sales in that small area of New York (1 full county and 2 partial counties).

Appalachian

The proposed Appalachian marketing area is comprised of the current Carolina (Order 5) and Louisville-Lexington-Evansville (Order 46) marketing areas (less one Kentucky county that is included in the proposed Southeast marketing area) as well as 64 counties and 2 cities formerly comprising the marketing area of the recently-terminated Tennessee Valley Federal Order (Order 11) and currently-unregulated counties in Indiana and Kentucky. There are 297 counties and 2 cities in this proposed marketing area.

Geography

The Appalachian market is described geographically as follows: 7 unregulated Georgia counties (formerly part of Order 11), 20 Indiana counties (17 currently in Order 46 and 3 currently unregulated), 81 Kentucky counties (47 currently in Order 46, 16 formerly part of Order 11, and 18 currently unregulated), all North Carolina and South Carolina counties (100 and 46, respectively, and all currently in Order 5), 33 Tennessee counties (formerly part of Order 11), 8 counties and 2 cities in Virginia (formerly part of Order 11), and 2 West Virginia counties (formerly part of Order 11).

The proposed Appalachian market reaches from the Atlantic coastline westward to southern Indiana and western Kentucky's border with Illinois. It is surrounded by Illinois on the west, Indiana, northeastern Kentucky, West Virginia and Virginia to the north, the Atlantic ocean on the east, and Georgia, Alabama, western Tennessee and southwestern Kentucky to the south. Measuring the extreme dimensions, this market extends about 625 miles from its northwest corner in Indiana to its southeastern corner on the South Carolina-Georgia border, about 300 miles south-to-north from the South Carolina-Georgia border to the North Carolina-Virginia border, about 500 miles west-to-east from the Appalachian-Southeast markets' border in Tennessee to eastern North Carolina, and about 375 miles west-to-east from the Illinois-Indiana border to West Virginia and Virginia.

The Appalachian market is contiguous to 3 proposed consolidated marketing areas: the Southeast area to the southwest and south, the Central area to the west and the Mideast area to the north. Unregulated counties in West Virginia and State-regulated area in Virginia also border this market to the north. North and South Carolina have almost 500 miles of coastline on the Atlantic Ocean.

In terms of physical geography, similarities exist across the states or areas included in this market. Southern Indiana and central Kentucky are in the Interior Low Plateau region where valleys and steep hillsides are typical. In this market, the Appalachian or Cumberland and Alleghany Plateaus are found in West Virginia, Virginia, Kentucky, Tennessee and northwestern Georgia on the western edge of the Appalachian Mountains. Eastern Tennessee and both western North and South Carolina are in the Blue Ridge region, which is part of the Appalachian Mountain range. Moving eastward toward the Atlantic Ocean, the central part of the Carolinas are in the Piedmont Plateau, with the Atlantic Coastal Plain covering approximately the remaining eastern half of both these states.

Climatic types in this region vary somewhat. Humid subtropical climates typical in most of North and South

Carolina, as well as Virginia (which is affected by elevation differences) and southern Indiana. Humid continental climates are typical for northwestern Georgia, western North and South Carolina and southern West Virginia. Temperate climates are common in eastern Tennessee and central Kentucky.

Much of the proposed Appalachian area does not provide a hospitable climate or topography for dairy farming. As an agricultural pursuit, dairy farming is far down the list in the area, accounting for an average of less than five percent of all receipts from farm commodities for the states involved. Crops such as tobacco, corn and soybeans, and other livestock commodities such as cattle/calves, turkeys and broiler chickens are more prevalent in this region.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 17.1 million. There are 24 Metropolitan Statistical Areas (MSAs) within the proposed marketing area, containing 62.3 percent of the area's population. The largest 17 contain 50 percent of the population of the market. Charlotte, North Carolina, is the largest MSA in the marketing area with a population of 1.3 million. Charlotte is located near the South Carolina border about at the mid point of the North and South Carolina border, and about 250 miles west of the Atlantic coast. Less than 100 miles to the north lies the second-largest MSA of Greensboro-Winston-Salem-High Point, North Carolina, with a population of 1.1 million. About 50 miles east of Greensboro is the third-largest MSA, Raleigh-Durham-Chapel Hill, with one million people. The Raleigh MSA abuts the Greensboro MSA. An additional four North Carolina MSAs are among the largest of the 17 MSAs containing 50 percent of the population of the proposed marketing area, for a combined population of one million. North Carolina is the most populous state in the proposed marketing area with 7.3 million; over half the population of North Carolina is located in these seven MSAs.

South Carolina is the second-most populous state in the proposed consolidated area, with 3.7 million people. The Carolinas contain two thirds of the proposed market's population. Greenville is the largest MSA in the state with a population of 900,000. Greenville is located in the northwest corner of the state. Charleston, the second-largest MSA in South Carolina, with half a million people, is approximately at the midpoint of South Carolina's coast.

The Tennessee portion of the proposed Appalachian market has a population of 2 million, with three MSA's that are included in the largest 17 in the market. These three areas contain 1.6 million, or over 80 percent of the population in that part of Tennessee that is proposed to be part of the Appalachian marketing area. The largest Tennessee MSA is Knoxville, which is in the eastern end of Tennessee near North Carolina. Six counties make up the Knoxville MSA with a combined population of 650,000. The Johnson City-Kingsport-Bristol area, the second-largest Tennessee MSA, is located in the northeastern tip of Tennessee along the Virginia and North Carolina border, and contains almost half a million people. Chattanooga, the third-largest MSA in Tennessee, is located on the Tennessee-Georgia border, and has a population of 446,000. The three MSAs run northeast to southwest just west of the North Carolina border.

The Kentucky portion of the proposed Appalachian market contains 2.7 million people. There are two MSAs within the state that are included in the largest 17 in the market. The largest is Louisville, which lies on the border with Indiana and has a population of one million. Lexington, the second-largest Kentucky MSA, is located in the center of the state and has just under half a million people. Generally, the Kentucky counties in the proposed Appalachian marketing area are not heavily populated. Only two have populations over 100,000. They are Jefferson county, where Louisville is located, and Fayette county, home to Lexington.

Indiana counties in the Appalachian market have a population of .8 million. Only Vanderburgh county has a population over 100,000. Evansville, the only MSA in the portion of Indiana included in the Appalachian market, is in Vanderburgh county. Evansville's MSA contains 289,000 and is located on the Indiana-Kentucky border, near the Illinois state line.

There are seven Georgia counties within the proposed Appalachian marketing area, with a total population of .3 million. Three of them, Catoosa, Dade, and Walker, are part of the Chattanooga MSA. These three counties have a combined population of 124,000. The 12 Virginia counties in the proposed Appalachian market have a population of .3 million. Three of the counties, Scott, Washington and Bristol City, are part of the Johnson City-Kingsport-Bristol MSA. The two West Virginia counties within the Appalachian market have a total population of .1 million.

Fluid Per Capita Consumption

Estimates of fluid per capita consumption within the proposed Appalachian marketing area vary from 15.8 per month for South Carolina to 20.4 pounds per month for Indiana. Use of 17 pounds per month as a weighted average results in an estimated 291 million pounds of fluid milk consumption for the Appalachian marketing area. Appalachian handlers' route disposition within the area during January 1997 totaled 290 million pounds, with another 18 million distributed by producer-handlers, partially regulated plants and other order plants.

Milk Production

In December 1996, over 4,000 producers from 359 counties in 15 states pooled 443.3 million pounds of producer milk on Orders 5, 11 and 46. Approximately 71 percent of the milk pooled on the three orders was produced within the proposed consolidated marketing area.

North and South Carolina are the only States that are located entirely within the proposed consolidated marketing area, and provided nearly all of their producers' milk to Order 5 (encompassing the entire States of North and South Carolina), with 103.7 and 34 million pounds, respectively. Neither of these states produces enough milk to meet even the fluid milk requirements of its population. Kentucky producers pooled 101.1 million pounds on the three orders, with 89 percent produced within the proposed marketing area. Tennessee producers pooled 69.9 million pounds on the three orders, principally on Order 11, with 84 percent produced within the proposed marketing area. Although Virginia is primarily outside the marketing area, producers from 40 Virginia counties supplied 68.5 million pounds of milk for the FO 11 and FO 5 markets in December 1996. Georgia producers pooled 27.6 million pounds and Indiana producers pooled 21 million pounds in December, with the balance of the milk pooled on the three orders originating in Alabama, Connecticut, Illinois, Maryland, Massachusetts, New Mexico, Pennsylvania, and West Virginia.

Thirty-four counties each supplied over 3 million pounds of milk to the three markets consolidated in this proposed area. One such county was located in New Mexico, and another in Pennsylvania. Eight were located in Kentucky, south and southwest of Lexington, and southeast of Louisville.

Eleven were located in North Carolina west of the Raleigh-Durham area, with all but one located near Greensboro, Winston-Salem, Asheville, Charlotte or Durham. Of the two South Carolina counties that supplied over 3 million pounds each, one was located northwest of Columbia, and the other northwest of Charleston. The five Tennessee counties that pooled over 3 million pounds of milk on the three orders are located in northeast and southeast Tennessee; two in the Johnson City-Kingsport-Bristol area and three southwest of Knoxville. Only one of the six counties in Virginia that supplied over 3 million pounds to Orders 5 and 11 is located within the marketing area. Five of the six are located in southwest Virginia, with the other in the northwest part of the State.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 33 distributing plants would be expected to be associated with the Appalachian marketing area, including 29 fully regulated distributing plants (28 currently fully regulated and 1 currently partially regulated), 2 partially regulated (both currently partially regulated), 1 exempt plant, on the basis of having less than 150,000 pounds of total route disposition per month (currently fully regulated), and 1 government agency plant (currently a government agency plant). Four of the 33 distributing plants expected to be associated with the proposed area are not in the area but are located in Virginia, including 2 fully regulated plants (1 currently fully regulated and 1 currently partially regulated), and 2 partially regulated plants (both currently partially regulated). Since October 1995, 2 distributing plants in North Carolina have gone out of business.

Under the proposed Appalachian order, there would be 17 distributing plants in the largest Appalachian MSAs having distributing plants. There would be 3 pool distributing plants in the Greensboro-Winston-Salem-High Point area. The Charleston area would have 2 pool distributing plants. The Johnson City-Kingsport-Bristol, Tennessee, area would have 2 pool distributing plants. The Greenville-Spartanburg-Anderson, South Carolina, area would have 2 pool distributing plants. The Knoxville area would have 1 pool distributing plant and 1 exempt plant, with less than 150,000 pounds of total route disposition per month. The Charlotte, Chattanooga, Lexington, Louisville, and Evansville areas would each have 1 pool distributing plant. The Raleigh-Durham area would have one government agency plant.

Of the remaining 11 distributing plants located in the marketing area, one pool plant would be located in a North Carolina MSA and one pool plant would be located in a South Carolina MSA. The nine remaining distributing plants, all expected to be pool plants, would not be located in MSAs. Four would be in North Carolina, 3 in Kentucky, 1 in Indiana, and 1 in Tennessee.

The 27 fully regulated plants in the Appalachian marketing area had distribution totaling 362 million pounds in January 1997, with eighty percent within the proposed marketing area.

A South Carolina plant included above in the description of fully regulated distributing plants—Superbrand Dairy Products, Inc., in Greenville (about 140 miles northeast of Atlanta)—has a greater proportion of its sales in the Southeast market than in the Appalachian market. This plant currently is locked into regulation under the Carolina order based on its need to procure a milk supply in the Carolina order, although it has greater route disposition in the Southeast. This lock-in is included in the proposed Appalachian order provisions.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Appalachian order, the Class I utilization percentages for the Carolina and Louisville-Lexington-Evansville markets and the former Tennessee Valley market were 84, 78, and 81 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Appalachian order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Carolina, a 3-cent per cwt decrease (from $14.23 to $14.20); Louisville-Lexington-Evansville , a 5-cent per cwt increase (from $13.35 to $13.40); and Tennessee Valley, a 2-cent per cwt increase (from $13.92 to $13.94). The weighted average use value for the consolidated Appalachian order market is estimated to be $13.97 per cwt. For December 1996, combined Class I utilization for Orders 5, 11 and 46 was 75.6 percent based on 335.2 pounds of producer milk used in Class I out of 443.5 million total producer milk pounds pooled.

Other Plants

Also located within the proposed consolidated Appalachian marketing area during May 1997 were 13 supply or manufacturing plants: 4 in Kentucky (1 in the Louisville area), 5 in North Carolina (1 in the Charlotte-Gastonia-Rock Hill area and one in the Greensboro-Winston-Salem-High Point area), 1 in Tennessee, and 3 nonpool cheese plants in Indiana (1 in the Lexington area and one in the Louisville area). Three of the 13 plants are pool plants, or have a ''pool side.'' Two of the three pool plants (one in Kentucky and the one in Tennessee) are ''split plants,'' that is, one side of a plant is a manufacturing facility, and the other side receives and ships Grade A milk, and accounting is done separately. Of these pool plants, the pool sides of the 2 split plants have no primary product, shipping only to distributing plants. The nonpool side of one of these plants manufactures cheese, while the nonpool side of the other manufactures powder. The other pool plant is a supply plant that manufactures primarily Class II products. Of the other nonpool plants in the proposed Appalachian marketing area, 5 manufacture primarily cheese and 5 manufacture primarily Class II products.

Cooperative Associations

In December 1995, there were ten cooperatives representing producers in the proposed Appalachian marketing area. One cooperative pooled milk on all three markets. The Tennessee Valley and Louisville-Lexington-Evansville Federal orders had two cooperatives in common, while the Tennessee Valley and Carolina Federal orders had one cooperative in common. For December 1995, 80 percent of the producer milk pooled on the three markets was associated with cooperatives, and 85 percent of the cooperative-marketed milk was pooled by the four cooperatives that marketed milk on more than one of the three orders.

Criteria for Consolidation

Overlapping route disposition and procurement are the primary criteria on which this proposed consolidation is based. There is a stronger relationship between the three marketing areas involved than between any one of them and any other marketing area on the basis of both criteria. There is also common cooperative association affiliation between the markets.

Discussion of Comments and Alternatives

A comment filed on behalf of Barber Pure Milk Company and Dairy Fresh

Corporation, both in Alabama, proposed that the Florida orders and the Carolina and Tennessee Valley orders be merged with the Southeast. The commenter stated that evidence shows the Florida markets are vitally involved with other areas of the Southeast in Class I sales, obtaining milk supply, and in the disposition of surplus milk. A number of comments, including those filed by Mid-America Dairymen, Inc., and Carolina Virginia Milk Producers Association, urged that the Appalachian area be combined with the Southeast order area, primarily on the basis of milk procurement overlap in south central Kentucky. Several commenters, mainly producers, favored putting all of Kentucky in one order and most suggested adding it to the Southeast. Comments from Trauth Dairy, a Mideast pool plant under this proposed consolidation, did not specifically ask that Kentucky be put into one order, but that Trauth (at Newport, Kentucky) be placed in the same order (Appalachian) as the handlers Trauth described as its primary competition for producer milk and for retail sales in the marketplace.

As discussed under the description of the proposed consolidated Florida market, overlapping milk distribution and procurement involving the three current Florida markets is much greater within the Florida markets than between any of the Florida markets and any other market. As stated in the description of consolidation criteria, areas that supply a minor proportion of an adjoining area's milk supply with a minor proportion of their own total milk production while handlers located in the area are engaged in minimal competition with handlers located in the adjoining area do not necessarily have a strong enough association with the adjoining area to be consolidated with it. It is impossible to find a boundary across which significant quantities of milk are not procured for other marketing areas.

Consolidation of the Carolina and Tennessee Valley markets with the Southeast is not proposed because of the minor degree of overlapping route disposition and producer milk between these areas. Less than one-tenth of the milk produced in the Kentucky counties proposed to be in the Appalachian area would be pooled under the Southeast order, and approximately one-fifth of the production from the Kentucky portion of the Southeast area would be pooled under the Appalachian order.

With the exception of two Appalachian handlers who account for two-thirds of the disposition by Appalachian handlers in the Southeast order area, only a minor proportion of the route disposition of Appalachian handlers is distributed in the proposed Southeast area. In total, Appalachian handlers distribute 11 percent of their route dispositions in the Southeast area, while Southeast handlers distribute less than 3 percent of their route dispositions in the Appalachian area.

There would be very little basis for splitting the current Order 46 area (Louisville-Lexington-Evansville) to include northern Kentucky with the proposed Appalachian area. Only 3 percent of Appalachian handlers' route disposition is distributed within the Ohio Valley order area, while less than one million pounds of Class I sales moves from the Ohio Valley area into the Order 46 area.

Florida

The proposed Florida marketing area is comprised of the three current Federal order marketing areas contained wholly in the state of Florida: Upper Florida (Order 6), Tampa Bay (Order 12) and Southeastern Florida (Order 13). There are 63 counties in this proposed area (40 in Order 6, 13 in Order 12, and 10 in Order 13).

Geography

The proposed Florida marketing area is described geographically as all counties in the State of Florida, with the exception of the four westernmost counties in the Florida Panhandle. This proposed marketing area is a large peninsula, ranging from about 140 miles in width in the north to about 50 miles in width in the south, that extends south from the southeast U.S. about 400 miles between the Atlantic Ocean and the Gulf of Mexico. Also included in the Florida market is approximately 150 miles of the Panhandle, a narrow strip of land extending west along the Gulf of Mexico from the northern part of the peninsula. The water surrounding most of Florida's peninsula constitutes a natural boundary, as east-to-west travel is limited.

Almost all of Florida has a humid subtropical climate. The southern end of the state and the islands south of the peninsula have a tropical wet and dry climate. In general, the state's climate can and does affect levels of milk production negatively. Seasonal variation in production for this market typically is greater than for most other U.S. regions. The importance of dairy farming as an agricultural pursuit in Florida is relatively minor (7 percent of total receipts from agricultural commodities), with several crops contributing more total receipts to the State's income. However, no livestock commodity is as important in Florida as dairy farming.

Population

According to July 1, 1996, population estimates, the total population in the proposed Florida marketing area is 13.8 million. Ninety-three percent of the population of the marketing area is located in Metropolitan Statistical Areas (MSAs). The two largest MSAs are Miami-Fort Lauderdale (Miami) on the eastern side of the southern end of the peninsula, and Tampa-St. Petersburg-Clearwater (Tampa) midway on the western side of the peninsula. Broward and Dade Counties comprise the Miami population center (currently in Order 13) with a population of 3.5 million. The Tampa population center (currently in Order 12) is comprised of Hernando, Hillsborough, Pasco and Pinellas counties with a population of 2.2 million. The six counties in these two population centers represent about 41 percent of the total marketing area population.

Fluid Per Capita Consumption

Florida customarily is considered a deficit milk production state. For much of the year, milk needs to be imported from other states in order to meet the demand for fluid consumption. Based on the population figure of 13.8 million and an estimated per capita fluid milk consumption rate of 17 pounds of fluid milk per month, total fluid milk consumption in the Florida marketing area is estimated at 234.6 million pounds per month.

During October 1995, 205 million pounds of milk were disposed of in the proposed marketing area by all Florida distributing plants. Plants located outside the marketing area (mostly from the Southeast market [Order 7]) had route disposition within Florida of 20 million pounds. The discrepancy between the actual total route disposition of 225 million pounds and the estimated consumption level of 234.6 million pounds may be explained by the older than average population in Florida.

Milk Production

In December 1996, 222 million pounds of milk produced in Florida were pooled in four Federal orders; 98.5 percent of this milk was pooled on the three current Florida orders. About 370 producers located in Florida (96 percent of all Florida producers having association with Federal orders) had producer milk pooled on at least one of the three Florida markets. A small number of Florida producers had producer milk associated with Order 7,

while more than 100 Georgia producers had producer milk associated with the Florida markets. Additionally, 34 million pounds of Georgia milk was pooled on the three Florida markets; 85 percent of this milk went to Order 12.

There are 44 counties in Florida that pooled milk in at least one of the three current Florida orders. Seven of these counties produced 62.6 percent of the milk pooled.

Three counties (Gilchrist, Lafayette and Suwannee, about 75 miles west of Jacksonville) had 53.9 million pounds of producer milk. For these three counties, 85.5 percent of the December 1996 producer milk was pooled on the Tampa Bay order, which is located approximately 150 miles southeast of the counties.

More than 80 percent of Clay County's producer milk was pooled in Order 6. This county is in the Jacksonville MSA, which is the largest population center in Order 6.

About 20 million pounds of producer milk came from Hillsborough and Highland Counties, both part of the Order 12 market. However, this milk was pooled about evenly between Orders 12 and 13.

Okeechobee County, located in the Order 13 marketing area about 125 miles northwest of the Miami area, is by far the largest milk producing county in Florida. The county had 54.5 million pounds of producer milk in December 1996, almost all of which was pooled on Order 13.

Distributing Plants—Route Distribution

Using plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 15 plants would be expected to be fully regulated under the proposed Florida market. Five of these plants are located in the Miami MSA and three in the Tampa MSA. Three plants are located in mid-Florida, one in the Orlando area and two in the Lakeland-Winter Haven area. Three more are located in northeast Florida; two in the Jacksonville area, and one in Daytona Beach. Two plants having route disposition of less than 150,000—one in the Tampa MSA and the other in Citrus County (north of Tampa and west of Orlando)—would be exempt.

Slightly less than two-thirds of the proposed market's population is contained in the MSAs where fully regulated plants are located.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Florida order, the Class I utilization percentages for the Upper Florida, Tampa Bay, and Southeastern Florida markets were 85, 90, and 91 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Florida order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Upper Florida, an 11-cent per cwt increase (from $14.67 to $14.78); Tampa Bay, a 5-cent per cwt decrease (from $15.09 to $15.04); and Southeastern Florida, an 11-cent per cwt decrease (from $15.42 to $15.31). The weighted average use value for the consolidated Florida order market is estimated to be $15.05 per cwt. For December 1996, combined Class I utilization for the three Florida markets was 83.9 percent based on 211,712,000 pounds of producer milk used in Class I out of 252,402,000 total producer milk pounds.

Other Plants

Also located within the Florida marketing area are four supply or manufacturing plants, three of which are not associated with the current markets' pools. Three ice cream plants are located in the Tampa area and one pool supply plant is in the Jacksonville area.

Cooperative Associations

Four cooperatives market milk in the Florida markets, and represent nearly 100 percent of the milk marketed. Florida Dairy Farmers Association is the only cooperative with membership in all three current markets. In December 1995, 60 percent of the producer milk associated with the three markets came from members of this cooperative. During this same month, Tampa Independent Dairy Farmers Association members were affiliated with the Tampa Bay and Southeastern Florida markets, while Mid-America Dairymen, Inc., and Select Milk Producers, Inc., members had producer milk on the Tampa Bay pool.

Criteria for Consolidation

As suggested in both the initial and Revised Preliminary Reports on Order Consolidation, the consolidated Florida market should encompass the current marketing areas of the Upper Florida, Tampa Bay and Southeastern Florida Federal milk orders. Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders, and into and out of the area.

Discussion of Comments and Alternatives

One comment, filed on behalf of two Alabama handlers, suggested that the order areas of Florida, the Carolinas and Tennessee Valley be merged with the Southeast. The comment stated that the Florida markets are vitally involved with other areas of the southeast in Class I sales, procurement of milk supplies, and disposition of surplus milk. Although there is some overlap in these functions between the Florida markets and the Southeast order area, it is not great enough to warrant the combination of these three order areas, which have a greater degree of affinity among themselves than with any other market, with the Southeast. Given the closeness of the relationship between the current Florida markets, and the lack of any significant overlap of sales or production with other order areas, no alternatives other than those discussed were considered with regard to this area.

Southeast

The proposed Southeast marketing area is comprised of the current Southeast (Order 7) marketing area, portions of the current Southwest Plains (Order 106) marketing area in northwest Arkansas and southern Missouri, and six southeastern Missouri counties from the current Southern Illinois-Eastern Missouri (Order 32) marketing area. Also included are 16 currently unregulated Missouri counties, 21 currently unregulated Kentucky counties, and 1 Kentucky county that currently is part of the Louisville-Lexington-Evansville (Order 46) marketing area. There are 572 whole counties and 1 partial county (Pulaski County, Missouri) in this proposed area.

Geography

The Southeast market is described geographically as follows: all counties in Alabama, Arkansas, Louisiana, and Mississippi (67, 75, 64 and 82 counties, respectively), 4 in Florida, 152 in Georgia, 44 whole and 1 partial in Missouri, 62 in Tennessee and 22 in Kentucky (one—Logan County—currently is in Order 46, and 21 currently are unregulated). Of these 21 counties, 14 were part of the former

Paducah, Kentucky (Order 99) marketing area. Eleven Arkansas and 23 Missouri counties (including part of Pulaski County) are part of the current Order 106 marketing area. Six Missouri counties are part of the current Order 32 marketing area. Sixteen southeastern Missouri counties currently are unregulated (4 of these were part of the former Paducah Federal milk order).

The Southeast market spans the southeastern area of the United States from the Gulf of Mexico and the Alabama/Georgia-Florida border north to central Missouri, Kentucky, Tennessee and South Carolina, and from the Atlantic Ocean west to Texas, Oklahoma, and Kansas. Measuring the extreme dimensions, this market extends about 575 miles north to south from central Missouri to southern Louisiana and 750 miles west to east from Louisiana's border with Texas to the Atlantic Ocean coast in southern Georgia.

The Southeast marketing area is contiguous to 4 other proposed consolidated marketing areas: Florida to the southeast, the Southwest to the west, the Central to the northwest and the Appalachian to the northeast and east. Georgia's coastline on the Atlantic Ocean is about 100 miles in length, while western Florida, Alabama, Mississippi and Louisiana extend about 600 miles along the Gulf of Mexico coastline. Also contiguous to the current Southeast market are currently unregulated counties in Texas, Missouri, Kentucky (and as of October 1, 1997, the Tennessee Valley [Order 11] marketing area). The proposed consolidated marketing areas would encompass all of these counties into the Southwest, Central, Appalachian or Southeast marketing areas, with some currently-unregulated counties in central Missouri remaining unregulated under this proposal.

In terms of physical geography, the Southeast region is generally flat or gently rolling low-lying land. Relatively higher elevations which might potentially form natural barriers or obstruct easy transportation exist in northwest Arkansas and northeast Georgia.

Moving from the south to the north of the Southeast market, climates range from humid subtropical in coastal areas to warm and humid or humid continental to temperate in Tennessee and Kentucky. Warm, humid summers and mild winters are typical in the Southeast. These types of climates can severely limit the production level of dairy herds in the summer.

Population

According to July 1, 1996, population estimates, the total population in the proposed Southeast marketing area is 26.7 million. The 42 Metropolitan Statistical Areas (MSAs) in the proposed market account for 62 percent of the total marketing area population. Almost half of the Southeast population is located in the 17 most populous MSAs. Eight MSAs have populations greater than 500,000 each; their total population is about 35 percent of the Southeast population. Because of the large number of MSAs in the Southeast market and also because no large (i.e., greater than 500,000) population centers are added to this market under this proposal, only those areas with populations greater than 500,000 are described in greater detail.

Over 25 percent of the Southeast market's population is located in Georgia, the most populous of the Southeast market states, with 7.1 million people. Almost half of Georgia's population is concentrated in the Atlanta MSA, located about 60 miles south of the Southeast-Appalachian marketing area boundary in the northwest portion of the state. Atlanta is the largest city in the Southeast market with a population of 3.5 million.

With 4.3 million people, Alabama is the Southeast market area's third most populous state. Birmingham and Mobile, the state's two largest MSA regions, are among the top eight in population in the Southeast. The Birmingham area has a population of about 900,000 and ranks 5th in size among all Southeast area MSAs. Birmingham is located about 150 miles west of Atlanta in north central Alabama. The Mobile area is a Gulf of Mexico port city in southwestern Alabama. With a population of 520,000, Mobile is the 8th largest population center in the Southeast market area.

Louisiana is the second most populated state in the Southeast market area with 4.4 million people. Two of the Southeast's 8 largest MSAs are located in Louisiana—New Orleans, the second largest MSA with 1.3 million people and Baton Rouge, the 6th largest MSA with almost .6 million people. New Orleans is located in the state's ''toe'' in southeastern Louisiana. Baton Rouge also is located in Louisiana's ''toe,'' about 80 miles west of New Orleans.

Arkansas has a total population of 2.5 million—2 million from the current Southeast marketing area and an additional 500,000 from the Arkansas portion of the Southwest Plains marketing area. The Little Rock-North Little Rock, Arkansas (Little Rock) MSA, in the center of Arkansas, has the 7th largest population concentration in the Southeast market area with 550,000.

The portion of Tennessee in the Southeast marketing area is the fourth most populated with 3.3 million people and is home to the third and fourth largest MSAs in the Southeast. The Nashville area, with a population of 1.1 million, is located in central Tennessee. The Memphis, Tennessee/Arkansas/Mississippi MSA, also with a population of 1.1 million, is located near these three states' borders.

Other states or portions of states in the Southeast marketing area do not have MSAs with greater than 500,000 population. Mississippi, the Southeast's 5th most populous state, has a total population of 2.7 million. The Missouri, Florida and Kentucky counties in the Southeast market have populations of 1.3 million, 590,000 and 520,000, respectively.

Fluid Per Capita Consumption

Fluid per capita consumption estimates vary throughout the Southeast market from a low of 16 pounds of fluid milk per month in Mississippi to a high of 19 pounds in Arkansas and Kentucky. Multiplying the individual states' consumption rates by their population results in an estimated fluid milk consumption rate of 467 million pounds of fluid milk per month for the Southeast marketing area. With route distribution from the current Southeast order handlers (not including the 3 Arkansas and Missouri plants) equaling 334 million pounds within the Southeast marketing area, route distribution from these handlers is approximately 100 million pounds less than the expected consumption.

In January 1997, Georgia had the greatest ''deficit''—with route distribution from Order 7 handlers falling about 42 million pounds short of the 122 million pounds of expected consumption. The state's fluid needs were met by the route distribution of about 44 million pounds into Georgia by fully regulated handlers in the proposed Appalachian and Florida markets.

Other states' ''deficits'' generally ranged from 4 to 11 million pounds. It is likely that handlers regulated under other Federal orders had distribution into the Southeast area. Alabama is the only state in which the amount of route distribution by Order 7 handlers is about the same as the expected consumption level.

Milk Production

In January 1997, 4,180 producers from 388 counties pooled 477.4 million pounds of producer milk on the current

Southeast market. Over 85 percent of the Southeast's producer milk came from Southeast market area counties. Of the 388 counties, 19 pooled over 5 million pounds each, accounting for 39 percent of Order 7's producer milk. Of these 19 counties, 2 Texas counties are located outside the proposed Southeast market area. Because of the large number of counties, only the locations for those top 19 production counties are described in greater detail. However, the volume of producer milk, number of producers (farms) and number of counties is provided for each state within the market area.

Almost 73 million pounds of milk were pooled on the Southeast market from 581 producers in 28 Louisiana parishes in January 1997. Top production parishes are Tangipahoa, Washington and St. Helena, all located in the state's ''toe,'' north of New Orleans and northeast of Baton Rouge, each bordering Mississippi. Another high production area is centered on De Soto Parish in northwestern Louisiana. These four parishes account for over 62 million pounds of producer milk, with 76 percent coming from Tangipahoa and Washington parishes.

Almost 67 million pounds of milk were pooled on the Southeast market from 331 producers in 68 Georgia counties in January 1997. Of this volume, 64 million came from 312 producers in 64 Georgia counties in the Order 7 marketing area. The balance is associated with Georgia producers located in the marketing area of the recently-terminated Order 11 (Tennessee Valley). Top production counties are Putnam, Morgan and Macon, which pooled 27 million pounds of producer milk on Order 7.

About 65 million pounds of milk were pooled on the Southeast market from 580 producers in 46 Tennessee counties in January 1997. Of this volume, 62 million came from 562 producers in 42 Tennessee counties in the Order 7 marketing area. The balance is associated with Tennessee producers located in the marketing area of the recently-terminated Federal Order 11. Two high production counties in the state are Marshall and Lincoln, located in south central Tennessee. These counties contributed over 12 million pounds of producer milk to the Order 7 pool in January 1997.

About 61 million pounds of milk were pooled on the Southeast market from 443 producers in 48 Mississippi counties in January 1997. Top production counties are Walthall and Pike, in southern Mississippi on the state's border with Louisiana. These two counties adjoin the heavy milk production area in Louisiana. The counties contributed 15 million pounds of producer milk to the Order 7 pool in January 1997.

About 32 million pounds of milk were pooled on the Southeast market from 408 producers in 19 Kentucky counties in January 1997. Additionally, 116 producers in 15 of these counties pooled almost 9 million pounds of producer milk on Orders 11 and 46 (Louisville-Lexington-Evansville). Two counties, Barren and Monroe, contributed over 13 million pounds of producer milk. These contiguous counties are in south central Kentucky about 80 miles northeast of Nashville, Tennessee.

Four Missouri counties—Wright, Texas, Laclede and Howell— pooled 33 million pounds of producer milk on Order 7. All of these counties currently are located in the Order 106 (Southwest Plains) marketing area in southern Missouri.

Other Southeast marketing area states or areas contribute producer milk to the Southeast marketwide pool. About 37 million pounds of milk were pooled on the Southeast market from 205 producers in 51 Alabama counties, and 25 million pounds were pooled from 343 producers in 39 Arkansas counties. Sixteen Florida producers from 6 counties (2 in the Southeast market area) pooled 3.5 million pounds on Order 7 in January 1997.

In January 1997, Order 7 producer milk also originated in Missouri counties not included in the Southeast marketing area, Texas, New Mexico, Indiana and Oklahoma. Large amounts of milk from Missouri (21 million pounds in addition to the 33 million described previously) and Texas (46 million pounds—20 million from Hopkins and Erath Counties) were associated with the Order 7 pool. It should be noted that milk does not need to be physically received at a Federal order plant regulated under the order in which the milk is pooled.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 47 distributing plants located in the proposed Southeast marketing area would be expected to be associated with the Southeast market (including the added territory in northwestern Arkansas and southern Missouri). These plants include 36 fully regulated distributing plants, 2 partially regulated, one exempt plant based on size, one producer-handler, and 7 government agency plants (including university and state prison plants). None of these plants' regulatory status is expected to change as a result of the consolidation process. Of the 36 fully regulated plants, 18 are located in the largest eight MSA regions. One distributing plant located in the proposed Appalachian marketing area that has more than half of its route disposition within the Southeast marketing area would be locked into regulation under the Appalachian order.

Since October 1995, it is known that 7 distributing plants (6 fully regulated and 1 exempt) have gone out of business. These plants were located in Alabama, Arkansas, Georgia, and Missouri (1 plant each), and Mississippi (3 plants). Also, one fully regulated distributing plant, Centennial Dairy Farms, Inc., in Atlanta, GA, began packaging and distributing products in October 1996. Information for this plant is included in route dispositions reported for January 1997, the month used in this analysis.

Of the 47 distributing plants, Georgia has 7; Louisiana, 12; Mississippi, 6; Alabama, 7; Arkansas, 6; Tennessee, 5; Missouri, 2; and Kentucky, 2. No distributing plants are located in the Florida counties included in the Southeast market area.

In January 1997, the 34 plants fully regulated under Order 7 at that time had route distributions totaling 372 million pounds. About 90 percent, or 334 million pounds, was distributed within the Order 7 marketing area. Route distribution volumes from the 11 nonpool distributing plants were relatively insignificant and are not included here. These data do not include distribution information from the 3 fully regulated plants in northwest Arkansas and southern Missouri that would be included in the proposed Southeast pool. All 3 plants are operated by one handler; thus this data is proprietary information and is restricted. These plants' information is included, however, in the market information presented in the Central market discussion.

In Georgia, three pool distributing plants are located in the Atlanta area, with 2 others elsewhere in the State. Georgia also has 1 partially regulated handler and 1 government agency (state prison) plant.

Nine of Louisiana's 12 distributing plants currently are and would continue to be fully regulated (pool plants) in this proposed marketing area. Five of these 9 are located in either the New Orleans or Baton Rouge areas (2 and 3, respectively). Four other pool distributing plants are located in Louisiana. The remaining three plants

are affiliated with universities or the state prison.

Four of Mississippi's 6 currently operational distributing plants would be fully regulated pool plants in the Southeast market. Two universities also have plants.

All seven of Alabama's distributing plants are fully regulated. One is located in the Birmingham area and 2 are located in the Mobile area. Of the remaining four, 2 are in northern Alabama, one is in central Alabama, and one is in the state's southeastern corner.

Four of Arkansas' 6 currently operational distributing plants are fully regulated; two are in the Little Rock area, and the other 2 are located in northwest Arkansas. Also located within Arkansas are an exempt distributing plant and a state prison plant. All five of Tennessee's distributing plants are fully regulated. Three of the 5 are located in the Nashville area and the remaining two are in the Memphis area.

Two distributing plants that would be fully regulated under the Southeast market are located in the currently unregulated Kentucky counties that are proposed to be added to this marketing area. One is located in Fulton in the southwest corner of Kentucky on the Tennessee border, and the other about 30 miles east of Fulton.

Two Missouri plants are located in the counties proposed to be included in the Southeast area. One fully regulated plant is located in Springfield; a partially regulated plant based on October 1995 data, but exempt (by virtue of having less than 150,000 pounds of route dispositions) based on January 1997 data, is located northeast of Springfield.

Utilization

According to January 1997 pool statistics, the Class I utilization for the Southeast market was about 78 percent. Changes to this percentage are likely to occur with the addition of 3 pool plants or potential changes in plants' regulatory status. It is not expected that the addition of the plants would have a significant impact on producer returns in the Southeast as a result of consolidation. For December 1996, Class I utilization for the Southeast market was 73.4 percent based on 339,275,000 pounds of producer milk used in Class I out of 462,455,000 total producer milk pounds.

Other Plants

Also located within the Southeast marketing area during May 1997 are 37 supply or manufacturing plants: 1 in Kentucky, 5 in Alabama (including 1 in the Birmingham area), 5 in Arkansas (including 1 in the Little Rock area), 7 in Georgia (including 4 in the Atlanta area), 3 in Louisiana (including 1 in the Baton Rouge area), 11 in Missouri, 2 in Mississippi, and 3 in Tennessee (including 1 each in the Memphis and Nashville areas). Eight of the 37 plants are pool plants. Of these pool plants, 2 primarily ship to distributing plants, 3 manufacture cheese, 1 manufactures Class II products, 1 manufactures powder and 1 primarily manufactures other products. Of the Southeast marketing area's 28 nonpool plants, 13 manufacture primarily Class II products, 3 manufacture cheese, 10 manufacture primarily other products, and 1 each manufacture primarily butter and cheese. One plant is a ''split plant,'' with one side serving as a manufacturing facility primarily for Class II products, while the other side receives and ships Grade A milk. Accounting is done separately.

Cooperative Associations

In December 1995, six cooperative associations represented members marketing 78 percent of the milk pooled on the Southeast market: Mid-America Dairymen, Inc.; Associated Milk Producers, Inc., Southern Region; Carolina-Virginia Milk Producers Association, Inc.; Arkansas Dairy Cooperative Association (ADCA); Vanguard Milk Producers Cooperative (VMPC); and National Farmers Organization, Inc. ADCA and VMPC members marketed milk only in the Southeast Federal order, while the other 4 cooperatives' members marketed milk in multiple Federal orders.

Criteria for Consolidation

Retention of the Southeast marketing area as a single area is based on overlapping route dispositions within the marketing area to a greater extent than with other marketing areas. Procurement of producer milk also overlaps between states within the market. The need for milk from outside the market is primarily seasonal, and is not as great as the volume of milk that is pooled from other areas. There is common cooperative association membership within the marketing area.

The addition of northwest Arkansas and southern Missouri to the marketing area is primarily in response to comments received during the public comment period. The association that exists between these 2 areas, the Southeast marketing area, and the proposed Central market should continue to be monitored throughout the reform process.

Discussion of Comments and Alternatives

Several commenters, primarily producers, favored putting Kentucky all in one order and most suggested adding it to the Southeast. In a comment that was considered in the Revised Preliminary Consolidation Report, Georgia Milk Producers had suggested dividing the Southeast Order on the state line between Mississippi and Alabama. Over 35 form letters opposed the separation of the Southeast marketing area between Mississippi and Alabama. A more recent Georgia Milk Producers comment rescinded this position.

A comment filed on behalf of Barber Pure Milk Company and Dairy Fresh Corporation, both in Alabama, suggested that the Florida orders and the Carolina and Tennessee Valley orders be merged with the Southeast. The comment stated that evidence shows the Florida markets are vitally involved with other areas of the Southeast in Class I sales, obtaining milk supply, and in the disposition of surplus milk. As discussed under the description of the proposed consolidated Florida market, the greatest overlap in sales distribution and milk supply involving the Florida markets occurs between the three current Florida markets. A discussion of the issue of consolidating the Carolina and Tennessee Valley markets with the Southeast can be found in the description of the proposed Appalachian market.

Approximately 10 commenters suggested that southern Missouri and/or northwest Arkansas should be included in the Southeast marketing area. Mid-Am supported making both areas part of the Southeast Federal order to correct the inequity perceived by the cooperative to be caused by southwest Missouri manufacturing plants balancing the Southeast without being able to pool, and inefficient milk movements caused by blend price discrepancies. AMPI concurred, suggesting that southern Missouri historically has been a supply source for the Southeast. The Director of the Missouri Department of Agriculture contended that southern Missouri has the largest concentration of milk production in the state and serves as the reserve supply for southeastern markets. The Missouri Farm Bureau Federation also suggested including some southern Missouri counties with the Southeast. One producer also supported including southern Missouri in the Southeast Marketing Area.

It appears that a substantial amount of the milk supply pooled under the

Southeast order has been shifted from Texas to Missouri. Between December 1996 and May 1997 the percentage of milk pooled under the Southeast order that was produced in Texas declined from over 10 percent to under 7 percent. During the same time period, the Missouri share of the Southeast pool increased from 10 percent to 15 percent. This shift may reflect a change in the relative price relationships between the Southeast, Texas and Southwest Plains orders, which could be subject to change in the opposite direction in the future. While the percentage of southern Missouri milk pooled under the Southeast order increased from less than one-third to nearly one-half, less than one-half of the volume pooled on the Southeast order is actually delivered to Southeast plants, with over half of the volume being diverted to manufacturing plants in Missouri, Illinois, Minnesota and Wisconsin.

Production pooled under the Southeast order from the northwest Arkansas counties located in the current Southwest Plains marketing area increased from less than 10 percent of those counties' production in December 1996 to about 13 percent in May 1997. Arkansas milk represented 5 percent of the total milk pooled under the Southeast order in December 1996, and just under 6 percent in May 1997.

The commenters state that if the portions of Arkansas and Missouri that currently are in the Southwest Plains marketing area are shifted to the Southeast order area, the route disposition by distributing plants located within this area would become in-area dispositions from Southeast pool distributing plants. The most recent information available shows that more than half of the dispositions from the three plants in question would be within the Southeast marketing area if the area in which they are located were part of the Southeast area.

Several commenters also suggested that the proposed consolidated Appalachian order area (the current Carolina and Louisville-Lexington-Evansville areas and the former Tennessee Valley area) be combined with the Southeast marketing area because of a common procurement area in south central Kentucky for the Southeast and Tennessee Valley markets, causing different blend prices to exist. This issue is discussed in some detail under the description of the proposed consolidated Appalachian market.

A number of comments from east Texas suggested combining that portion of Texas with the Southeast marketing area to resolve inequities identified by the commenters. The commenters claimed that due to its heat, humidity and rainfall, milk production conditions in eastern Texas have more in common with the Southeast than with the Southwest area. The dry climate of Central Texas and New Mexico permits dairies to become much larger and produce 10–15% more milk per cow, at a lower cost than East Texas producers are able to achieve. This issue is discussed in detail under the description of the proposed consolidated Southwest market area.

Mideast

The proposed consolidated Mideast marketing area is comprised of the current Ohio Valley (Order 33), Eastern Ohio-Western Pennsylvania (Order 36), Southern Michigan (Order 40), part of the Michigan Upper Peninsula (Order 44), and Indiana (Order 49) marketing areas plus 6 currently unregulated Indiana counties, 2 whole and 3 partial currently unregulated Michigan counties, and 6 whole and 3 partial currently unregulated Ohio counties. There would be 304 whole and 2 partial counties in this proposed area.

Geography

The Mideast market is described geographically as follows:

Indiana—72 counties (64 currently in Order 49, 2 currently in Order 33, and 6 currently unregulated on the western edge of the State, just south of the northwest corner).

Kentucky—18 counties (all currently in Order 33).

Michigan—77 counties. Two whole and 3 partial counties currently are unregulated. The rest of the area currently is included in Orders 40, 44, 49, and 33. Of the total 83 Michigan counties, only 6 in the western end of the Upper Peninsula are not included in the proposed Mideast marketing area.

Ohio—all 88 counties. Six whole and 3 partial counties currently are unregulated. The rest of the State currently is included in Orders 33 and 36.

Pennsylvania—12 whole and 2 partial counties, currently in the Order 36 area.

West Virginia—37 counties; 20 currently in Order 33, 17 currently in Order 36.

The proposed Mideast marketing area lies directly south of the Great Lakes, with the State of Michigan enclosed on the east and west sides by Lakes Huron and Michigan. On the eastern border of the marketing area, between the proposed Mideast and Northeast marketing areas, is Pennsylvania State-regulated territory and the Allegheny and Appalachian Mountains.

The east-to-west distance across the proposed marketing area is approximately 450 miles, from locations on the eastern edge of the area in western Pennsylvania to the border of Indiana and Illinois. Northwest to southeast, from Marquette, Michigan, in the Upper Peninsula to the northeast area of Kentucky in the marketing area is just over 800 miles. From the northern tip of lower Michigan to southern Indiana the more direct north-south distance is 530 miles.

The proposed Mideast marketing area is contiguous to 3 other proposed consolidated marketing areas. The proposed Central marketing area would provide the western border of the Mideast marketing area along the Indiana-Illinois border, and the proposed Appalachian area would provide the southern boundary. The western end of Michigan's Upper Peninsula, part of the proposed Upper Midwest area, would adjoin the Mideast portion of the Upper Peninsula.

In terms of physical geography, most of the proposed Mideast marketing area is at low elevations, and relatively flat. The climate and topography are favorable to milk production, with dairy being the number one agricultural commodity in terms of financial receipts in the State of Michigan in 1996. Dairy also ranks high in terms of financial receipts in the rest of the area; 3rd in Ohio and West Virginia, and 5th in Indiana.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 31 million. The 34 MSAs in the proposed Mideast marketing area include 79.2 percent of the area's population. Over 55 percent of the area's population is contained in the 8 most populous MSAs, which each have over 950,000 people. Two-thirds of the population is located in the states of Michigan and Ohio.

The Mideast area's largest and 7th largest of the 34 MSAs are located in Michigan. Detroit-Ann Arbor-Flint, with 5.1 million population, is the largest MSA, and is located in the southeast portion of the state between Lakes Huron and Erie. Grand Rapids-Muskegon-Holland is the 7th largest Mideast MSA, is located approximately 150 miles west-northwest of Detroit, and has a population of 1 million. These two MSAs contain two-thirds of the population of Michigan. There are 5 other MSAs in Michigan. Three have approximately 400,000 population each, and the other two average approximately 150,000 apiece. Eighty-four percent of the population of

Michigan is located in these 7 MSAs, all in the lower half of southern Michigan.

Four of the 8 largest Mideast MSAs are located in the State of Ohio. These are: (1) Cleveland-Akron, the second-largest, with a population of 2.9 million, located on Lake Erie in northwestern Ohio; (2) Cincinnati-Hamilton, OH-KY-IN, the 4th largest, with a population of 1.9 million, located in the southwest corner of Ohio; (3) Columbus, the 6th largest, with a population of 1.4 million, located approximately midway between Cincinnati and Cleveland; and (4) Dayton, the 8th largest, with a population of .95 million.

There are 6 additional MSAs in Ohio, 2 with populations of approximately .6 million each, 1 with a population of .4 million, and 3 that average just over 150,000 each. Eighty-one percent of the population of Ohio is located in MSAs, most in the northern part of the State.

The third-largest MSA in the Mideast area is Pittsburgh, Pennsylvania, with a population of 2.4 million. Pittsburgh is 127 miles southeast of Cleveland. There are two smaller MSAs in the Pennsylvania portion of the proposed Mideast marketing area, having an average population of about 200,000 each. Eighty-seven percent of the population of the Pennsylvania portion of the Mideast area is located in MSAs.

Indianapolis, Indiana, is the 5th largest MSA in the proposed Mideast marketing area, with a population of 1.5 million. Indiana contains 9 additional MSAs, 2 with populations of .5 and .6 million, and 7 others that average 155,000 population. All but 2 of the 9 smaller MSAs are located north of Indianapolis. Seventy-four percent of the population of the portion of Indiana that is in the proposed Mideast area is located in MSAs.

The portion of West Virginia that is within the proposed Mideast area contains 4 MSAs, 3 of which are located on the West Virginia-Ohio border, along the Ohio River. The population of these MSAs averages just over 200,000. Forty-five percent of the population of the West Virginia portion of the proposed Mideast area is located in MSAs.

Fluid Per Capita Consumption

Estimates of fluid per capita consumption within the proposed Mideast area vary from 18.75 pounds per month for Michigan to 20.4 pounds per month for Indiana. Use of 19 pounds per month as a weighted average results in an estimated 588 million pounds of fluid milk consumption for the Mideast marketing area. Mideast handlers' route disposition within the area during October 1995 totaled 537 million pounds, with another 27 million distributed by 20 handlers fully regulated under other orders. An additional 1.9 million pounds was distributed by 8 handlers that would be partially regulated under the proposed Mideast order, 6 handlers that would be regulated under other consolidated orders and 2 under the proposed Mideast order. One million eight hundred thousand pounds was distributed by producer-handlers, and less than 1 million pounds by 2 handlers that would be exempt under this proposed rule on the basis of each having less than 150,000 pounds of route disposition per month.

Milk Production

In December 1996, over 12,000 producers from 376 counties in 11 states pooled 1.1 billion pounds of milk on Federal Orders 33, 36, 40, 44 and 49. Over 90 percent of this producer milk came from Mideast marketing area counties. The States of Indiana, Michigan, Ohio and Pennsylvania supplied 93 percent of the milk (13%, 37.9%, 30.4% and 11.6%, respectively), with 89 percent coming from counties that would be in the proposed Mideast area. Just over two-thirds of the milk pooled under these orders was produced in Michigan and Ohio counties located within the proposed consolidated marketing area.

Other states pooling milk on the orders proposed to be consolidated in the proposed Mideast area were Illinois (1.4%), Kentucky (0.5%), Maryland (0.4%), New York (2.5%), Virginia (0.1%), West Virginia (1.0%), and Wisconsin (1.2%). These states contributed a total of 7.2 percent of the milk pooled on the 5 orders.

Sixty-three of the counties that had production pooled under the five current orders supplied more than 5 million pounds of milk each during December 1996. Seven of the counties were in northern and northeast Indiana, over 100 miles from Indianapolis; 11 were in western Pennsylvania—7 of them within 100 miles of Pittsburgh, and the others, including those with the most production (10–25 million pounds), in the northwest corner of the state. Twenty-six Michigan counties pooled more than 5 million pounds each under the 5 orders, including 15 counties with more than 10 million pounds and 2 counties with more than 25 million pounds. All of these counties are located within 110 miles of Detroit or Grand Rapids, the two largest MSAs in Michigan. The heaviest milk production area of Ohio is the northeast quadrant of the State and within 50 miles of the Akron-Cleveland MSA, including 6 counties supplying over 10 million pounds each during December 1996, and 1 county pooling over 40 million pounds. A smaller production area in Ohio is located in the central portion of the western edge of the State within 80 miles of the Dayton MSA, and includes two counties with over 10 million pounds production and 1 county with over 20 million. The only population centers of the marketing area that do not appear to have adequate supplies of nearby milk are Indianapolis and Cincinnati, in the southern portion of the area.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports, with the pooling standards used in the Revised Preliminary Report adjusted to 30 percent of route dispositions as in-area sales, updated for known plant closures through May 1997, 78 distributing plants would be expected to be associated with the Mideast marketing area, including 56 fully regulated distributing plants (55 currently fully regulated, and 1 currently partially regulated), 4 partially regulated (all currently partially regulated), 2 exempt plants that would have less than 150,000 pounds of total route disposition per month (both currently fully regulated), and 16 producer-handlers (all currently producer-handlers). Four of these 78 distributing plants would not be in the marketing area, including 3 partially regulated plants (all currently partially regulated) and 1 producer-handler (currently a producer-handler). Since October 1995, 8 distributing plants (3 in Pennsylvania, 2 in Ohio, 1 in West Virginia, 1 in Indiana and 1 in Michigan), have gone out of business.

There would be 43 distributing plants in the 8 Mideast MSA's that each have over a million people (including Dayton-Springfield which has .95 million). Twenty-nine of these plants would be pool plants—6 in the Pittsburgh area, 6 in the Detroit area, 4 each in the Grand Rapids and Cleveland areas, 3 each in the Indianapolis and Cincinnati areas, 2 in Columbus and 1 in Dayton. Eleven of the plants in the large MSA areas would be producer-handlers, 2 would be exempt on the basis of having less than 150,000 pounds of milk per month in Class I route dispositions, and 1 partially regulated.

Of the remaining 31 distributing plants located in the marketing area, 19 would be located in other MSA's as follows: 5 pool plants and 1 producer-handler in Ohio; 5 pool plants in Indiana; 4 pool plants in Michigan; 2

pool plants in Pennsylvania; 1 pool plant in Kentucky; and 1 pool plant in West Virginia. Twelve of the remaining distributing plants would not be located in MSA's. Three of these pool plants and 2 producer-handlers would be located in Michigan, 4 pool plants would be located in Ohio; 2 pool plants would be located in Indiana; and 1 producer-handler would be located in West Virginia.

There are 4 distributing plants that would not be in the marketing area. These would be 2 partially regulated plants and 1 producer-handler in Pennsylvania, and 1 partially regulated plant in Virginia.

The in-area route disposition standard has been adjusted to 30 percent of total route dispositions from the 15 percent standard that was used for all of the suggested consolidated areas in the Revised Preliminary Report. This adjustment has been made to assure that State-regulated plants in Virginia and Pennsylvania that have sales in the proposed marketing area would not be pooled under Federal order regulation.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Mideast order, the Class I utilization percentages for the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, Michigan Upper Peninsula, and Indiana markets were 59, 57, 48, 79, and 66 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Mideast order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Ohio Valley, a 1-cent per cwt decrease (from $13.00 to $12.99); Eastern Ohio-Western Pennsylvania, a 10-cent per cwt decrease (from $13.07 to $12.97); Southern Michigan, an 8-cent per cwt increase (from $12.75 to $12.83); Michigan Upper Peninsula, a 20-cent per cwt decrease (from $12.81 to $12.61); and Indiana, a 5-cent per cwt decrease (from $12.97 to $12.92). The large decrease for Michigan Upper Peninsula is because of its current individual handler pool provisions (very little reserve milk is pooled under Order 44—instead, it is pooled on the Southern Michigan order). For December 1996, combined Class I utilization for Orders 33, 36, 40, 44 and 49 was 52 percent based on 563.4 million pounds of producer milk used in Class I out of 1082 million total producer milk pounds pooled.

The Mideast is one of two proposed consolidated marketing areas that would have a significantly higher-than-average percentage of its milk used in Class II. Currently, the Southern Michigan, Ohio Valley and Indiana markets have Class II utilization over 20 percent. When the markets are combined the average for the consolidated market will be just under 20 percent.

Other Plants

Also located within the Mideast marketing area during May 1997 were 59 supply or manufacturing plants: 1 in Charleston, West Virginia, 4 in Pennsylvania, 18 in Michigan, 9 in Indiana and 27 in Ohio. Nine of the 59 plants are pool plants. Of these pool plants, 6 are supply plants—1 manufactures primarily Class II products, 3 manufacture primarily powder, and 2 have no primary product, only shipping to distributing plants. Three pool plants are manufacturing plants, manufacturing primarily cheese. Of the 50 nonpool plants in the Mideast marketing area, one is a supply plant that manufactures primarily cheese. The other 49 nonpool plants are manufacturing plants. In this area of high Class II use, 28 of the nonpool plants manufacture primarily Class II products. In addition, 1 manufactures primarily butter, 1 manufactures primarily powder, 27 manufacture primarily cheese, and 2 manufacture primarily other products.

There are also two manufacturing plants in the currently-unregulated area of Ohio—a nonpool plant that manufactures primarily Class II products in the unregulated county of Erie, Ohio and a nonpool plant that manufactures primarily cheese in the unregulated area of Sandusky, Ohio.

Cooperative Associations

In December 1995, 18 cooperative associations pooled member milk under the 5 orders proposed to be consolidated. One of the cooperatives pooled milk on the four principal orders, 4 cooperatives had member milk pooled on 3 of the orders, 2 cooperatives pooled milk on 2 of the orders, and 11 of the cooperatives pooled milk on only one of the orders. The percentage of cooperative member milk pooled on each of the orders varied from 43 percent under Order 36 to 86 percent under Order 40. Of the total milk pooled on the 5 orders in December 1995, 78 percent was marketed by cooperative associations.

Criteria for Consolidation

Overlapping route disposition, overlapping production areas, natural boundaries, and multiple component pricing are all criteria that support the consolidation of these current order areas into a consolidated Mideast marketing area. Handlers who would be fully regulated under the consolidated order distribute approximately 90 percent of their route dispositions within the proposed marketing area, and nearly 95 percent of the milk distributed within the marketing area is from handlers who would be regulated under the order.

Many of the counties from which milk was pooled on the individual orders supplied milk to three or four of those orders. For instance, milk from several of the same Michigan counties was pooled on the Ohio Valley, Eastern Ohio-Western Pennsylvania, Indiana and Southern Michigan orders; milk from a number of the same Indiana counties was pooled on the Ohio Valley, Southern Michigan and Indiana counties; and milk from some of the same Ohio counties was pooled on the Ohio Valley, Indiana, and Southern Michigan orders.

The Great Lakes serve as natural boundaries on the northern edge of the area and on the eastern and western sides of Michigan, as do the mountains in central Pennsylvania. All of the orders involved in the proposed consolidated Mideast area contain multiple component pricing provisions. Although the Southern Michigan component pricing plan is not the same as the plan common to the Indiana and the two Ohio orders, interest in adopting the Southern Michigan component pricing plan has been expressed by industry participants in the other orders.

Discussion of Comments and Alternatives

Comments regarding the Mideast region have been received from cooperatives, proprietary handlers, and individual producers throughout the developmental period of this rulemaking process, but responses to the Revised Preliminary Report on Order Consolidation focused mostly on the suggested addition of currently non-Federally regulated territory. Several comments supported the addition of Pennsylvania Milk Marketing Board (PMMB) Area 6 to the suggested Mideast order area, and one handler urged the addition of currently-unregulated areas of Maryland and West Virginia. However, a large number of producers whose milk currently is pooled at PMMB-regulated fluid milk plants, and the operators of some of those plants, argued strenuously that including PMMB Area 6 in the proposed Mideast

order would reduce returns to Pennsylvania producers unnecessarily without reducing costs to handlers.

For the reasons discussed previously in reference to the Northeast market, PMMB Area 6 should not be added to the proposed Mideast order area. Consolidation of the existing orders does not necessitate expansion of the consolidated orders into areas in which handlers are subject to minimum Class I pricing under State regulation, especially when the states' Class I prices exceed those that would be established under Federal milk order regulation. Handlers located in PMMB areas 2, 3, and 6 are regulated under the State of Pennsylvania if they do not have enough sales in any Federal order area to meet an order's pooling standards. If such plants do meet Federal order pooling standards, the State of Pennsylvania continues to enforce some of its regulations in addition to Federal order regulations. As State-regulated handlers, they must pay a Class I price for milk used in fluid products, often higher than the Federal order price would be. Inclusion of the Pennsylvania-regulated handlers in the consolidated marketing area would have little effect on handlers' costs of Class I milk (or might reduce them), while reducing producer returns. In view of these situations, it appears that stable and orderly marketing conditions can be maintained without extending full Federal regulation to State-regulated handlers.

Comments from a large cooperative association and a fluid handler urged that southern Ohio and part of West Virginia be included in the proposed Appalachian order to assure that a large distributing plant located in Winchester, Kentucky, remains pooled under the consolidated Appalachian order. Both comments argued that order provisions should specify that plants be regulated according to their location rather than their fluid milk distribution area. The pooling provisions proposed herein would assure that plants are regulated where located unless their route disposition within another marketing area is over 50 percent. This provision should assure that the plant in question remains regulated under the proposed Appalachian order. If a plant's route disposition in a marketing area other than where it is located is over 50 percent, other handlers competing for sales with that handler should be assured that their competitor is paying a like amount for its milk.

Upper Midwest

The proposed Upper Midwest marketing area is comprised of the current Upper Midwest (Order 68) and Chicago Regional (Order 30) marketing areas, with the addition of the western portion of the Michigan Upper Peninsula (Order 44) marketing area. There are 205 counties in this proposed area.

Geography

The proposed consolidated Upper Midwest marketing area is described geographically as follows: 16 counties in Illinois (all currently in Order 30), 6 counties in Iowa (all currently in Order 68), 6 counties in Michigan (all currently in Zones I and IA of Order 44), 83 counties in Minnesota (all currently in Order 68), 16 counties in North Dakota (all currently in Order 68), 8 counties in South Dakota (all currently in Order 68), and 70 counties in Wisconsin (43 currently in Order 30, 20 currently in Order 68, and 7 currently unregulated). This market is about 600 miles east to west and about the same distance north to south.

The area described above is contiguous to the proposed Central market to the south, a small corner of the proposed Mideast market to the southeast, and the eastern portion of Michigan's Upper Peninsula, also part of the proposed Mideast market, to the northeast. North of the Upper Midwest market is Lake Superior and the Canadian border, and west of the market is a large sparsely-populated and unregulated area. Most of the eastern border of the marketing area is Lake Michigan.

The proposed Upper Midwest marketing area is generally low-lying, with some local differences in elevation in Wisconsin and the upper peninsula of Michigan. Natural vegetation in the western part of the area is tall-grass prairie, with the eastern two-thirds of the northern portion being broadleaf forest, coniferous forest, and mixed broadleaf and coniferous forest. Annual precipitation averages 30–35 inches per year. Most of the area experiences summer temperatures that average about 75 degrees; the northern and western portions average winter temperatures are in the low 'teens, while the southern and more eastern portions experience average winter temperatures in the 20's. The far western part of the market predominantly grows mixed field crops, with cattle and soybeans more to the southwest. Both Minnesota and Wisconsin are included in the top five milk-producing states, and dairy is the number 1 agricultural enterprise in Wisconsin, generating over half of the State's income derived from agricultural commodities.

Population

According to July 1, 1996, population estimates, the total population of the proposed Upper Midwest marketing area is approximately 18.5 million. Using Metropolitan Statistical Areas (MSAs), there are 3 population centers over 1 million. The Chicago-Gary-Kenosha area, primarily in northeastern Illinois, is the largest, with a 7.8 million population in the marketing area. The Minneapolis-St. Paul area, located mostly in Minnesota, is next with 2.8 million; and the third-largest MSA is Milwaukee-Racine, Wisconsin, with a population of 1.6 million. The Chicago area is located in the southeast corner of the marketing area, on the west side of the southern end of Lake Michigan, with Milwaukee approximately 85 miles north, also along Lake Michigan. Minneapolis is located 400 miles northwest of Chicago, along the Minnesota-Wisconsin border.

Approximately two-thirds of the population of the proposed marketing area is within the three largest MSA's, with over 80 percent of the population contained within the area's 17 MSA's (with the 14 smaller MSA's averaging 195,000 population).

Sixty percent of the population of the market is concentrated in the Illinois and southeast Wisconsin portion of the marketing area. In Wisconsin, nearly 90 percent of the population is located in the southern two-thirds of the state, and in Minnesota 85 percent of the population is in the southern half of the state.

Fluid Per Capita Consumption

Based on the population figure of 18.5 million and an estimated per capita fluid milk consumption rate of 20 pounds of fluid milk per month, total fluid milk consumption in the proposed Upper Midwest marketing area is estimated at 370 million pounds per month. Plants that would be fully regulated distributing plants under the Upper Midwest order had route disposition within the market of 321.5 million pounds in October 1995. The 3 producer handlers operating in the combined marketing areas during this month had a combined route disposition of .1 million pounds, 5 partially regulated handlers distributed 1.7 million pounds in the marketing area, and an additional .1 million pounds was distributed by unregulated handlers. Twenty handlers fully regulated under 10 other Federal orders, from New York-New Jersey to Great Basin, distributed 36.5 million pounds in the combined marketing areas during October 1995.

Milk Production

In December 1996, 2.2 billion pounds of milk were pooled in the proposed Upper Midwest market from more than 27,700 producers located in 10 states from Tennessee to Minnesota, and from South Dakota to Michigan. However, over 95 percent of the producer milk was produced within the proposed marketing area, and 93.4 percent was produced within the states of Wisconsin and Minnesota. As with population density and milk plant density, most milk production in Minnesota and Wisconsin occurs in the southern parts of these states. Over 82 percent of Wisconsin milk pooled under the combined Chicago Regional-Upper Midwest orders in December 1996 was produced in the southern two-thirds of the State, while 84 percent of the Minnesota milk pooled under the two orders was produced in the southern half of Minnesota.

Forty counties, 3 in Iowa, 12 in Minnesota, and 25 in Wisconsin supply pool milk to both the current Chicago Regional and Upper Midwest orders. The largest part of the common production area is in Wisconsin, where 25 counties supply 25 percent of the milk pooled under Order 30, and 27 percent of the milk pooled under Order 68. When data for the 40 counties is combined, 26 percent of the Chicago Regional pool and 39 percent of the Upper Midwest pool is supplied by this common production area.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 37 distributing plants would be expected to be associated with the Upper Midwest marketing area, including 29 fully regulated distributing plants (3 currently partially regulated and 26 currently pool plants), 4 partially regulated (3 currently partially regulated and 1 currently fully regulated), 1 unregulated (currently partially regulated), 2 producer-handlers, and 1 exempt plant (currently unregulated, with less than 150,000 pounds of total route disposition per month). Since October 1995, one distributing plant in Wisconsin has gone out of business.

There would be 7 distributing plants in the Chicago area (5 pool plants, 1 producer-handler, and 1 unregulated plant). The Milwaukee-Racine area would have 2 pool distributing plants. There would be 7 distributing plants in the Minneapolis-St. Paul area (6 pool plants and 1 partially regulated plant). Of the remaining 21 distributing plants, 14 are located in other MSAs as follows: 4 pool plants in Minnesota, 2 pool plants in North Dakota, 1 pool plant in Illinois, and 6 pool plants and 1 partially regulated plant in Wisconsin. Seven of the remaining distributing plants are not located in MSAs: 2 pool plants in Minnesota, 2 partially regulated plants in North Dakota, 1 producer-handler and 1 exempt plant (less than 150,000 pounds of total route distribution per month) in Wisconsin and 1 pool plant in Michigan.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Upper Midwest order, the Class I utilization percentages for the Chicago Regional and Upper Midwest were 30 and 46 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Upper Midwest order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Chicago Regional, no change ($12.62 in both cases), and Upper Midwest, a 1-cent per cwt increase (from $12.55 to $12.56). However, a substantial amount of milk was omitted from both pools for October 1995 because of unusual class price relationships. Annual Class I utilization percentages may be considered more representative for these markets. For the year 1996, the annual Class I utilization percentage for the Chicago Regional market was 20.4, with 19.6 for the Upper Midwest. The Class I use percentage for the Michigan Upper Peninsula market, which has a individual handler pool and represents a very small portion of the producer milk that would be expected to be pooled under the proposed consolidated order, was 78.3 percent. It is estimated that the Class I use percentage for the consolidated order would be in the neighborhood of 20 percent.

Other Plants

Located within the proposed consolidated Upper Midwest marketing area during May 1997 were 301 supply or manufacturing plants: 1 in South Dakota, 3 in Iowa, 28 in Illinois (12 in the Chicago area), 39 in Minnesota (over three-quarters of which are located in the southeastern quarter of the State), and 230 in Wisconsin (over 90 percent of which are scattered throughout the southern three-quarters of the state). One hundred five of the plants are pool plants, or have a ''pool side.'' Eighty-five of the 105 pool plants (1 in Iowa, 4 in Illinois, 16 in Minnesota and 64 in Wisconsin) are ''split plants;'' that is, one side of a plant is a manufacturing facility and the other side receives and ships Grade A milk, and accounting is done separately. In most cases, the nonpool portion of such a plant is a manufacturing operation, primarily cheese-making. Most of the other pool plants are pool supply plants, located primarily in Wisconsin, that ship milk to pool distributing plants.

The 196 nonpool plants in the proposed Upper Midwest marketing area are manufacturing plants—103 manufacture primarily cheese, 16 manufacture primarily Class II products, 15 manufacture primarily butter, 23 manufacture primarily milk powders, and 39 manufacture primarily other products.

Also associated with the Upper Midwest order, but not within the marketing area, are 2 pool supply plants and 6 manufacturing plants (3 manufacturing primarily cheese, 2 making Class II products, and 1 butter plant) in North Dakota.

Cooperative Associations

In December 1995, 67 cooperative associations pooled member milk on the Chicago Regional and Upper Midwest orders, providing 83 percent of the milk pooled under the two orders. Seventy-six percent of the milk pooled under Order 30 and 93.9 percent of the milk pooled under Order 68 was supplied by cooperative associations. Eight of the cooperatives marketed milk in both orders, accounting for nearly two-thirds of the milk pooled in the Upper Midwest (and 68.8 percent of the cooperative member milk), and 42.5 percent of the milk pooled in the Chicago Regional market (55.9 percent of total cooperative member milk). In the two markets, 15 cooperatives pooled milk only under Order 30, and 44 cooperatives pooled milk only under Order 68.

Criteria for Consolidation

As suggested in the initial Preliminary Report on Order Consolidation, the Chicago Regional and Upper Midwest marketing areas should be combined, with the addition of the western end of Michigan's Upper Peninsula, into a consolidated Upper Midwest Federal order marketing area. Although these areas do not have a considerable degree of overlapping fluid milk disposition, they do have an extensive overlapping procurement area. Handlers regulated under both of the principal markets distribute milk into more southern

markets, and approximately 10 percent of the fluid milk distributed within the proposed area is distributed by handlers regulated under other orders. However, these other order areas are more closely related to markets to the south than to the proposed Upper Midwest order area. On that basis, it is more appropriate to include them in other consolidated marketing areas.

Other aspects of the proposed consolidation also fit the criteria set forth. The proposed Upper Midwest area is bounded on three sides by Lakes Michigan and Superior, the international border with Canada, and a large unregulated area. A significant portion of both markets' milk is supplied by the same cooperative associations. The markets have identical multiple component pricing plans, and both have large reserves of milk that normally is used in manufactured products, primarily cheese. Approximately 90 percent of the milk used in manufacturing in these markets is used to make cheese. The amount of cheese manufactured from milk pooled under these milk orders is enough to supply a population 3 times greater than that of the proposed consolidated marketing area. Fluid milk handlers in both markets must compete with cheese manufacturers for a milk supply, and marketing order provisions for both markets must provide for attracting an adequate supply of milk for fluid use.

Discussion of Comments and Alternatives

Comments received before issuance of the Revised Preliminary Report on Order Consolidation largely favored the consolidation of ten marketing areas—Federal orders 30, 32, 44, 49, 50, 64, 65, 68, 76, and 79. The Revised Report suggested the addition of 3 order areas (Eastern South Dakota, most of Nebraska-Western Iowa, and Iowa) to the earlier suggestion of consolidating the Chicago Regional and Upper Midwest areas. The revised configuration would have increased the population and Class I use of the consolidated Upper Midwest area. Any increase in a consolidated marketing area that would include the Chicago Regional and Upper Midwest order areas could not be justified on the basis of the criteria of overlapping sales and procurement areas beyond the addition of the three areas suggested to be added in the Revised Consolidation Report. Addition of the five orders advocated by the cementers is not supported on the basis of any data available.

After issuance of the Revised Report a number of objections were received, both to the addition of only 3 more areas, and to the inclusion of the 3 additional areas with the Upper Midwest. Producer organizations operating principally in the proposed Upper Midwest consolidated area argued that additional Class I use should be included in the area to enhance blend prices to producers. Producer organizations and handlers operating in the other 3 areas, particularly Iowa, argued that inclusion of those areas with the 2 upper midwest order areas would severely affect Iowa handlers' ability to attract a sufficient supply of milk, and that the milk pooled on those orders from Minnesota and Wisconsin is not needed to meet Iowa handlers' Class I needs, but is pooled on the Iowa market to obtain the higher blend price.

The addition to the consolidated Upper Midwest marketing area of marketing areas with higher Class I use for the sole purpose of increasing the Upper Midwest Class I utilization percentage and Upper Midwest producer returns is not consistent with the criteria examined to determine defensible order consolidations. The numerous markets recommended by upper midwest producer groups to be consolidated with the Chicago Regional and Upper Midwest order areas have very little distribution or procurement overlap with those areas, aside from occasional need for reserve milk supplies. When reserve supplies are needed by the other markets, upper midwest milk can be, and is, pooled on the more southern markets and shares in their pools. The potential gain of adding areas recommended by upper midwest producer groups would be much less than the loss to producers whose milk is pooled under orders proposed to be consolidated in the Central, Mideast and Appalachian marketing areas.

For example, if 9 nearby marketing areas were combined with the Upper Midwest and Chicago Regional areas, the combined utilization for the 11 markets would be about 10 percentage points higher than that for the 2 markets, and the blend price could be expected to increase by approximately 7 cents per hundredweight. At the same time, the percentage Class I utilization for the other markets that would be affected would be reduced by an average of 26 percentage points and by as many as 54 percentage points, resulting in an average reduction in the blend price of 27 cents, and as much as 54 cents, per hundredweight. These results occur because, with the addition of 9 other orders, the combined volume of milk pooled under the Upper Midwest and Chicago Regional markets would represent nearly three-quarters of the total that would be pooled under the 11 orders. Based on these considerations and comments received, the extent of the proposed Upper Midwest marketing area should be limited to the areas of the current Chicago Regional and Upper Midwest marketing areas, with the addition of the western part of the Michigan Upper Peninsula marketing area.

Central

The proposed Central order marketing area consolidates the current 8 Federal order marketing areas of Central Illinois, most of Southern Illinois-Eastern Missouri, most of Southwest Plains, Greater Kansas City, Iowa, Eastern South Dakota, Nebraska-Western Iowa, and Eastern Colorado (Federal orders 50, 32, 106, 64, 79, 76, 65, and 137, respectively). Moving to the proposed Southeast marketing area are 6 Missouri counties currently in Federal order 32 and, from Order 106, 11 northwest Arkansas counties and 22 whole and 1 partial (Pulaski County) southern Missouri counties. Order 106 counties in Kansas and Oklahoma would remain in the Central market, as suggested in the 2 preliminary reports. In addition, some counties in Colorado, Illinois, Iowa, Kansas, Missouri and Nebraska that currently are not part of any order area would be included in the proposed Central market. There are 565 whole counties and 3 partial counties in this proposed area.

Geography

The proposed Central marketing area would include the following territory:

Colorado—33 counties in eastern Colorado, including the 30 Colorado counties currently in the Eastern Colorado marketing area, and adding 3 currently-unregulated counties in the southeast corner of the state between the Eastern Colorado and Southwest Plains marketing areas.

Illinois—88 counties, including the 6 counties (4 entire and 2 partial) currently in the Iowa marketing area, the 19 counties currently in the Central Illinois marketing area, the 49 counties currently in the Southern Illinois-Eastern Missouri marketing area and 8 currently-unregulated adjacent counties in southern Illinois, and 6 currently-unregulated counties in western Illinois located between the current Central Illinois and Southern Illinois-Eastern Missouri order areas and the Mississippi River.

Iowa—93 counties and the City of Osage in Mitchell County; including the 68 counties and the City of Osage currently in the Iowa marketing area, the 17 counties currently in the

Nebraska-Western Iowa marketing area, the 1 county currently in the Eastern South Dakota marketing area, 6 currently unregulated counties in the northwestern part of Iowa, and 1 currently unregulated county in the southeastern corner of Iowa.

Kansas—the entire State (105 counties).

Minnesota—the 4 southwestern Minnesota counties that currently are in the Eastern South Dakota marketing area.

Missouri—45 counties and 1 city, including 6 counties and 1 city that currently are in the Southern Illinois-Eastern Missouri marketing area, the 20 counties that currently are in the Greater Kansas City marketing area, the 5 counties that currently are in the Iowa marketing area; and 14 currently-unregulated counties distributed around the center area proposed to remain unregulated.

Nebraska—66 counties in the southern and eastern parts of Nebraska; omitting the 11 counties in the panhandle that currently are part of the Nebraska-Western Iowa marketing area, and adding 5 currently-unregulated counties in the southwest corner of the State between the Nebraska-Western Iowa and Eastern Colorado marketing areas and 3 currently-unregulated counties in the southeast corner of the State between the Nebraska-Western Iowa and Greater Kansas City marketing areas.

Oklahoma—the entire State (77 counties).

South Dakota—the 26 eastern South Dakota counties (including the portion of Union County that currently is in the Nebraska-Western Iowa marketing area) that currently are in the Eastern South Dakota marketing area.

Wisconsin—the 2 southwest Wisconsin counties that currently are in the Iowa marketing area.

The proposed Central marketing area is adjacent to the proposed Upper Midwest consolidated order area on the north and northeast, the proposed Mideast and Appalachian areas on the east, and the northwest corner of the Southeast order area and the proposed Southwest area on the south. The Rocky Mountains and some unregulated area form a natural barrier on the west between this proposed marketing area and the proposed Western area. The area north of approximately the western third of the proposed Central area also is unregulated. The north-south distance covered by the area is approximately 800 miles, from Watertown, South Dakota, to Ardmore, Oklahoma. The east-west extent of the area, from the Indiana-Illinois border to Denver, Colorado, is approximately 1,000 miles.

Geographically, the Central marketing area includes a wide range of topography and climate types, ranging from the foothills of the Rocky Mountains on the west to the central section of the Mississippi River Valley toward the eastern part of the area. Precipitation ranges from less than 15 inches per year in Denver, Colorado, to more than 30 inches at St. Louis, Missouri. Most of the area experiences fairly hot summer temperatures, while winter temperatures vary somewhat more than summer, with colder winter temperatures occurring in the northern part of the Central area. Much of the nation's cornbelt is included within the Central area, with significant wheat-growing areas in western Kansas. The natural vegetation ranges from short grass prairie in eastern Colorado through tall grass prairie in eastern South Dakota, Nebraska, Kansas and Oklahoma, and much of Illinois; to broadleaf forest on both sides of the Mississippi River.

Population

According to July 1, 1996, population estimates, the total population in the proposed Central marketing area is approximately 21 million. Using Metropolitan Statistical Areas (MSAs), there are four population centers over 1 million. The St. Louis, Missouri/Illinois, area is the largest, with over 2.5 million population, and the Denver-Boulder-Greeley, Colorado, area is next with approximately 2.3 million. Kansas City, Missouri/Kansas, has a population of 1.7 million, and Oklahoma City, Oklahoma, is just over 1 million. Approximately one-third of the population of the proposed marketing area is within these four largest MSAs, with nearly two-thirds of the population contained within the area's 31 MSA's (with the 27 smaller MSAs averaging 230,786 population). The Colorado portion of the proposed marketing area has 93.6 percent of its population concentrated in 4 MSA's. The Missouri portion has 89 percent.

Fluid Per Capita Consumption

Based on the population figure of 21 million and a per capita fluid milk consumption rate of 19 pounds of fluid milk per month (a weighted average based on state populations in the marketing area and fluid per capita consumption estimates for each state), total fluid milk consumption in the proposed Central marketing area would be approximately 400 million pounds per month, including 11.7 million pounds associated with the net population gain of the marketing area from the addition of previously-unregulated territory. Plants that would be fully regulated distributing plants in the Central order, including 3 plants operated by one handler that currently are fully regulated under the Southwest Plains order (Order 106) but are expected to be regulated under the proposed Southeast market pool, had route disposition within the eight marketing areas included in the consolidated Central area of 384.2 million in October 1995. It is likely that most of the milk distributed within formerly unregulated areas by Central order handlers would be distributed within the consolidated Central marketing area. The 10 producer-handlers operating in the Central market during October 1995 had a combined route disposition of 2.2 million pounds, partially regulated plants and plants that would be exempt distributed 3 million pounds in the marketing area, and other order plants distributed 22.2 million pounds during October 1995.

Milk Production

In December 1996, 1.1 billion pounds of milk were pooled under the orders consolidated in the proposed Central market (including all of the milk pooled under Orders 32 and 106) from more than 10,000 producers located in 21 states from Idaho to Tennessee, and from Texas to Minnesota. Seventy-four percent of the producer milk was produced within the proposed marketing area. The states contributing the most producer milk were, in descending order of volume, Iowa, Missouri, Colorado, Kansas, Oklahoma and Illinois. However, over 80 percent of the Missouri producer milk came from farms in counties which are included in the proposed consolidated Southeast marketing area. These 6 States accounted for 71 percent of the producer milk pooled under the eight current orders proposed to be consolidated. All of the states having substantial portions of their areas in the proposed Central market contribute producer milk to at least two of the current eight individual orders, with four of the states (Iowa, Kansas, Missouri, and Nebraska) supplying milk to five of the order areas each.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 54 distributing plants would be expected to be associated with the Central marketing

area, including 34 fully regulated distributing plants (one currently unregulated and the remainder currently pool plants), 2 partially regulated (1 currently partially regulated and 1 currently unregulated), 2 exempt plants (both currently are pool plants but have less than 150,000 pounds of total route disposition per month), 11 producer-handlers (all currently producer-handlers), 1 unregulated (located in the unregulated central portion of Missouri), and 4 government agency plants (all currently government agency plants). Since October 1995, it is known that 4 distributing plants (all of which were fully regulated—2 in Illinois, 1 in Iowa, and 1 in Oklahoma) have gone out of business.

There would be 10 distributing plants in the Denver area (7 pool plants and 3 partially regulated plants). The Kansas City area would have 1 pool distributing plant. The St. Louis area would have 5 distributing plants (4 pool plants and 1 exempt plant). There would be 1 pool distributing plant and 1 partially regulated plant in the Oklahoma City area. Of the remaining 36 distributing plants, 16 are located in other MSAs as follows: 1 pool plant and 1 producer-handler in Colorado; 2 pool plants in Illinois; 4 pool plants, 1 producer-handler and 1 exempt plant in Iowa; 1 pool plant in Kansas; 3 pool plants in Nebraska; 1 producer-handler in Oklahoma; and 1 pool plant in South Dakota.

Twenty of the remaining distributing plants are not located in MSAs. They are: 1 government agency plant in Colorado; 4 pool plants and 1 government agency plant in Illinois; 1 pool plant and 1 producer-handler in Iowa; 1 pool plant and 1 government agency plant in Kansas; 1 unregulated and 2 producer-handlers in Missouri; 1 producer-handler in Nebraska; 2 pool plants in Oklahoma; 1 partially regulated and 1 government agency plant in South Dakota; and 1 pool and 1 partially regulated plant in Wyoming.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Central order, the Class I utilization percentages for the individual markets ranged from 42 percent for the Nebraska-Western Iowa market to 73 percent for the Central Illinois, Greater Kansas City and Eastern South Dakota markets combined. Data for these three markets are combined because each of them has only one handler, and individual handler information cannot be released. Combined utilization for the eight markets would result in a Class I percentage of just over 50 percent (including the utilization of the 3 plants that would be included in the Southeast marketing area).

Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Central order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Southern Illinois-Eastern Missouri, a 12-cent per cwt decrease (from $13.00 to $12.88); Central Illinois, a 21-cent per cwt decrease (from $13.03 to $12.72); Greater Kansas City, a 34-cent per cwt decrease (from $13.22 to $12.88); Nebraska-Western Iowa, a 16-cent increase (from $12.63 to $12.79); Eastern South Dakota, a 14-cent decrease (from $12.81 to $12.67); Iowa, a 1-cent decrease (from $12.71 to $12.70); and Southwest Plains, a 21-cent increase (from $13.08 to $13.29). The weighted average use value for the consolidated Central order market is estimated to be $12.95 per cwt.

Other Plants

Also located within the Central marketing area during May 1997 were 83 supply or manufacturing plants: 7 in Colorado (4 in the Denver area), 15 in Illinois (2 in the Decatur area), 23 in Iowa (2 in the Des Moines area and 1 in the Dubuque area), 6 in Kansas, 7 in Missouri (5 in the St. Louis area), 7 in Nebraska, 7 in South Dakota (1 in the Sioux Falls area), 4 in Oklahoma (1 in the Tulsa area), and 7 in Wisconsin. Twenty-two of the 83 plants are pool plants, or have a ''pool side.'' Twelve of the 22 pool plants (6 in Iowa, 1 in Nebraska, 2 in South Dakota, and 3 in Wisconsin) are ''split plants;'' that is, one side of a plant is a manufacturing facility, and the other side receives and ships Grade A milk, and accounting is done separately. In most cases, the nonpool portion of such a plant is a manufacturing operation, primarily cheese-making. Of the pool plants, 8 have no primary product, but are only shipping to distributing plants, and 6 are pooled manufacturing plants.

Of the 61 nonpool plants in the proposed Central marketing area, 58 are manufacturing plants—23 are plants that manufacture primarily Class II products, 3 manufacture primarily butter, 6 manufacture primarily powder, 25 manufacture primarily cheese, and 1 manufactures primarily other products.

Also associated with the proposed Central order, but not within the proposed marketing area, are 2 nonpool cheese plants and a nonpool supply plant located in South Dakota.

Cooperative Associations

Twenty-six cooperative associations pooled milk in December 1995 under the eight orders proposed to be consolidated in the proposed Central market. Of these cooperatives, 1 pooled milk under 6 of the orders, 1 under 5 orders, 3 cooperatives associated producer milk with 3 orders each, and 3 others pooled milk under 2 orders each. Eighteen of the 26 cooperatives pooled milk under only one order, and for 11 of these organizations that was the Iowa order.

The percentage of cooperative milk pooled under the eight orders was 93.6, with a range of 80.6 percent cooperative milk under the Southwest Plains order to 100 percent cooperative member milk under the Central Illinois, Greater Kansas City and Eastern South Dakota orders.

Criteria for Consolidation

Most of the criteria used in determining the optimum consolidation of order areas apply to the proposed Central marketing area. The Federal order markets proposed to be consolidated in the Central area are strongly related to each other through overlapping route disposition. The great majority of sales by handlers who would be regulated under the proposed Central order are distributed within the proposed marketing area, and the markets proposed to be consolidated have a greater relationship in terms of overlapping sales areas than with any other markets. In addition, sales within the currently-unregulated areas proposed to be included in the consolidated Central area are overwhelmingly from handlers that would be pooled under the proposed Central order. Inclusion of these areas would reduce handlers' burden of reporting out-of-area sales and take in pockets of currently-unregulated counties that occur between the current order areas. As discussed above, the milk procurement areas for the markets proposed to be combined also have a significant degree of overlap.

Some of the currently-unregulated counties in western Illinois and central Missouri have been added to the proposed Central marketing area. The omission from the proposed marketing area of the counties in central Missouri that are not included in the proposed Central marketing area are based on an estimation of the marketing area of Central Dairy, located in Jefferson City, Missouri. There is no intention of causing the regulation of this handler, but minimizing the extent of the unregulated counties in the middle of

the proposed marketing area would help to reduce the reporting burden on handlers in determining which route dispositions are inside, and which are outside the marketing area. The administrative burden of verifying such reporting also would be eliminated.

Three of the current Federal order markets (Central Illinois, Greater Kansas City, and Eastern South Dakota) included in this proposed consolidated area have too few pool plants to be able to publish market data without revealing confidential information. In addition to these three markets, the number of handlers regulated under each of the Nebraska-Western Iowa, Iowa and Eastern Colorado orders is in the single digits. Consolidation of these markets will enable the market administrator's office to provide more informative market data.

Discussion of Comments and Alternatives

Although the Preliminary Report on Order Consolidation, issued in December 1996, suggested a Central marketing area that resembles the area proposed herein (but included the northwest Arkansas and southern Missouri counties that now are included in the proposed Southeast area), the Revised Preliminary Report, issued in May 1997, suggested that the Iowa, Nebraska-Western Iowa and Eastern South Dakota order areas would more appropriately be included with the Chicago Regional and Upper Midwest areas in a consolidated Upper Midwest order. A number of comments received after issuance of the Revised Report on Order Consolidation argued that the Iowa and the Nebraska-Western Iowa orders should, more logically, be consolidated with the Greater Kansas City marketing area, as in the November 1996 report.

Among others, the Upper Midwest Dairy Coalition, Mid-America Dairymen, Andersen-Erickson Dairy Company, and Swiss Valley Farms filed comments stating that the revised marketing areas would harm Iowa fluid milk processors competing for sales in Kansas City and St. Louis. The Iowa Dairy Foods Association and the Iowa Dairy Producers Association, representing all Iowa dairy processors, emphasized that Iowa must be included within the same order area as the Greater Kansas City, Central Illinois and Southern Illinois-Eastern Missouri areas because Iowa fluid processors would be financially disadvantaged due to the substantial competition within these areas for packaged route disposition and raw milk supply. Mid-America Dairymen suggested that the only portion of the Iowa area that might justifiably be added to the proposed Upper Midwest consolidated order area would be the northeastern portion of Iowa, containing Dubuque.

Comments from the National Farmers' Organization, Inc., supported the approach taken in the May 1997 Revised Report on Order Consolidation under which the consolidation of Iowa with the Upper Midwest was suggested. The comments stated that a large, integrated contiguous milkshed area in southwestern Wisconsin, northeast Iowa, and southeast Minnesota serves as a source of seasonal or year-round fluid supplies for several marketing areas, including Iowa. Lakeshore Federated Dairy Cooperative comments insisted that the revised area be expanded to include even more area to enhance the utilization percentage of the Upper Midwest order.

One commenter pointed out that the suggested consolidation was not supported by the criteria of overlapping sources of milk because the degree of competition for milk supplies cannot be judged properly on the basis of the source of milk pooled from an area. According to the comment, a significant portion of the Minnesota and Wisconsin milk pooled on the Iowa order is pooled on the basis of where it will return the most revenue to the supplying producers rather than whether the milk supply is needed in the market on which it is pooled. The same commenter, citing the difficulty Iowa handlers often have experienced in obtaining an adequate supply of milk, went on to state that the competition for supplies of producer milk between the Iowa and Central Illinois markets necessitates that these two markets be included in the same consolidated order.

Because of the strong objections in the comments that opposed the addition of the Iowa, Nebraska-Western Iowa and Eastern South Dakota order areas to the consolidated Upper Midwest marketing area and the slight preponderance of data upon which the suggestions of the initial Preliminary Report were changed to those of the Revised Preliminary Report, an even closer look was taken at destinations of route dispositions and sources of producer milk receipts, using data for individual handlers instead of for the market as a whole. As with a number of other proposed consolidated order areas, it would be impossible to find a boundary across which significant quantities of milk are not procured for other marketing areas. As in some other cases, analysis was done to determine where the minimal amount of route disposition overlap between areas occurred, with the criterion of overlapping route disposition given greater weight than overlapping areas of milk supply.

For the most part, it was found that the principal relationship in terms of route disposition between Iowa handlers and the proposed consolidated Upper Midwest market is represented by one Iowa handler. That handler's sales in order areas that are proposed to comprise the Upper Midwest consolidated order marketing area represent a large majority of sales by Iowa handlers in marketing areas outside the proposed Central marketing area. This handler has many of its sales in the Chicago Regional marketing area. In fact, if the eastern edge of the Iowa marketing area were added to the proposed consolidated Upper Midwest order, this handler not only would have the majority of its sales and qualify regularly as a pool distributing plant under the consolidated Upper Midwest order (as it occasionally does now under the current Chicago Regional order on the basis of its sales in that area), but total inter-order sales between the two consolidated marketing areas would be reduced. This proposed rule does not include the division of the Iowa order, but comments on the desirability of such a division would be welcomed.

The other order area that demonstrates the strongest relationship with the proposed consolidated Upper Midwest order is the Eastern South Dakota area. Nearly one-fifth of the Eastern South Dakota handler's sales are distributed in the current Upper Midwest order, while a nearly equal amount is distributed in unregulated areas. However, route disposition in the Eastern South Dakota order area by the Eastern South Dakota handler and other handlers that would be regulated under the proposed Central order represents the total fluid milk disposition that would be estimated for the total population of the Eastern South Dakota marketing area, using an estimate of 265 pounds of fluid milk consumption per capita. Therefore, it would not be expected that Upper Midwest handlers would have significant amounts of fluid milk distributed into the Eastern South Dakota area.

Approximately 85 percent of the total fluid milk dispositions distributed by handlers regulated under the three order areas that were suggested to be included in the Central area in the initial Preliminary Report, and in the Upper Midwest area in the Revised Preliminary Report, are disposed of in the proposed Central market. The disposition by other Central marketing area handlers within the proposed

Central area is somewhat greater than the proportion for the three more northern order areas.

The milk receipts at Iowa pool plants from sources in Minnesota and Wisconsin vary greatly from month to month, leaving a strong impression that these areas are not regular or reliable sources of milk for the Iowa market. As stated in the description of consolidation criteria, not all areas having overlapping areas of milk procurement should be consolidated. The volumes of Minnesota and Wisconsin milk pooled on the Iowa order represent a significant share of the total milk pooled there. In the first 9 months of 1997, 6 percent of the milk pooled on the Iowa order was from Minnesota, and 22 percent was from Wisconsin. However, the variation in the volume of Minnesota milk pooled was three times that of Iowa milk pooled, and the variation in the volume of Wisconsin milk was five times greater than that of Iowa milk. Less than five percent of either State's total pooled production is pooled under the Iowa order.

A number of commenters suggested that southern Missouri and/or northwest Arkansas should be included in the Southeast Marketing Order. Mid-America Dairymen, Inc.; Associated Milk Producers, Inc.; Carolina-Virginia Milk Producers Association, and several other producer groups supported removing both areas from the current Southwest Plains order area and making them a part of the Southeast Federal order. The commenters stated that the reason for such a change would be to correct inequities they claim are caused by southwest Missouri manufacturing plants balancing the Southeast without being able to pool, and inefficient milk movements caused by blend price discrepancies between orders. Several commenters added that southern Missouri historically has been a source of reserve milk supply for the Southeast. This recommended change, of territory currently in the Southwest Plains marketing area to the proposed Southeast marketing area instead of the proposed Central marketing area, has been adopted in the proposed rule and is discussed further under the description of the Southeast marketing area.

Several comments supported the position of Gillette Dairy, Rapid City, South Dakota, that 14 counties in Nebraska proposed to be included in the proposed Central order area be excluded. Five of these counties are currently unregulated, while the other nine are in the present Nebraska-Western Iowa Federal order. The comments contended that excluding Nebraska counties in which Gillette is the majority distributor of fluid milk would follow the Department's intent not to regulate currently unregulated handlers. These 14 counties would be in addition to the 11 western Nebraska counties of the current Nebraska-Western Iowa order area that the two preliminary reports had suggested be omitted from the Central order. The 14 counties are located between the current Nebraska-Western Iowa and Eastern Colorado marketing areas, which are proposed to be consolidated as part of the proposed Central market. Handlers regulated under both of those orders have sales in the counties in question, and there is no data reliably indicating that Gillette Dairy distributes milk there, or in what amounts relative to regulated handlers. Therefore, these counties continue to be included in the proposed Central marketing area.

After considering all the comments and other relevant information, it was determined that the territory encompassed in the proposed Central marketing area best meets the criteria used.

Southwest

The proposed Southwest marketing area is comprised of the current Texas (Order 126) and New Mexico-West Texas (Order 138) marketing areas as well as 49 currently unregulated Texas counties. There are 290 counties in this proposed area.

Geography

The proposed Southwest market is described geographically as follows: three counties in Colorado (currently in Order 138), all New Mexico counties (33, currently in Order 138) and all 254 Texas counties (162 currently in Order 126, 43 currently in Order 138, and 49 currently unregulated). Two currently unregulated counties are located in northeast Texas, while the remaining 47 are in southwest Texas.

The Southwest market spans the south central area of the United States. It is surrounded by Arizona on the west, Colorado and Oklahoma on the north, Arkansas, Louisiana and the Gulf of Mexico in the northeast, east, and southeast, and Mexico to the south. Measuring the extreme dimensions, this market extends about 800 miles north to south from southern to northern Texas and about 875 miles east to west from Texas' border with Louisiana and Arkansas to New Mexico's border with Arizona.

The Southwest market is contiguous to 3 proposed consolidated marketing areas: Arizona-Las Vegas to the west, Central to the north and Southeast to the east. Unregulated counties in Colorado also form a relatively small border in the northwest corner of the market. Texas has over 350 miles of coastline on the Gulf of Mexico, while Texas and New Mexico share about 970 miles of boundary with northern Mexico.

In terms of physical geography, diverse topographic relief exists in the Southwest market area, particularly in New Mexico (ranging from deserts to high mountain ranges). Northwest New Mexico is part of the Colorado Plateau, an area of broad valleys and plains as well as deep canyons and mesas. The Rocky Mountains extend into the north central area of the state. The Basin and Range region, generally characterized by ranges or isolated mountains interspersed with valleys, desert basins or high plains, is located in central and southwestern New Mexico, as well as western Texas. The Great Plains cover the eastern third of New Mexico and extend through the Texas Panhandle in north Texas and much of central Texas. This area is characteristically dry and treeless and also encompasses Texas hill country and the Edwards Plateau. The Osage Plains covers area in Texas from the Oklahoma-Texas border into the south central part of the state and the low and flat West Gulf Coastal Plain covers the eastern two-fifths of the state.

Climates in this region also vary. The western part of the region, including New Mexico, southwest Texas and the Texas Panhandle, is semi-arid to arid with wide ranges in both daily and annual temperatures. The southern tip of Texas and the Gulf coast are more humid and subtropical. For some of the area there are few agricultural uses other than dairy farming. Dairy products were the 2nd and 3rd highest revenue-producing agricultural commodities in New Mexico and Texas, respectively, in 1996, accounting for nearly one-third of agricultural receipts in New Mexico, but less than 10 percent in Texas.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 20.9 million. The 26 Metropolitan Statistical Areas (MSAs) in the proposed Southwest market account for about 82 percent of the total market area population. About 54 percent of the Southwest population is located in the 4 most populous MSAs. Six MSAs have populations greater than 500,000; their total population is about 61 percent of the Southwest population. Because of the large number of MSAs in the Southwest market, only those areas with populations greater than 500,000 are described in detail.

Almost 92 percent of the Southwest market's population is located in Texas, which has 19.1 million people. 23 of the 26 Southwest market MSAs are in Texas. About 63 percent of Texas' population is concentrated in 5 areas, which are also the Southwest area's top 5 population centers: the Dallas-Fort Worth (Dallas) MSA in northeastern Texas, with a population of 4.6 million; the Houston-Galveston-Brazoria (Houston) MSA in southeastern Texas near the Gulf of Mexico, with a population of 4.3 million; the San Antonio MSA in south central Texas, with a population of 1.5 million; the Austin-San Marcos (Austin) MSA in central Texas, with a population of 1 million; and the El Paso MSA located in the far western corner of Texas on the Texas-New Mexico-Mexico border, with a population of 680,000.

New Mexico's population is about 1.7 million. The remaining 3 of the 26 Southwest market MSAs are located in New Mexico. About 39 percent of the state's population is located in the Albuquerque area, just northwest of central New Mexico.

In the remainder of the Southwest marketing area, the 3 Colorado counties have a population of about 70,000.

Fluid Per Capita Consumption

Estimates of fluid per capita consumption vary from 17.1 pounds of fluid milk per month per person in Texas to 17.5 in New Mexico to 18.8 in Colorado. Multiplying the individual states' consumption rate by its population in the proposed marketing area results in a fluid milk consumption rate of 358 million pounds of fluid milk per month for the proposed Southwest marketing area. With Southwest handlers' (fully regulated and producer-handlers) route distribution of 322 million pounds within the Southwest marketing area, route distribution from these handlers is 36 million pounds less than the expected consumption. Even with the addition of 23 million pounds from other Federal order handlers, the Southwest market area had 13 million pounds less than the expected consumption rate during October 1995.

Production

In December 1996, 1,838 producers from 180 counties in 8 states pooled 746 million pounds of producer milk on Orders 126 and 138. Nearly 99 percent of this producer milk came from counties proposed to be included in the proposed Southwest marketing area. About 55 percent of the combined market's producer milk was provided by producers in six counties.

About 455 million pounds of milk were pooled on either Order 126 or 138 from 1,566 producers in 131 Texas counties in December 1996. Three Texas counties were among the top 6 in volume pooled: Erath (1st), Hopkins (4th) and Comanche (6th). Erath County—located about 75 miles west of Dallas—pooled 111 million pounds on Order 126 (and an additional 10 million pounds on 3 other Federal orders). Hopkins County—located about 50 miles east of Dallas—pooled 52 million pounds on Order 126 and another 12 million pounds on 2 other Federal orders. Contiguous to and lying southwest of Erath County, Comanche County pooled 34 million pounds on Order 126 and about 3 million pounds on 2 other Federal orders.

Of the 283 million pounds of milk pooled on either Order 126 or 138 from 179 producers in 16 New Mexico counties, 75 percent was produced in the following three counties, all among the top 6 in volume pooled: Chaves (2nd), Dona Ana (3rd) and Roosevelt (5th). Chaves County—located about 200 miles southeast of Albuquerque—pooled 107 million pounds on Orders 126 and 138 in December 1996 and an additional 6 million pounds on 3 other Federal orders. Dona Ana County, located over 200 miles south of Albuquerque, contiguous to El Paso County, TX, and the U.S.-Mexico border, pooled 64 million pounds of producer milk on Order 138. Contiguous to and lying northeast of Chaves County, Roosevelt County pooled 39 million pounds on Orders 126 and 138 and another 3 million on another Federal order.

In December 1996, producer milk for Orders 126 and 138 also originated in one of the Colorado counties in the Southwest marketing area, and in counties in Arkansas, Louisiana, Mississippi, Missouri and Oklahoma. However, the combined amount of producer milk pooled from these areas is less than 2 percent of the total producer milk pooled in these Orders.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures and openings through May 1997, 33 distributing plants located in the proposed Southwest marketing area would be expected to be associated with the Southwest market, including 23 fully regulated distributing plants, 1 partially regulated, 3 exempt and 6 producer-handlers. With one exception, none of these plants' regulatory status is expected to change as a result of the consolidation process. Of the 23 fully regulated plants, 17 are located in the top six MSA regions.

Since October 1995, it is known that 5 plants (4 fully regulated and 1 producer-handler) have gone out of business. The four fully regulated plants were located in Corpus Christi, Lubbock and Lufkin (all in Texas), and in Clovis, New Mexico. The producer-handler was located in Decatur, Texas. One fully regulated distributing plant, Promised Land Dairy in Floresville, Texas, began packaging and distributing products in March 1996. Because market analysis for this area is based on October 1995 information, Promised Land Dairy information is not included in route dispositions reported; however, the route dispositions for the non-operational plants are included.

Of the 33 distributing plants that would be located in the proposed Southwest marketing area, 24 are in Texas, and 9 are in New Mexico. Twenty-one of the Texas plants would be fully regulated. They are as follows: 6 in the Dallas area, 3 in the Houston area, 2 in the San Antonio area, 1 in the Austin area, and 3 in the El Paso area, and 6 located throughout the state. One of the Texas distributing plants was associated with Order 30 (Chicago Regional) in October 1995, and is expected to be partially regulated in the Southwest market. Two producer-handlers are located in Texas, one in the El Paso area and the other in the central part of the state.

Over half of New Mexico's 9 distributing plants are located in the Albuquerque area. Two fully regulated handlers, 1 exempt plant and 2 producer-handlers are located in this population center. Of the remaining 4 plants located in New Mexico, there are 2 exempt plants (both located in southeastern New Mexico) and 2 producer-handlers (one located southeast and the other northeast of Albuquerque).

In October 1995, the fully regulated plants in Orders 126 and 138 had route distribution totaling 320 million pounds. Almost 98 percent, or 313 million pounds, was distributed within the proposed Southwest marketing area. The nonpool handlers (i.e. producer-handlers) in the Southwest area are larger than in most other marketing areas; these handlers had about 9 million pounds of route distribution in the Southwest marketing area for October 1995. Additionally, handlers fully regulated under other Federal orders had about 23 million pounds of route distribution into the Southwest market area.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Southwest order, the Class I utilization percentages for the Texas and New Mexico-West Texas markets were 50 and 42 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Southwest order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Texas, a 3-cent per cwt decrease (from $13.49 to $13.46), and New Mexico-West Texas, a 7-cent per cwt increase (from $13.00 to $13.07). The weighted average use value for the consolidated Southwest order market is estimated to be $13.39 per cwt. For December 1996, combined Class I utilization for Orders 126 and 138 was 42.7 percent based on 318,664,000 pounds of producer milk used in Class I out of 745,890,000 total producer milk pounds.

Other Plants

Also located within the Southwest marketing area during May 1997 are 17 manufacturing plants: 11 in Texas (2 in the Dallas MSA and 1 in the El Paso MSA) and six in New Mexico. Six of the 17 plants are pool plants. All of these pool plants are manufacturing plants—one manufactures primarily Class II products, two manufacture primarily powder, two manufacture primarily cheese and one manufactures primarily other products. Of the 11 nonpool plants in the Southwest marketing area, all are manufacturing plants—one manufactures primarily powder, four manufacture primarily cheese, one manufactures primarily other products and five manufacture primarily Class II products.

Cooperative Associations

In December 1995, three cooperative associations marketed nearly 99 percent of the milk pooled under the two orders proposed to be consolidated in the Southwest area: Associated Milk Producers, Inc., Southern Region (AMPI); Mid-America Dairymen, Inc. (Mid-Am); and Select Milk Producers, Inc. (Select). AMPI and Mid-Am members marketed milk in both Orders 126 and 138, while Select producers were affiliated only with Order 126. Although all three cooperatives marketed milk in other Federal orders as well during this particular month, Select producers' milk was affiliated with fewer Federal orders than Mid-Am's and AMPI's.

Criteria for Consolidation

Nearly all of the route disposition by Order 126 and 138 handlers is distributed within these two current marketing areas, and within the currently unregulated portions of Texas proposed to be added. In addition, nearly all of the milk production for the proposed consolidated area originates within the marketing area. Two cooperatives market the vast majority of cooperative milk within the proposed area.

Discussion of Comments and Alternatives

A number of comments from east Texas suggested combining that portion of Texas with the Southeast marketing area to resolve inequities identified by the commenters. The commenters claimed that due to its heat, humidity and rainfall, milk production conditions in eastern Texas have more in common with the Southeast than with the Southwest area. According to the comments, the dry climate of Central Texas and New Mexico permits dairies to become much larger and produce 10–15% more milk per cow at a lower cost than East Texas producers are able to achieve.

Alternatives listed by the commenters include developing pricing mechanisms within the proposed consolidated Southwest order that would compensate East Texas producers at a price midway between those of the Southeast and the Southwest markets, or using Atlanta, Georgia, as a price basing point with a zone differential that would decrease the price of milk, based on transportation costs, from Atlanta to Roswell,New Mexico.

There is very little overlap of either fluid milk product disposition or producer milk movements between the Texas and Southeast marketing areas. The amount of route disposition overlap that exists is, not surprisingly, generally found between eastern Texas and Louisiana, and represents approximately three percent of each order's total route disposition. In terms of milk production, only 19 of the 57 counties suggested by the commenters to become part of the Southeast order area had milk production pooled under theSoutheast order in either December 1996 or May 1997. All of these 19 counties were located in the northernmost of 3 sections of Texas proposed by commenters to be added to the Southeast area, and less than 20 percent of the milk production from these counties was pooled under the Southeast order. This limited association does not support including east Texas in the Southeast marketing area.

Arizona-Las Vegas

As suggested in the Revised Preliminary Report on Order Consolidation, the proposed Arizona-Las Vegas marketing area is comprised of the current Central Arizona (Order 131) marketing area, one county in Nevada which currently is in the Great Basin (Order 139) marketing area, and currently unregulated counties in Arizona. There are 16 counties in this proposed area.

Geography

The Arizona-Las Vegas market is described geographically as follows: All counties (15) in Arizona (6 whole and 1 partial currently are part of Order 131, and 8 whole and 1 partial currently are unregulated) and Clark County, Nevada, which currently is part of the Great Basin marketing area. The market extends about 400 miles north to south from Arizona's border with Utah (and Nevada's southernmost county) to the U.S.-Mexico border. The market ranges from 300 to 375 miles east to west from the Arizona-New Mexico border to theArizona/southern Nevada-California border.

The Arizona-Las Vegas marketing area is contiguous to two proposed consolidated marketing areas, the Great Basin portion of the proposed Western area to the north and the New Mexico-West Texas portion of the Southwest area to the east. California, not currently part of the Federal order system, lies to the west and Mexico is south of this marketing area.

Arizona can be divided into three geographic regions—the Sonoran Desert, in the southwest; the Colorado Plateau, in the north; and the Mexican Highland, mainly in the central and southeastern parts of the state. With each of these regions, three distinct climatic zones exist: the Sonoran Desert is hot in the summer but can experience frost in the winter; the Colorado Plateau is hot and dry in the summer and cold and windy in the winter; and the Mexican Highland receives significant precipitation in both summer and winter. This region is cooler in both summer and winter than the Sonoran Desert region.

These topographical and climatic conditions apparently are conducive to milk production. Dairy products represent one of the principal agricultural commodities (2nd and 3rd) in the States of Arizona and Nevada, respectively, representing 16.6 and 21.7

percent of total agricultural receipts of the two States in 1996.

Population

Arizona is one the fastest-growing states in the United States. According to July 1, 1996, population estimates, the total population in the proposed marketing area is 5.5 million. Using Metropolitan Statistical Areas (MSAs), the largest population center is the Phoenix-Mesa (Phoenix) area, located in central Arizona approximately 125 miles north of the U.S.-Mexico border in the Sonoran Desert region. About 250 miles to the northwest of Phoenix is the Las Vegas, Nevada, area, the second-largest population center in this marketing area. The Las Vegas MSA is comprised of three counties: Clark and Nye counties in Nevada and Mohave County in Arizona. Half of this market's population is in the Phoenix area, and over 70 percent is accounted for when Las Vegas is added.

Fluid Per Capita Consumption

Based on the population figure of 5.5 million and an estimated per capita fluid milk consumption rate of 20 pounds of fluid milk per month, total fluid milk consumption in the Arizona-Las Vegas marketing area is estimated at 110 million pounds per month. Plants that would be fully regulated distributing plants in the Arizona-Las Vegas order had route disposition within the market of approximately 96 million pounds in January 1997. Another 3.3 million pounds of milk was sold in the Las Vegas area, all by handlers fully regulated under the Great Basin Federal order (Order 139).

Milk Production

In December 1996, almost 201 million pounds of milk was pooled in the Central Arizona market, supplied by over 100 producers located in fewer than 10 counties in Arizona and California. Over 90 percent of the Central Arizona milk was produced within the marketing area. Further, over 90 percent of the producer milk produced within the Order 131 area was produced in Maricopa County, Arizona, where Phoenix, this market's largest city, also is located. With 181 million pounds of producer milk for December 1996, Maricopa County produces almost twice the amount of milk required to meet the fluid milk needs of the entire marketing area. Arizona producers did not supply milk to any other Federal order; however, it is known that producer milk moves from both Arizona and Clark County, Nevada, to southern California. These figures do not reflect the producer milk associated with Anderson Dairy, the Las Vegas handler who has been pooled on Order 139. There is only one producer located in Clark County, Nevada. The portion of Anderson's milk supply that is not supplied by the single Clark County producer comes from southern California.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 9 distributing plants would be expected to be associated with the proposed Arizona-Las Vegas marketing area, including 5 fully regulated distributing plants (all currently pool plants), 1 exempt plant and 3 producer-handlers. Two distributing plants (1 pool plant and 1 producer-handler, both located in the Phoenix area) that were operating in October 1995 are now out of business. There are 4 distributing plants in the Phoenix area (all pool plants). Located in the Las Vegas MSA are one pool plant and a producer-handler located in a currently-unregulated Arizona county. This producer-handler has no sales into either the Order 131 or 139 marketing area, but would meet the producer-handler definition upon order consolidation and market area expansion. Two other producer-handlers are located in the Yuma, Arizona, MSA (located in southwestern Arizona on the California-Arizona-Mexico border). The exempt plant is located in a currently-unregulated Arizona county with no sales into the current Central Arizona marketing area, and with total route disposition of less than 150,000 pounds. All of the plants that are expected to be fully regulated under this proposed order are located in areas that contain over 70 percent of the proposed market's population.

Utilization

According to October 1995 pool statistics, the Class I utilization for the Central Arizona market was about 49 percent. Due to restricted information, this calculation excludes receipts for the Las Vegas handler who currently is regulated under Order 139. Because the degree of consolidation proposed for this market is very minor, little change in the Class I utilization percentage, and thus little change in producer returns, is expected in the Arizona-Las Vegas area as a result of the proposed consolidation. For December 1996, Class I utilization for the Central Arizona market was 41.7 percent based on the use of 83,757,000 pounds of producer milk in Class I out of 200,939,000 total pounds of producer milk.

Other Plants

For May 1997, 3 supply or manufacturing plants were located within the Arizona-Las Vegas marketing area: 2 in Arizona (both in the Phoenix area) and 1 in Nevada (in the Las Vegas area). One Arizona plant is a pool plant operated by the cooperative, manufacturing primarily cheese, while the other plants are nonpool plants manufacturing primarily Class II products.

Cooperative Associations

For December 1995, the only cooperative having membership in the Arizona-Las Vegas marketing area was United Dairymen of Arizona, which represented approximately 90 percent of the milk pooled under the Central Arizona order.

Criteria for Consolidation

Market data indicate that there are extensive sales into the Las Vegas area by Central Arizona pool plants, and sales by both Phoenix and Las Vegas handlers into the unregulated areas along the southern part of the Nevada-Arizona border. Rapid population growth in the area between the two areas has greatly increased competition between the handlers in Phoenix and Las Vegas. In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California. At the same time, the strength of the earlier relationship between the Las Vegas area and Utah clearly has declined since the merger of the Lake Mead and Great Basin order areas in 1988, which was based on data compiled up to 1986.

The Grand Canyon serves as a natural barrier in northwestern Arizona between this area and Great Basin. Although the actual proposed order area extends to the Utah border, the portion of Arizona between the Grand Canyon and Utah is very sparsely populated, and is included in the proposed marketing area primarily for the purpose of simplifying the marketing area description and easing handlers' burden of reporting out-of-area sales. The Colorado River forms much of the western boundary with California and Nevada. A north-south strip along the eastern edge of Arizona constituting approximately 30 percent of the State's territory is very sparsely populated, containing just over 5 percent of the population of the proposed marketing area. This lightly populated desert area can be seen as another form of natural

barrier to the movement of bulk and packaged milk.

Discussion of Comments and Alternatives

Two comments filed in response to the Revised Preliminary Report on Order Consolidation recommended that Clark County, Nevada, be returned to the Western marketing area, with the Great Basin, Western Colorado and Southeastern Idaho-Eastern Oregon marketing areas. Anderson Dairy, the handler located in Las Vegas, Nevada, requested that the Western marketing order remain as it was in the initial Preliminary Report. Anderson stated that its major competition comes from southern California and northern Utah, and that one or the other of these areas could gain a significant advantage if Anderson becomes an island between these two powerful competitive areas with different marketing systems. Comments from Darigold also supported the original proposed Western marketing area. Darigold stated that because Class I sales in Las Vegas historically have been associated with the Great Basin producer pool rather than with the Phoenix market, shifting those sales would be controversial and should be reviewed carefully.

Comments from a California cooperative indicated support for the proposed Arizona-Las Vegas order. The cooperative referenced its earlier concern about milk moving between southern California and both the State of Arizona and Clark County, Nevada, on a daily basis.

The increase in sales by Central Arizona pool plants into the Las Vegas area, and increased sales by both Phoenix and Las Vegas handlers into the unregulated area of rapidly-increasing population along the southern part of the Nevada-Arizona border, are factors that have greatly increased overlapping route distribution in these two areas. In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California. The Las Vegas area's earlier relationship with southern Utah was based primarily on Utah as an important milk supply area for Las Vegas at the time of the merger of the Lake Mead and Great Basin order areas in 1988. That relationship clearly has ceased to exist. Therefore, the proposal by cementers that the Las Vegas, Nevada, area continue to be included in the same marketing area with Utah does not reflect current marketing conditions.

Western

The proposed Western marketing area is comprised of the current Western Colorado (Order 134), Southwestern Idaho-Eastern Oregon (Order 135), and Great Basin (Order 139) marketing areas, less one Nevada county (Clark) in Order 139 that is proposed to be in the Arizona-Las Vegas marketing area. There are 71 counties in this proposed area.

Geography

The Western market is described geographically as follows: 4 counties in western Colorado (all currently in Order 134), 28 in Idaho (18 currently in Order 135 and 10 in Order 139), 3 in eastern Nevada (all currently in Order 139), 5 in eastern Oregon (all currently in Order 135), all counties (29) in Utah (currently in Order 139) and 2 in the southwest corner of Wyoming (currently in Order 139). Measuring the extreme dimensions, this market extends about 625 miles north to south from Oregon and Idaho to Utah's boundary with Arizona, ranging from 125 miles in Colorado to 475 miles from Idaho to the Utah-Arizona border. Similarly, this market's extreme east-to-west dimension is 650 miles from the westernmost edge in central/eastern Oregon to the easternmost edge in west/central Colorado.

The proposed Western marketing area is contiguous to three of the proposed consolidated marketing areas, the Pacific Northwest to the west and north of the Oregon portion of this market, Arizona-Las Vegas to the south and the Southwest to the extreme southeast corner. Non-Federally regulated territory borders the Western market on the west-southwest (Nevada) and the north-northeast (Idaho and Wyoming). To the east lie the Rocky Mountains in central Colorado, serving as a natural barrier between the Western market and the Central market, whose westernmost edge begins in eastern Colorado. The Continental Divide lies just to the east of the Western market.

In terms of physical geography, the Western marketing area has several regions: the Columbia Plateau in southern Idaho and northeastern Nevada, characterized by fertile soils; the Great Basin in southeast Idaho, nearly all of Nevada and the western third of Utah, described by ranges and parallel valleys; and the Colorado Plateau in the eastern half of Utah and western part of Colorado, characterized by gorges in Utah and canyons, mesas and valleys in Colorado. In general, the Western market is quite dry, with temperatures tending to be extreme and affected by elevation.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 3.3 million. Using Metropolitan Statistical Areas (MSAs), the largest population center is the Salt Lake City-Ogden, Utah area (Salt Lake City). Salt Lake City is located in north central Utah. The Boise City, Idaho, area (Boise), the second largest population center in this marketing area, is located about 300 miles to the northwest of Salt Lake City. Provo-Orem, Utah, (Provo) the third largest population center, lies 40 miles south of Salt Lake City. Grand Junction, Colorado, (Grand Junction), located about 290 miles southeast of Salt Lake City, is the fourth largest population center in the Western market; but is less than 10 percent the size of Salt Lake City. Slightly over one-third of the market's population is in the Salt Lake City area, and over 60 percent is accounted for when Boise, Provo and Grand Junction are added.

Fluid Per Capita Consumption

Based on the population figure of 3.3 million and an estimated per capita fluid milk consumption rate of 23 pounds of fluid milk per month, total fluid milk consumption in the Western marketing area is estimated at 75.9 million pounds per month. Plants that would have been fully regulated distributing plants in the Western order had route disposition within the market of 76.5 million pounds in October 1995; almost 75 percent of this total is from Order 139 pool plants. The 10 producer handlers operating during this month had a combined route disposition of 1.7 million pounds. Additionally, 2.8 million pounds of route disposition came from handlers outside the market.

Milk Production

In December 1996, nearly 450 million pounds of milk was pooled in the proposed Western market from more than 1,000 producers located in more than 70 counties in California, Colorado, Idaho, Oregon and Utah. Over 95 percent of the producer milk was produced within the marketing area. Four counties produced 50 percent of the milk pooled. The three top producing counties in Idaho, Jerome, Gooding and Twin Falls counties, are all located in southwestern Idaho, about 130 miles southeast of Boise and 230 miles northwest of Salt Lake City. Jerome and Gooding counties each provided twice as much producer milk as Twin Falls County, the third-largest county in terms of producer milk in the Western market. The fourth-largest

production county was Cache County in northeastern Utah, located about 80 miles north of Salt Lake City.

The three Idaho counties provided producer milk for both Order 135 and Order 139 in December 1996. Specifically, Jerome County producers had the greatest amount of producer milk on both Order 135 and Order 139. Gooding and Twin Falls counties were in the top four for volume in Order 139 and were second and third for volume in Order 135.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 28 distributing plants would be expected to be associated with the Western marketing area, including 11 fully regulated distributing plants (all currently pool plants), 1 partially regulated (currently partially regulated), 3 exempt plants based on size (2 currently are pool plants but have less than 150,000 pounds of total route distribution and the other is currently unregulated), 9 producer-handlers, and 4 exempt plants based on institutional status (all were exempt as defined under current federal orders). Since October 1995, it is known that 1 distributing plant (a producer-handler) in Utah has gone out of business.

There would be 11 distributing plants in the Salt Lake City area (5 pool plants, 3 producer-handlers and 3 exempt plants). The Boise area would have 2 pool distributing plants, the Provo area would have 1 producer-handler and the Grand Junction area would have 1 exempt plant. The remaining 14 distributing plants are located in Colorado (1 plant, fully regulated); Idaho (4 plants: 2 pool, 1 exempt, and 1 producer-handler), Nevada (2 plants, both unregulated), and Utah (7 plants: 1 pool, 1 partial, 1 exempt, 4 producer-handlers).

Fully regulated distributing plants are located in MSAs containing about half of the proposed market's population, including the Pocatello, Idaho, MSA, with 2.2 percent of this market's population.

Utilization

According to October 1995 pool statistics, the Class I utilization percentages for the individual markets ranged from 18 percent for Southwestern Idaho-Eastern Oregon to 35 percent for Great Basin. Information for Western Colorado is restricted due to fewer than three handlers in the market. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Western order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Western Colorado, a 59-cent per cwt decrease (from $13.41 to $12.82); Southwestern Idaho-Eastern Oregon, a 5-cent per cwt increase (from $12.63 to $12.68); and Great Basin, a 3-cent per cwt decrease (from $12.81 to $12.79). The weighted average use value for the consolidated Western order market is estimated to be $12.78 per cwt. For December 1996, combined Class I utilization for Orders 135 and 139 (Western Colorado information is restricted) was 19.9 percent based on 87.7 million pounds of producer milk used in Class I out of 440.1 million total producer milk pounds.

Other Plants

Nineteen supply or manufacturing plants were located within the proposed Western marketing area during May 1997: 1 in Colorado (in the Grand Junction area), 8 in Idaho (3 in the Boise area), 9 in Utah (2 in the Salt Lake City area) and 1 in Wyoming. Two of the 19 plants were pool plants; both manufacture primarily cheese. Of the 17 nonpool plants, 12 manufacture primarily cheese and 5 manufacture primarily soft or Class II products (including ice cream). Of the 8 Idaho plants, all but one manufacture cheese, while of the 9 Utah plants, 6 manufacture cheese and 3 manufacture soft products.

Cooperative Associations

For December 1995, four cooperatives representing 56 percent of the milk pooled under the three orders had membership in the proposed Western marketing area. Western Dairymen Cooperative, Inc., had membership in Western Colorado, Southwestern Idaho-Eastern Oregon and Great Basin; Magic Valley Quality Milk Producers, Inc., had membership in Orders 135 and 139; Darigold Farms had membership in Order 135, and Security Milk Producers' Association had membership in Order 139.

Criteria for Consolidation

As suggested in the Revised Report on Order Consolidation, the consolidated Western market should be composed of the current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon and Great Basin markets (minus the Clark County, Nevada, portion of the Great Basin area). Sales overlap exists between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in Idaho. The two orders also share similar multiple component pricing plans. The Western Colorado order has some route disposition within the Great Basin order, and must be included in a consolidated order area because it is a small market for which data cannot be released without revealing confidential information unless combined with the adjacent Great Basin order.

Discussion of Comments and Alternatives

Several comments opposed consolidating the Southwestern Idaho-Eastern Oregon order area with the Great Basin marketing area. A primary basis for opposition to the consolidation is the disparity in the two regions' utilization of Class I fluid milk: the Southwestern Idaho-Eastern Oregon order has a very low percentage of Class I use, while the Great Basin order's Class I use percentage is higher at about 35 percent, and Western Colorado's is higher still. Commenters fear that the consolidation of these orders would result in lower returns to producers who currently are pooled under the Great Basin and Western Colorado orders. Some comments suggest that the Southwestern Idaho-Eastern Oregon marketing area should remain under a separate order, with the Great Basin market consolidated with markets such as Arizona, Western Colorado, or Eastern Colorado. One comment supported keeping both the Southwestern Idaho-Eastern Oregon and Great Basin marketing areas separate because of the differences in Class I use.

Comments filed by Western Colorado producers and their cooperative state that the Western Colorado area should be combined with the Central market because: (1) It's data has always been combined with that for Eastern Colorado, (2) the Eastern Colorado blend price to producers is higher than Great Basin's, (3) Colorado is a milk import state, whereas Utah is a milk export state, (4) the Western and Eastern Colorado order areas operate under quota plans, while the Great Basin area does not, and (5) Western Colorado is a milk surplus area ''with a freight history.''

The effects of the proposed order consolidation on returns to producers pooled under the current Southeastern Idaho-Eastern Oregon and Great Basin marketing areas are not expected to be substantial. However, the proposed consolidation would reduce the blend price to be paid to producers whose

milk is currently pooled under the Western Colorado order. This market must be included in a consolidated order because it currently has too few pooled handlers to allow market data to be published without revealing confidential data. The Western area is the most logical. The adjoining Great Basin marketing area represents the closest reserve supply of milk and the closest available manufacturing outlets for surplus production; and the largest cooperative association in the Great Basin area is the same cooperative representing the Western Colorado producers. Small amounts of packaged fluid milk products are exchanged between Eastern and Western Colorado handlers, some packaged milk is distributed on routes in the Western Colorado area by Eastern Colorado handlers, and bulk cream regularly moves from Western Colorado plants to the Eastern Colorado area. A volume of route dispositions similar to that distributed by Eastern Colorado handlers in Western Colorado is distributed by Western Colorado handlers in the Great Basin area. In addition, movements of bulk milk from Western Colorado to Great Basin plants occur in volumes about 3 times those distributed on routes from Eastern into Western Colorado, and from Western Colorado into the Great Basin area. The Rocky Mountains represent a very large natural barrier between Western Colorado and the more eastern marketing areas.

Data for the Eastern and Western Colorado orders have been reported on a combined basis for a number of years as a matter of administrative convenience because of the restricted nature of Western Colorado data, rather than on the basis of any close affinity between the two markets. While Colorado may be a net import state, that assertion does not apply to the western portion of the State. Milk production data for December 1996 and May 1997 show no milk from other states pooled under the Western Colorado order. Surplus production from the western Colorado counties generally is shipped to Utah manufacturing plants rather than across the Rocky Mountains (except for very minor volumes during 7 of 32 months in 1995–97). The issue raised by the Western Colorado producers of quota in the Colorado orders is not related to Federal milk order provisions; there are no quota provisions in any of the Federal orders. The quota referred to apparently is a pooling plan operated by the producers' cooperative, and certainly can be continued by the cooperative association under the proposed consolidated orders. For the foregoing reasons, the rationale is stronger for including the Western Colorado marketing area in the Western consolidated order area than in the Central area.

Pacific Northwest

The proposed Pacific Northwest marketing area is comprised of the current Pacific Northwest (Order 124) marketing area and one currently-unregulated county in southwest Oregon. There are 75 counties in this proposed area.

Geography

The proposed Pacific Northwest market is described geographically as follows: All counties (39) in Washington, 30 counties in Oregon (29 currently are part of Order 124 and one, Curry County, is unregulated) and six counties in northwestern Idaho. The market extends about 490 miles north-to-south from Washington's northern border with the Canadian province of British Columbia to Oregon's southern border with California and Nevada. East-to-west, the market ranges from about 450 miles in the northern half of the market (covering territory from Washington's western boundary with the Pacific Ocean to the eastern border of Idaho with Montana) to about 250 miles in the southern half of the market (covering approximately two-thirds of Oregon from the state's western border with the Pacific Ocean to central Oregon).

The proposed Pacific Northwest marketing area is contiguous to the proposed consolidated Western Federal order marketing area in eastern Oregon. The remainder of the marketing area is surrounded by currently non-Federally regulated areas (California and northwestern Nevada to the south and Montana, Idaho, and one northeastern Oregon county to the east), political boundaries (Canada to the north), and the Pacific Ocean to the west.

Along the Oregon and Washington coasts lies the Coast Range. The Cascade Range is located further inland in both states. Both ranges are north-south in direction, and the Cascade Range effectively divides both states into two distinct climates: a year-round mild, humid climate with abundant precipitation predominates in the western part of the states, and a dry climate with little precipitation but greater temperature extremes prevails east of the Cascade Range. The mild climate of the western portion results in longer growing seasons. The Columbia River flows south through eastern Washington, turns west, and becomes the western two-thirds of the border between Oregon and Washington. The portion of Idaho included in the current and proposed Pacific Northwest marketing area is within the Rocky Mountains. This area has a generally continental climate with the higher elevations having long and severe winters.

Much of the area is conducive to the production of milk and many other agricultural commodities. Although dairy products ranked 2nd among receipts of agricultural commodities in the State of Washington in 1996, and 4th in Oregon, they accounted for only 13.8 percent and 7.9 percent, respectively, of such receipts. Apples (in Washington) and greenhouse/nursery, wheat, and cattle and calves (in Oregon) ranked ahead of dairy, accounting for 19.8 percent and 33.8 percent, respectively, of agricultural commodity receipts.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 8.8 million. Seventy-seven percent of the marketing area population is located in Metropolitan Statistical Areas (MSAs). The two largest MSAs are located on the western side of the Cascade Range. The Seattle-Tacoma-Bremerton (Seattle) area, with a population of 3.3 million (37.5% of the marketing area population), is in northwestern Washington. Over seventy percent of the population of the State of Washington is located west of the Cascade Mountains, in the western third of the State. Another 14.5% of the State's population is contained in 3 MSA's east of the Cascades.

The Portland-Salem (Portland) area in northwestern Oregon is located on the Oregon-Washington border, with Portland just south of the Columbia River. The population of this MSA is 2.1 million, or 23.5% of the marketing area population. Ninety percent of the population of Oregon is concentrated in the western one-third of the State, or in the western half of the Oregon portion of the marketing area.

Fluid Per Capita Consumption

Based on the population figure of 8.8 million and an estimated per capita fluid milk consumption rate of 22 pounds of fluid milk per month, total fluid milk consumption in the Pacific Northwest marketing area is estimated at 193.6 million pounds per month. For October 1995, plants that would be fully regulated distributing plants under the proposed Pacific Northwest order had

route disposition within the market of 170 million pounds. In addition, the 18 producer-handlers operating during this month had a combined route disposition of 18 million pounds. Additionally, slightly over 1 million pounds of route disposition (less than one percent of total route disposition in the marketing area) came from handlers outside the market. Because the handlers associated with this market are able to fulfill the market's Class I or fluid needs, and because of the somewhat geographic isolation of the market, maintaining the current Pacific Northwest order as a separate market is appropriate.

Milk Production

In December 1996, the 540 million pounds of milk pooled in the Pacific Northwest market were produced by 1,280 producers located in 57 counties in California, Oregon, Idaho and Washington. Four counties produced 50 percent of the milk pooled. Three of these counties are in Washington State. They are Whatcom and Skagit counties, which are less than 100 miles north of Seattle; and Yakima County, which is located in central Washington about 100 miles southeast of Seattle on the eastern side of the Cascade Range. The fourth county is in Oregon. It is Tillamook County, which is located on the Pacific Ocean, about 60 miles west of the Portland area on the western side of the Coast Range. Less than two percent of the milk pooled in the Pacific Northwest was produced outside of the marketing area, in Idaho and California. The largest portion is from producers in two northern California counties who pooled 6 million pounds of milk or 89.6 percent of the pooled milk produced outside the Pacific Northwest marketing area.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the initial Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 39 distributing plants would be expected to be associated with the Pacific Northwest market, including 20 fully regulated distributing plants, 1 partially regulated plant, 3 exempt plants (below 150,000 pounds in total route disposition), and 15 producer-handlers. It is known that 4 distributing plants (1 pool plant and 3 producer handlers) have gone out of business since the initial report.

There are 11 distributing plants within the Portland area, including 7 pool plants, 2 exempt plants and 2 producer-handlers. The Seattle area has 4 pool plants and 7 producer-handlers. In addition to these two main population centers, the Spokane, Washington, MSA, located in the eastern area of the state near the Idaho border with a population of 405,000, has 3 pool plants. One of these plants, Wilcox Farms, Cheney, Washington, began packaging and distributing products in the spring of 1997 and is not included in the market's route disposition data for October 1995, the month used for analysis.

Of the 9 distributing plants that would be operating in Oregon, 5 would be fully regulated. Four are located in western Oregon, and the fifth in central Oregon. Of the 4 Oregon plants anticipated to be non-pool distributing plants, one would be partially regulated (but currently is fully regulated), one would be exempt, and two would be producer-handlers. Two other producer-handlers have gone out of business since October 1995.

Of the 6 distributing plants in Washington that would be in operation, one was and will continue to be a pool plant, one would be exempt (that currently is a pool plant), and 4 would be producer-handlers. Two other distributing plants (one pool plant and one producer-handler) have gone out of business since October 1995.

Distributing plants fully regulated under the proposed Pacific Northwest order are located in MSAs where 71 percent of the proposed market's population is concentrated.

Utilization

According to October 1995 pool statistics, the Class I utilization percentage for the Pacific Northwest market was about 36 percent. Because this market is proposed to remain separate, expected utilization changes due to the reform process result only from potential changes in plants' regulatory status; thus very little change in producer returns under the Pacific Northwest order is expected as a result of consolidation. For December 1996, Class I utilization for the Pacific Northwest market was 32.5 percent based on 175,712,000 pounds of producer milk used in Class I out of 540,334,000 total producer milk pounds.

Other Plants

Also located within the proposed Pacific Northwest marketing area in May 1997 were 27 supply or manufacturing plants; 12 in Oregon (5 in the Portland area), 15 in Washington (7 in the Seattle area) and none in Idaho. Two of the 27 plants (both in Oregon) are Order 124 pool supply plants, one of which manufactures primarily cheese, and the other nonfat dry milk. Of the 10 nonpool manufacturing plants located in Oregon, 8 manufacture primarily Class II products (including ice cream), 1 manufactures butter, and the other makes cheese.

The 15 manufacturing/supply plants located in the State of Washington are all nonpool plants. Three manufacture primarily Class II products, 3 manufacture primarily butter, 2 manufacture primarily powder, and 7 manufacture primarily cheese.

Cooperative Associations

Five cooperative associations have members in the Pacific Northwest market. Darigold Farms is the largest, and the only cooperative that had membership affiliated with another order (Order 135) in December 1995. Other cooperatives in this market are Farmers Cooperative Creamery, Tillamook County Creamery Association, and Northwest Independent Milk Producers Association. These five cooperatives pooled 78 percent of the total producer milk pooled under the Pacific Northwest order in December 1995.

Criteria for Consolidation

As suggested in both the initial and Revised Preliminary Reports on Order Consolidation, the consolidated Pacific Northwest market should add one currently unregulated Oregon county to the Pacific Northwest milk order. The degree of association of this market with other Federal order marketing areas is insufficient under any criteria to warrant consolidation with any other order areas.

Discussion of Comments and Alternatives

Several comments on the Pacific Northwest marketing area suggested in the 2 preliminary reports were filed by cooperative associations operating in the area. Darigold, the area's largest cooperative, commented that there is strong justification for the order boundaries of the current Pacific Northwest order area. Two other cooperatives had earlier supported a broader consolidation, including at least the Southwestern Idaho-Eastern Oregon and, perhaps, the Great Basin order areas. However, as discussed in the two preliminary reports on order consolidation, there is virtually no relationship with regard to either overlapping route dispositions or overlapping milk procurement between the Pacific Northwest and Southwestern Idaho-Eastern Oregon milk marketing areas.

LIST OF PLANTS AND REGULATORY STATUS

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
NORTHEAST					
ALDRICH DAIRY	FREDONIA	NY		5	3B
ARRUDA, GEORGIANNA (ESTATE OF)	TIVERTON	RI	New England	4	4
BANGMA, LEONARD & DONALD	UXBRIDGE	MA	New England	4	4
BECHTEL DAIRIES, INC	ROYERSFORD	PA	Mid Atlantic	1	1
BOICE BROS. DAIRY (RICHARD P. BOICE).	KINGSTON	NY	NY–NJ	1	1
BOOTH BROTHERS DAIRY, INC	BARRE	VT	New England	2	1
BRIGGS, ROBERT A	WEST MEDWAY	MA	New England	4	4
BROOKSIDE DAIRY	FITCHBURG	MA	New England	4	4
BYRNE DAIRY, INC	SYRACUSE	NY	NY–NJ	1	1
CAMPHILL VILLAGE	KIMBERTON	PA		5	3B
CHARLAP DAIRY FARMS, INC	HAMBURG	NY		5	1
CHRISTIANSEN DAIRY CO., INC	NO. PROVIDENCE	RI	New England	1	1
CHROME DAIRY FARMS	OXFORD	PA	Mid Atlantic	1	1
CIENIEWICZ, JOSEPH	BERLIN	CT	New England	4	4
CLIFFORD W. & MARIE B. MOYER	DUBLIN	PA		5	3B
CLINTON MILK CO	NEWARK	NJ	NY–NJ	1	1
CLOVER FARMS DAIRY COMPANY	READING	PA	NY–NJ	1	1
CLOVERLAND/GREEN SPRING DAIRY	BALTIMORE	MD	Mid Atlantic	1	1
CLOVERLAND/GREEN SPRING DAIRY	BALTIMORE	MD	Mid Atlantic	1	1
COOPER'S HILLTOP DAIRY FARM	ROCHDALE	MA	New England	4	4
CORBY, CHARLES	PITTSFORD	NY		5	3B
CORNELL UNIVERSITY	ITHACA	NY		5	6B
CRESCENT RIDGE DAIRY, INC	SHARON	MA	New England	4	4
CROWLEY FOODS, INC	BINGHAMTON	NY	NY–NJ	1	1
CROWLEY FOODS, INC	ALBANY	NY	NY–NJ	1	1
CROWLEY FOODS, INC	CONCORD	NH	New England	1	1
CUMBERLAND DAIRY, INC	BRIDGETON	NJ	Mid Atlantic	1	2
CUMBERLAND FARMS, INC	EAST GREENBUSH	NY	NY–NJ	1	1
CUMBERLAND FARMS, INC	CANTON	MA	New England	1	1
CUMBERLAND FARMS, INC	FLORENCE	NJ	Mid Atlantic	1	1
DAIRY MAID DAIRY, INC	FREDERICK	MD	Mid Atlantic	1	1
DAVID F. ARMSTRONG (SUNSET DAIRY).	WHITESBORO	NY	NY–NJ	1	1
DAVID NICHOLS	CHESTERFIELD	MA			3B [2]
DELLWOOD FOODS, INC. (TUSCAN DAIRY FARMS, INC.).	YONKERS	NY	NY–NJ	1	OOB
DUNAJSKI DAIRY, INC	PEABODY	MA	New England	4	4
DUTCH VALLEY FOOD CO., INC	SUNBURY	PA	Mid Atlantic	1	1
DUTCH WAY FARM MARKET	MYERSTOWN	PA	Mid Atlantic	4	4
EDWARDS, CHARLES (& KURT & KEITH—MODEL DAIRY FARM).	GLOVERSVILLE	NY	NY–NJ	4	4
ELMHURST DAIRY, INC	JAMAICA	NY	NY–NJ	1	1
EMBASSY DAIRY, INC	WALDORF	MD	Mid Atlantic	1	1
EMMONS WILLOW BROOK FARM, INC	PEMBERTON	NJ	Mid Atlantic	4	4
FAIRDALE FARMS, INC	BENNINGTON	VT	New England	2	1
FARMERS COOP. DAIRY, INC	HAZELTON	PA		5	5
FARMLAND DAIRIES, INC. &/OR FAIRDALE MILK COMPANY, INC.	WALLINGTON	NJ	NY–NJ	1	1
FISH FAMILY FARM, INC	BOLTON	CT	New England	4	4
FREDDY HILL FARM DAIRY	LANSDALE	PA	Mid Atlantic	4	4
FREDRICK HINE	ORANGE	CT		5	3B
FRIENDSHIP DAIRIES, INC	FRIENDSHIP	NY	NY–NJ	1	2
GARELICK FARMS, INC	FRANKLIN	MA	New England	1	1
GIANT FOOD, INC	LANDOVER	MD	Mid Atlantic	1	1
GRATERFORD STATE	GRATERFORD	PA	Mid Atlantic	6A	6B
GUERS DY., INC	POTTSVILLE	PA	Mid Atlantic	2	2
GUIDA-SEIBERT DAIRY CO	NEW BRITAIN	CT	New England	1	1
HALO FARM, INC	TRENTON	NJ	Mid Atlantic	1	1
HARBY, JOSEPH F	WALTON	NY	NY–NJ	1	OOB
HARRISBURG DAIRIES	HARRISBURG	PA	Mid Atlantic	1	1
HERITAGE'S DAIRY, INC	THOROFARE	NJ	Mid Atlantic	1	1
HERMANY FARMS, INC	BRONX	NY	NY–NJ	1	1
HIGHLAWN FARM	LEE	MA		5	3B
HILL FARM OF VERMONT	PLAINFIELD	VT		5	3B
HILLCREST DAIRY, INC. (MICHAEL J. JANAS).	MORAVIA	NY	NY–NJ	4	4
HOGAN, FRANCIS J. (& ANDREW J. & SEAN P.—HOGAN'S DAIRY).	HUDSON FALLS	NY	NY–NJ	4	4
HOMESTEAD DAIRIES, INC	MASSENA	NY		5	1
HOOVER DAIRY	SANBORN	NY		5	3B
HOWARD HATCH	N. HAVERHILL	NH	New England	1	1
HUDAK, RUDOLPH	SHELTON	CT	New England	4	OOB
HY POINT DAIRY FARMS, INC	WILMINGTON	DE	Mid Atlantic	1	1
H.E.A., INC	CRANSTON	RI	New England	1	1
H.P. HOOD, INC	NEWINGTON	CT	New England	2	2
H.P. HOOD, INC	PORTLAND	ME	New England	1	1
H.P. HOOD, INC	AGAWAM	MA	New England	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
H.P. HOOD, INC	CHARLESTON	MA	New England	1	OOB
H.P. HOOD, INC	BURLINGTON	VT	New England	2	1
H.P. HOOD, INC	ONEIDA	NY	NY–NJ	2	1
KEMPS FOODS, INC	LANCASTER	PA	Mid Atlantic	1	1
KOLB'S FARM STORE	SPRING CITY	PA	Mid Atlantic	4	4
KREIDER DAIRY FARMS, INC	MANHEIM	PA	NY–NJ	2	1
KRISCO FARMS, INC. (KRISCO FARMS)	CAMPBELL HALL	NY	NY–NJ	4	4
LAPP VALLEY FARM	NEW HOLLAND	PA	Mid Atlantic	4	4
LEHIGH VALLEY DAIRIES, INC	FORT WASHINGTON	PA	Mid Atlantic	1	OOB
LEHIGH VALLEY DAIRIES, INC	LANSDALE	PA	NY–NJ	1	1
LEHIGH VALLEY DAIRIES, INC	SCHUYKILL HAVEN	PA	NY–NJ	2	2
LEWES DAIRY, INC	LEWES	DE	Mid Atlantic	1	1
LEWIS COUNTY DAIRY CORP	LOWVILLE	NY	NY–NJ	1	1
LONGACRE'S MODERN DAIRY, INC	BARTO	PA	Mid Atlantic	2	2
LUNDGREN & JONAITIS DAIRY FARMS, INC. (WHITTIER CREAMERY CO., INC.).	SHREWSBURY	MA	New England	1	1
MANINO, ROSE (DARI-DELL)	FRANKFORT	NY	NY–NJ	2	3B
MAPLE HILL FARMS, INC	BLOOMFIELD	CT	New England	1	1
MAPLEDALE DAIRY, INC	ROME	NY	NY–NJ	1	OOB
MAPLEHOFE DAIRY, INC	QUARRYVILLE	PA	Mid Atlantic	4	4
MARCUS DAIRY, INC	DANBURY	CT	NY–NJ	1	1
MASON-DIXON FARM DAIRY	GETTYSBURG	PA	Mid Atlantic	1	OOB
MEADOW BROOK FARMS, INC	POTTSTOWN	PA	Mid Atlantic	1	1
MERCERS DAIRY, INC	BOONVILLE	NY	NY–NJ	2	3B
MERRYMEAD FARM	LANSDALE	PA	Mid Atlantic	4	4
MOHAWK DAIRY (Z & R CORP.)	AMSTERDAM	NY	NY–NJ	1	1
MONUMENT FARMS, INC	MIDDLEBURY	VT		5	1
MOUNT WACHUSETT DAIRY, INC	W. BOYLSTON	MA	New England	1	1
MOUNTAINSIDE FARMS, INC	ROXBURY	NY	NY–NJ	1	1
MUNROE, A B DAIRY, INC	EAST PROVIDENCE	RI	New England	1	1
NEW ENGLAND DAIRIES, INC	HARTFORD	CT	New England	1	1
NICASTRO, JOSEPH & CROSS (RIVERSIDE FARMS) (NICASTRO FARMS, INC.).	FRANKFORT	NY	NY–NJ	4	4
NIP N TUCK FARMS	VINEYARD HAVEN	MA		5	4
OAK TREE FARM DAIRY, INC	EAST NORTHPORT	NY	NY–NJ	1	1
OAKHURST DAIRY	PORTLAND	ME	New England	2	2
OREGON DAIRY FARM MKT	LITITZ	PA	Mid Atlantic	4	4
PARKER, A C & SONS, INC	CLINTON	MA	New England	1	OOB
PARMALAT WEST DAIRIES, INC	SPRING CITY	PA	Mid Atlantic	2	3B
PATRICK MCNAMARA	WEST LEBANON	NH	New England	4	4
PAYNES DAIRY	KNOXVILLE	PA		5	5
PEACEFUL MEADOWS ICE CREAM, INC	WHITMAN	MA	New England	4	4
PEARSON, ROBERT L	WEST MILLBURY	MA	New England	4	4
PECORA'S DAIRY	DRUMS	PA		5	5
PEDRO, JOSEPH	FALL RIVER	MA	New England	4	4
PENNVIEW FARMS	PERKASIE	PA	Mid Atlantic	4	4
PERRYDELL FARMS	YORK	PA	Mid Atlantic	4	4
PETER FLINT	CHELSEA	VT	New England	1	1
PINE VIEW ACRES, INC	LANCASTER	PA	Mid Atlantic	4	4
PIONEER DAIRY, INC	SOUTHWICK	MA	New England	1	1
PLEASANT VIEW FARMS DAIRY	ST THOMAS	PA	Mid Atlantic	4	OOB
POTOMAC FARMS DAIRY, INC	CUMBERLAND	MD	Mid Atlantic	2	2
PULEO'S DAIRY	SALEM	MA	New England	1	3B
QUALITY MILK, INC	WARE	MA		5	1
QUEENSBORO FARM PRODUCTS, INC	CANASTOTA	NY	NY–NJ	1	2
READINGTON FARMS, INC	WHITEHOUSE	NJ	NY–NJ	1	1
READY FOODS, INC	PHILADELPHIA	PA	Mid Atlantic	2	2
RICHARDSON FARMS, INC	MIDDLETON	MA	New England	4	4
RICHARDSONS G. H. DAIRY	DRACUT	MA	New England	3A	3B
RIDGE VIEW FARMS	ELIZABETHTOWN	PA	Mid Atlantic	4	4
RITCHEY'S DAIRY	MARTINSBURG	PA	Mid Atlantic	2	2
RONNYBROOK FARM DAIRY, INC	ANCRAMDALE	NY	NY–NJ	4	4
ROSENBERGER'S DAIRY, INC	HATFIELD	PA	Mid Atlantic	1	1
RUDOLPH STEINER EDUCATION & FARMING ASSOC., INC.	GHENT	NY	NY–NJ	4	4
RUSSELL SEARS	CUMMINGTON	MA	New England	4	OOB
RUTTER BROS. DAIRY, INC	YORK	PA	Mid Atlantic	1	1
SALEM VALLEY FARMS, INC	SALEM	CT	New England	4	4
SARATOGA DAIRY, INC. (STEWART'S PROCESSING CORP.).	SARATOGA SPRINGS	NY	NY–NJ	1	1
SCHNEIDER/VALLEY FARMS, INC	WILLIAMSPORT	PA	NY–NJ	2	1
SEWARD DAIRY, INC	RUTLAND	VT	New England	2	1
SHAW FARM DAIRY, INC	DRACUT	MA	New England	4	4
SHENANDOAH'S PRIDE DAIRY	SPRINGFIELD	VA	Mid Atlantic	1	1
STEARNS, WILLARD J. & SONS, INC	STORRS	CT	New England	4	4
STEWART J. LEONARD	NORWALK	CT	New England	1	1
STOP & SHOP COMPANIES, INC	READVILLE	MA	New England	1	1
STUMP ACRES DAIRY FARMS	YORK	PA		5	3B

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
SULOMAN'S MILK	GILBERTSVILLE	PA	Mid Atlantic	4	4
SUNNYDALE FARMS, INC	BROOKLYN	NY	NY–NJ	1	1
SYNAKOWSKI WALTER J (VALLEY SIDE FARM).	REMSEN	NY	NY–NJ	4	4
TANNER BROS. DAIRY	WARMINSTER	PA	Mid Atlantic	4	4
THOMAS, ORIN & SONS, INC	RUTLAND	VT	New England	2	1
TRINITY FARM	ENFIELD	CT	New England	3A	3B
TURKEY HILL DAIRY, INC	CONESTOGA	PA	Mid Atlantic	1	1
TURNER'S DAIRY, INC	SALEM	NH	New England	1	1
TUSCAN DAIRY FARMS, INC	UNION	NJ	NY–NJ	1	1
TUSCAN DAIRY FARMS, INC	FRASER	NY	NY–NJ	2	2
UPSTATE MILK COOPERATIVES, INC	JAMESTOWN	NY		5	2
UPSTATE MILK COOPERATIVES, INC	ROCHESTER	NY	NY–NJ	2	1
UPSTATE MILK COOPERATIVES, INC	BUFFALO	NY	NY–NJ	2	1
VALLEY OF VIRGINIA COOP	MT. CRAWFORD	VA	Mid Atlantic	2	2
VAN WIE, CHARLES F. (MEADOWBROOK FARMS DAIRY).	CLARKSVILLE	NY	NY–NJ	4	4
WAWA DAIRY FARMS	WAWA	PA	Mid Atlantic	1	1
WAY-HAR FARMS	BERNVILLE	PA	NY–NJ	2	3B
WELSH FARMS, INC	LONG VALLEY	NJ	NY–NJ	1	1
WENDTS DAIRY DIV NIAGARA CO	NIAGARA FALLS	NY		5	1
WENGERTS DAIRY, INC	LEBANON	PA	Mid Atlantic	1	1
WEST LYNN CREAMERY, INC	LYNN	MA	New England	1	1
WILLIAM WALSH	SIMSBURY	CT	New England	4	4
WINSOR, S. B. DAIRY, INC	JOHNSTON	RI	New England	1	3B
WRIGHT'S DAIRY FARM, INC	NORTH SMITHFIELD	RI	New England	4	4
APPALACHIAN					
BROADACRE DAIRIES	POWELL	TN	Tenn Valley	1	1
CAROLINA DAIRIES	KINSTON	NC	Carolina	1	1
COBURG DAIRY, INC	N. CHARLESTON	SC	Carolina	1	1
DAIRY FRESH, LP	WINSTON-SALEM	NC	Carolina	1	1
DEAN MILK CO	LOUISVILLE	KY	Louis-Lex-Evans	1	1
FLAV-O-RICH, INC	WILKESBORO	NC	Carolina	1	1
FLAV-O-RICH, INC	LONDON	KY	Tenn Valley	1	1
FLAV-O-RICH, INC	BRISTOL	VA	TennValley	1	1
FLAV-O-RICH, INC	FLORENCE	SC	Carolina	1	1
FLAV-O-RICH, INC	GOLDSBORO	NC	Carolina	1	OOB
GOLDEN GALLON, INC	CHATTANOOGA	TN	Tenn Valley	1	1
HOLLAND DAIRIES, INC	HOLLAND	IN	Louis-Lex-Evans	1	1
HUNTER FARMS	HIGHPOINT	NC	Carolina	1	1
HUNTER FARMS	CHARLOTTE	NC	Carolina	1	1
IDEAL AMERICAN DAIRY	EVANSVILLE	IN	Louis-Lex-Evans	1	1
JACKSON DAIRY	DUNN	NC	Carolina	1	1
JERSEY RIDGE DAIRY, INC	KNOXVILLE	TN	Tenn Valley	1	3B
LAND-O-SUN DAIRIES, INC	KINGSPORT	TN	Tenn Valley	1	1
LAND-O-SUN DAIRIES, INC	PORTSMOUTH	VA	Mid Atlantic	2	2
LAND-O-SUN DAIRIES, INC	SPARTANBURG	SC	Carolina	1	1
MAOLA MILK & ICE CREAM CO	NEW BERN	NC	Carolina	1	1
MAPLEVIEW FARMS	HILLSBORO	NC			1 [2]
MARVA MAID DAIRY	NEWPORT NEWS	VA	Mid Atlantic	2	2
MAYFIELD DAIRY FARMS, INC	ATHENS	TN	Tenn Valley	1	1
MILKCO, INC	ASHEVILLE	NC	Carolina	1	1
NORTH CAROLINA ST. UNIV	RALEIGH	NC	Carolina	6A	6B
PEELER JERSEY FARMS, INC	GAFFNEY	SC	Carolina	1	1
PINE STATE CREAMERY CO	RALEIGH	NC	Carolina	1	OOB
REGIS MILK CO	CHARLESTON	SC	Carolina	1	1
RICHFOOD DAIRY	RICHMOND	VA	Mid Atlantic	2	1
SOUTHERN BELLE DAIRY, INC	SOMERSET	KY	Tenn Valley	1	1
SUPERBRAND DY. PRODS., INC	GREENVILLE	SC	Southeast	1	1
SUPERBRAND DAIRY, INC	HIGHPOINT	NC	Carolina	1	1
U C MILK CO	MADISONVILLE	KY	Louis-Lex-Evans	1	1
WESTOVER DAIRIES	LYNCHBURG	VA	Carolina	1	1
WINCHESTER FARMS DAIRY	WINCHESTER	KY	Louis-Lex-Evans	1	1
FLORIDA					
BORDEN, INC.(TRI-STATE DAIRY)	MIAMI	FL	Southeast Florida	1	1
FARMS STORES, INC. (REW JB DAIRY PLANT ASSOCIATES dba FARM STORES).	MIAMI	FL	Southeast Florida	1	1
GOLDEN FLEECE DAIRY	LECANTO	FL	Tampa Bay	1	3B
GUSTAFSON'S DAIRY, INC	GREEN COVE	FL	Upper Florida	1	1
LIFE STYLE/DIV TG LEE FOODS (T.G. LEE FOODS).	ORANGE CITY	FL	Upper Florida	1	1
LONGLIFE DAIRY PRODUCTS, INC	JACKSONVILLE	FL	Southeast	1	1
M & B DAIRY PRODUCTS, INC	TAMPA	FL	Tampa Bay	1	3B
MCARTHUR DAIRY, INC	PLANTATION	FL	Southeast Florida	1	1
MORNINGSTAR FOODS, INC. (VELDA, INC.).	WINTER HAVEN	FL	Tampa Bay	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
MORNINGSTAR FOODS, INC. (VELDA, INC.).	MIAMI	FL	Southeast Florida	1	1
PUBLIX SUPER MKTS., INC	DEERFIELD BEACH	FL	Southeast Florida	1	1
PUBLIX SUPER MKTS., INC	LAKELAND	FL	Upper Florida	1	1
SKINNERS DAIRY, INC	JACKSONVILLE	FL	Upper Florida	1	OOB
SUPERBRAND DAIRY PRODUCTS, INC	PLANT CITY	FL	Tampa Bay	1	1
SUPERBRAND DAIRY PRODUCTS, INC	MIAMI	FL	Southeast Florida	1	1
T.G. LEE FOODS, INC	ORLANDO	FL	Tampa Bay	1	1
VELDA FARMS, LP (VELDA, INC.)	ST. PETERSBURG	FL	Tampa Bay	1	1
WIGGINS DAIRY PRODUCTS, INC	PLANT CITY	FL	Tampa Bay	1	1
SOUTHEAST					
ALCORN STATE UNIVERSITY	LORMAN	MS	Southeast	6A	6B
ARKANSAS DEPT. OF CORREC	GRADY	AR	Southeast	6A	6B
AVENT'S DAIRY NC	OXFORD	MS	Southeast	1	1
BAKER & SONS DAIRY, INC	BIRMINGHAM	AL	Southeast	1	OOB
BARBER PURE MILK CO	BIRMINGHAM	AL	Southeast	1	1
BARBER PURE MILK CO	MOBILE	AL	Southeast	1	1
BARBER PURE MILK CO	TUPELO	MS	Southeast	1	OOB
BARBE'S DAIRY, INC	WESTWEGO	LA	Southeast	1	1
BORDEN DAIRY	LITTLE ROCK	AR	Southeast	1	OOB
BORDEN, INC	MONROE	LA	Southeast	1	1
BORDEN, INC	BATON ROUGE	LA	Southeast	1	1
BORDEN, INC	MACON	GA	Southeast	1	OOB
BORDEN, INC	LAFAYETTE	LA	Southeast	1	1
BORDEN, INC	JACKSON	MS	Southeast	1	OOB
BROOKSHIRE DAIRY PRODUCTS	COLUMBUS	MS	Southeast	1	OOB
BROWNS VELVET DY. PRODUCTS (SOUTHERN FOODS GROUP, LP dba BROWN'S VELVET).	NEW ORLEANS	LA	Southeast	1	1
CENTENNIAL FARMS DAIRY, INC	ATLANTA	GA			1 [2]
COLEMAN DAIRY, INC	LITTLE ROCK	AR	Southeast	1	1
COLLEGE OF THE OZARKS	POINT LOOKOUT	MO	Southwest Plains	1	OOB
DAIRY FRESH CORP	COWARTS	AL	Southeast	1	1
DAIRY FRESH CORP	HATTIESBURG	MS	Southeast	1	1
DAIRY FRESH CORP	PRICHARD	AL	Southeast	1	1
DAIRY FRESH OF LA	BAKER	LA	Southeast	1	1
DASI PRODUCTS, INC	DECATUR	AL	Southeast	2	1
ETOWAH MAID DAIRIES, INC	CANTON	GA	Southeast	4	4
FLAV-O-RICH, INC	CANTON	MS	Southeast	1	1
FOREMOST DAIRY, INC	SHREVEPORT	LA	Southeast	1	1
FOREST HILL DAIRY	MEMPHIS	TN	Southeast	1	1
GEORGIA STATE PRISON	REIDSVILLE	GA	Southeast	6A	6B
GOLD STAR DAIRY	LITTLE ROCK	AR	Southeast	1	1
HERITAGE FARMS DAIRY	MURFREESBORO	TN	Southeast	1	1
HERSHEY CHOCOLATE U.S.A	SAVANNAH	GA	Tampa Bay	2	2
HILAND DAIRY CO	FAYETTEVILLE	AR	Southwest Plains	1	1
HILAND DAIRY CO	FORT SMITH	AR	Southwest Plains	1	1
HILAND DAIRY CO	SPRINGFIELD	MO	Southwest Plains	1	1
HUMPHREY DAIRY	HOT SPRINGS	AR	Southeast	3A	3B
KINNETT DAIRIES, INC	COLUMBUS	GA	Southeast	1	1
KLEINPETER DAIRY, INC	BATON ROUGE	LA	Southeast	1	1
LOUISIANA STATE PEN	ANGOLA	LA	Southeast	6A	6B
LOUISIANA TECH	RUSTON	LA	Southeast	6A	6B
LUVEL DAIRY PRODUCTS, INC	KOSCIUSKO	MS	Southeast	1	1
MALONE & HYDE DAIRY/FLEMING COMPANIES, INC.	NASHVILLE	TN	Southeast	1	1
MEADOW GOLD DAIRIES, INC. (TRI-STATE DAIRY).	HUNTSVILLE	AL	Southeast	1	1
MID-AMERICA DAIRYMEN, INC	LEBANON	MO	Southwest Plains	1	2
MISSISSIPPI STATE UNIVERSITY	MISS. STATE	MS	Southeast	6A	6B
NEW ATLANTA DAIRIES, INC	ATLANTA	GA	Southeast	1	1
PEELER JERSEY FARMS, INC	ATHENS	GA	Southeast	1	1
PUBLIX SUPERMARKETS, INC	LAWRENCEVILLE	GA	Southeast	1	1
PURITY DAIRIES, INC	NASHVILLE	TN	Southeast	1	1
RYAN MILK COMPANY	MURRAY	KY	Southeast	2	1
SOUTHERN UNIVERSITY	BATON ROUGE	LA	Southeast	6A	6B
SUPERBRAND DY. PRODUCTS, INC	MONTGOMERY	AL	Southeast	1	1
SUPERBRAND DY. PRODS., INC	HAMMOND	LA	Southeast	1	1
TURNER DAIRIES, INC	COVINGTON	TN	Southeast	1	1
TURNER DAIRIES, INC	FULTON	KY	Southeast	1	1
MIDEAST					
ALBERT MIHALY AND SON DAIRY	LOWELLVILLE	OH	E Ohio-W Penn	4	4
ARPS DAIRY, INC	DEFIANCE	OH	Ohio Valley	1	1
BAREMAN DAIRY, INC	HOLLAND	MI	Southern Michigan	1	1
BARKER'S FARM DAIRY, INC	PECKS MILL	WV	Ohio Valley	4	4
BORDEN, INC	YOUNGSTOWN	OH	E Ohio-W Penn	1	OOB
BROUGHTON FOODS CO	MARIETTA	OH	Ohio Valley	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
BRUNTON DAIRY	ALIQUIPPA	PA	E Ohio-W Penn	4	4
BURGER DAIRY CO	NEW PARIS	IN	Indiana	1	1
BURGER, C.F., CREAMERY, INC	DETROIT	MI	Southern Michigan	2	2
CALDER BROTHERS DAIRY	LINCOLN PARK	MI	Southern Michigan	1	1
COLTERYAHN DAIRY, INC	PITTSBURGH	PA	E Ohio-W Penn	1	1
CON-SUN FOOD INDUSTRIES, INC.	ELYRIA	OH	E Ohio-W Penn	1	1
COOK'S FARM DAIRY, INC	ORTONVILLE	MI	Southern Michigan	4	4
COUNTRY DAIRY	NEW ERA	MI	Southern Michigan	4	4
COUNTY FRESH, INC	GRAND RAPIDS	MI	Southern Michigan	1	1
CROOKED CREEK FARM DAIRY	ROMEO	MI	Southern Michigan	4	4
DEAN DAIRY PRODUCTS CO	SHARPSVILLE	PA	E Ohio-W Penn	1	1
DEAN FOODS COMPANY	ROCHESTER	IN	Indiana	1	1
DIXIE DAIRY CO	GARY	IN	Indiana	1	1
EASTSIDE JERSEY DAIRY, INC	ANDERSON	IN	Indiana	1	1
ELMVIEW DAIRY	COLUMBUS	PA	E Ohio-W Penn	4	4
EMBEST, INC	LIVONIA	MI	Southern Michigan	1	1
FIKE, R BRUCE & SONS DAIRY	UNIONTOWN	PA	E Ohio-W Penn	1	1
FISHER'S DAIRY, R.V. FISHER	PORTERSVILLE	PA	E Ohio-W Penn	4	4
FLEMINGS DAIRY	UTICA	OH	Ohio Valley	1	1
GALLIKER DAIRY CO	JOHNSTOWN	PA	E Ohio-W Penn	2	2
GLEN EDEN FARM-DIANNE TEETS	ROCHESTER	PA	E Ohio-W Penn	4	4
GOSHEN DAIRY COMPANY	NEW PHILADELPHIA	OH	E Ohio-W Penn	1	1
GREEN VALE FARM	COOPERSVILLE	MI	Southern Michigan	4	4
GREEN VALLEY DAIRY	GEORGETOWN	PA	E Ohio-W Penn	4	4
GUERNSEY FARMS DAIRY	NORTHVILLE	MI	Southern Michigan	1	1
HARTZLER FAMILY DAIRY	WOOSTER	OH	3B	[2]	
HILLSIDE DAIRY CO	CLEVELAND HGHTS	OH	E Ohio-W Penn	1	1
HUTTER FARM DAIRY	MT. PLEASANT	PA	E Ohio-W Penn	4	4
INVERNESS DAIRY, INC	CHEBOYGAN	MI	Michigan U P	1	1
JACKSON ALL STAR DAIRY	JACKSON	MI	Southern Michigan	1	OOB
JACKSON FARMS	NEW SALEM	PA	E Ohio-W Penn	4	4
JILBERT DAIRY, INC	MARQUETTE	MI	Michigan U P	1	1
JOHNSON'S DAIRY, INC	ASHLAND	KY	Ohio Valley	1	1
KERBER'S DAIRY	N. HUNTINGDON	PA	E Ohio-W Penn	1	3B
KROGER COMPANY, THE	INDIANAPOLIS	IN	Indiana	1	1
LANSING DAIRY, INC. (MELODY FARMS, INC.).	LANSING	MI	Southern Michigan	1	1
LIBERTY DAIRY CO	EVART	MI	Southern Michigan	1	1
LONDON'S FARM DAIRY, INC	PORT HURON	MI	Southern Michigan	1	1
MAPLEHURST FARMS, INC	INDIANAPOLIS	IN	Indiana	1	1
MARBURGER FARM DAIRY, INC	EVANS CITY	PA	E Ohio-W Penn	1	1
MCDONALD DAIRY COMPANY	FLINT	MI	Southern Michigan	1	1
MCMAHONS DAIRY, INC	ALTOONA	PA		5	5
MEADOW BROOK DAIRY	ERIE	PA	E Ohio-W Penn	1	1
MEYER H & SONS DAIRY	CINCINNATI	OH	Ohio Valley	1	1
MICHIGAN DAIRY	LIVONIA	MI	Southern Michigan	1	1
MILLER CORPORATION	CAMBRIDGE CITY	IN	Indiana	1	OOB
MONG DAIRY CO	SENECA	PA	E Ohio-W Penn	1	OOB
MURPHY'S DAIRY	JAMESTOWN	PA	E Ohio-W Penn	4	OOB
NICOL'S FARM DAIRY	BEAVER	PA	E Ohio-W Penn	4	OOB
OBERLIN FARMS DAIRY, INC	CLEVELAND	OH	E Ohio-W Penn	1	1
OSBORN DAIRY	SAULT STE MARIE	MI	Michigan U P	4	4
PLEASANT VIEW DAIRY CORP	HIGHLAND	IN	Indiana	1	1
PRAIRIE FARMS DAIRY, INC	FT. WAYNE	IN	Indiana	1	1
QUALITY CREAMERY, INC	COMSTOCK PARK	MI	Southern Michigan	1	1
QUALITY DAIRY CO B.T.U	LANSING	MI	Southern Michigan	1	1
RAEMELTON FARM DAIRY	MANSFIELD	OH	Ohio Valley	4	OOB
REITER DAIRY CO	SPRINGFIELD	OH	Ohio Valley	1	1
REITER DAIRY, INC	AKRON	OH	E Ohio-W Penn	1	1
ROELOF DAIRY	GALESBURG	MI	Southern Michigan	1	1
SANI DAIRY	JOHNSTOWN	PA	E Ohio-W Penn	2	2
SCHENKEL'S ALL-STAR DAIRY, INC	HUNTINGTON	IN	Indiana	1	1
SCHIEVER FARM DAIRY	HARMONY	PA	E Ohio-W Penn	1	3B
SCHNEIDERS DAIRY, INC	PITTSBURGH	PA	E Ohio-W Penn	1	1
SMITH DAIRY PRODUCTS CO	ORRVILLE	OH	Ohio Valley	1	1
SMITH'S DAIRY PRODUCTS CO	RICHMOND	IN	Ohio Valley	1	1
STERLING MILK CO	WAUSEON	OH	Ohio Valley	1	1
SUPERIOR DAIRIES, INC	SAGINAW	MI	Southern Michigan	1	1
SUPERIOR DAIRY, INC	CANTON	OH	E Ohio-W Penn	1	1
TAMARACK FARMS	NEWARK	OH	Ohio Valley	1	1
TAYLOR MILK CO., INC	AMBRIDGE	PA	E Ohio-W Penn	1	1
THE SPRINGHOUSE	EIGHTY FOUR	PA	E Ohio-W Penn	4	4
TOFT DAIRY INC	SANDUSKY	OH	Ohio Valley	2	1
TOLEDO MILK PROCESSING, INC. (COUNTRY FRESH OF OHIO).	MAUMEE	OH	Ohio Valley	1	1
TRAUTH, LOUIS DAIRY	NEWPORT	KY	Ohio Valley	1	1
TURNER DAIRY FARMS, INC	PITTSBURGH	PA	E Ohio-W Penn	1	1
UNITED DAIRY FARMERS	CINCINNATI	OH	Ohio Valley	1	1
UNITED DAIRY, INC	MARTINS FERRY	OH	E Ohio-W Penn	1	1
UNITED DAIRY, INC	CHARLESTON	WV	Ohio Valley	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
VALEWOOD FARMS	CRESSON	PA		5	5
VALLEY RICH DAIRY	ROANOKE	VA	Ohio Valley	2	2
WEST VIRGINIA UNIVERSITY DAIRY	MORGANTOWN	WV	E Ohio-W Penn	4	OOB
WHITE KNIGHT PACKAGING CORP. (PARMALAT WHITE KNIGHT PACKAGING CORP.).	WYOMING	MI	Southern Michigan	1	1
YOUNG'S JERSEY DAIRY, INC	YELLOW SPRINGS	OH	Ohio Valley	4	4
UPPER MIDWEST					
ASSOC. MILK PRODUCERS, INC. (FOREMOST FARMS COOPERATIVE).	DEPERE	WI	Chicago Regional	1	1
AYSTA DAIRY, INC	VIRGINIA	MN	Upper Midwest	1	1
CASS-CLAY CREAMERY, INC	GRAND FORKS	ND	Upper Midwest	1	1
CASS-CLAY CREAMERY, INC	FARGO	ND	Upper Midwest	1	1
CASS-CLAY CREAMERY, INC	MANDAN	ND	Upper Midwest	2	2
CENTRAL MINNESOTA	SAUK CENTRE	MN	Upper Midwest	1	1
COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.).	BISMARCK	ND	Upper Midwest	2	2
COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.).	THIEF RIVER	MN	Upper Midwest	1	1
COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.).	WOODBURY	MN	Upper Midwest	1	1
DEAN FOODS CO	HUNTLEY	IL	Chicago Regional	1	1
DEAN FOODS CO	HARVARD	IL	Chicago Regional	1	1
FOREMOST FARMS USA	WAUKESHA	WI	Chicago Regional	1	1
FOREMOST FARMS USA	WAUSAU	WI	Chicago Regional	1	1
FRANKLIN FOODS	DULUTH	MN	Upper Midwest	1	1
HANSENS DAIRY, INC	GREEN BAY	WI	Chicago Regional	2	1
HASTINGS COOPERATIVE	HASTINGS	MN	Upper Midwest	1	1
KOHLER MIX SPECIALITIES, INC	WHITE BEAR	MN	Upper Midwest	2	2
KWIK TRIP DAIRY	LA CROSSE	WI	Chicago Regional	1	1
LAMERS DAIRY, INC	KIMBERLY	WI	Chicago Regional	2	1
LIFEWAY FOODS, INC	SKOKIE	IL	Chicago Regional	2	1
MARIGOLD FOODS, INC	ROCHESTER	MN	Upper Midwest	1	1
MARIGOLD FOODS, INC	CEDARBURG	WI	Chicago Regional	1	1
MARIGOLD FOODS, INC	MINNEAPOLIS	MN	Upper Midwest	1	1
MEYER BROTHERS DAIRY	WAYZATA	MN	Upper Midwest	1	1
MULLER-PINEHURST, INC	ROCKFORD	IL	Chicago Regional	1	1
NORTH BRANCH DAIRY, INC	NORTH BRANCH	MN	Upper Midwest	1	1
OAK GROVE DAIRY	NORWOOD	MN	Upper Midwest	1	1
OBERWEIS DAIRY, INC	AURORA	IL	Chicago Regional	1	1
POLLARD DAIRY, INC	NORWAY	MI	Michigan U P	1	1
ROCK I FARMS	OSWEGO	IL	Chicago Regional	4	4
SCHROEDER MILK CO., INC	ST PAUL	MN	Upper Midwest	1	1
STAR SPECIALTY FOODS, INC. (MORNINGSTAR FOODS, INC.).	MADISON	WI	Chicago Regional	1	2
STOER DAIRY FARMS, INC	TWO RIVERS	WI	Chicago Regional	4	OOB
SWISS VALLEY FARMS CO	CHICAGO	IL	Chicago Regional	1	1
TETZNER DAIRY	WASHBURN	WI	Upper Midwest	4	4
UNITED WORLD IMPORTS	CHICAGO	IL	Chicago Regional	2	5
VERIFINE DAIRY PRODUCTS CO	SHEBOYGAN	WI	Chicago Regional	1	1
WEBERS, INC	MARSHFIELD	WI		5	3B
CENTRAL					
ANDERSON-ERICKSON DAIRY CO	DES MOINES	IA	Iowa	1	1
ASHER DAIRY	MARCELINE	MO		4	4
BAKER'S DAIRY COMPANY	MOLINE	IL	Iowa	1	OOB
BRAUM'S ICE CREAM AND DAIRY (W.H. BRAUM, INC.).	TUTTLE	OK	Southwest Plains	1	1
CENTRAL DAIRY & ICE CREAM	JEFFERSON CITY	MO		5	5
CHESTER DAIRY CO	CHESTER	IL	S Ill-E Missouri	1	1
COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.).	SIOUX FALLS	SD	E South Dakota	1	1
DAIRY GOLD FOODS CO	CHEYENNE	WY		5	1
DEPT. OF CORRECTIONS	CANON CITY	CO	Eastern Colorado	6A	6B
DILLON DAIRY CO	DENVER	CO	Eastern Colorado	1	1
ELDON MOSS	IOWA CITY	IA	Iowa	4	4
FARM FRESH DAIRY, INC	CHANDLER	OK	Southwest Plains	1	1
GALESBURG CORR. CENTER	GALESBURG	IL	Central Illinois	6A	6B
GILLETTE DAIRY OF BLACK HILLS	RAPID CITY	SD	Black Hills	1	2
GRAVES GRADE A DAIRY	BELLVUE	CO	Eastern Colorado	4	4
HILAND DAIRY CO	NORMAN	OK	Southwest Plains	1	1
HILAND DAIRY CO	WICHITA	KS	Southwest Plains	1	1
JACKSON ICE CREAM CO	HUTCHINSON	KS	Southwest Plains	1	1
KANSAS STATE UNIV	MANHATTAN	KS	Greater Kansas City	6A	6B
KARL'S FARM DAIRY, INC	EASTLAKE	CO	Eastern Colorado	4	4
LAESCH DAIRY CO	BLOOMINGTON	IL	S Ill-E Missouri	1	1
LAND-O-SUN DAIRIES, INC	O'FALLON	IL	S Ill-E Missouri	1	1
LENZ DAIRY	PRAIRIE HOME	MO	Greater Kansas City	4	4

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
LONGMONT DAIRY FARM	LONGMONT	CO	Eastern Colorado	4	4
LOWELL-PAUL DAIRY, INC	GREELEY	CO	Eastern Colorado	4	4
MEADOW GOLD DAIRIES, INC	GREELEY	CO	Eastern Colorado	1	1
MEADOW GOLD DAIRIES, INC	ENGLEWOOD	CO	Eastern Colorado	1	1
MEADOW GOLD DAIRIES, INC. (MODERN DAIRY OF CHAMPAIGN, INC.).	CHAMPAIGN	IL	S Ill-E Missouri	1	OOB
MEADOW GOLD DAIRIES, INC. (MODERN DAIRY OF CHAMPAIGN, INC.).	TULSA	OK	Southwest Plains	1	OOB
MEADOW GOLD DAIRY, INC	LINCOLN	NE	Nebraska-W Iowa	1	1
MID-STATES DAIRY COMPANY	HAZELWOOD	MO	SIll-E Missouri	1	1
PATKE FARM DAIRY	WASHINGTON	MO	SIll-E Missouri	1	3B
PEVELY DAIRY CO	ST LOUIS	MO	SIll-E Missouri	1	1
PRAIRIE FARM DAIRIES, INC	CARLINVILLE	IL	SIll-E Missouri	1	1
PRAIRIE FARMS DAIRY, INC	GRANITE CITY	IL	SIll-E Missouri	1	1
PRAIRIE FARMS DAIRY, INC	OLNEY	IL	SIll-E Missouri	1	1
PRAIRIE FARMS DAIRY, INC	PEORIA	IL	Central Illinois	1	1
PRAIRIE FARMS DAIRY	QUINCY	IL	SIll-E Missouri	1	1
RADIANCE DAIRY	FAIRFIELD	IA	Iowa	4	4
ROBERTS DAIRY CO	DES MOINES	IA	Iowa	1	1
ROBERTS DAIRY CO	IOWA CITY	IA	Iowa	1	1
ROBERTS DAIRY CO. (FAIRMONT-ZARDA DAIRY, DIVISION OF ROBERTS DAIRY CO.).	KANSAS CITY	MO	Greater Kansas City	1	1
ROBERTS DAIRY CO	OMAHA	NE	Nebraska-W Iowa	1	1
ROBINSON DAIRY, INC	DENVER	CO	Eastern Colorado	1	1
ROYAL CREST DAIRY, INC	DENVER	CO	Eastern Colorado	1	1
SAFEWAY STORES, INC., MK PLNT	DENVER	CO	Eastern Colorado	1	1
SCHRANT ROADSIDE DAIRY (ROADSIDE DAIRY).	WINSIDE	NE	Nebraska-W Iowa	4	4
SHOENBERG FARMS, INC	ARVADA	CO	Eastern Colorado	1	1
SINTON DAIRY FOODS CO., LLC	COLORADO SPRINGS	CO	Eastern Colorado	1	1
SOUTH DAKOTA STATE UNIV	BROOKINGS	SD	E South Dakota	6A	6B
SWAN BROS. DAIRY, INC	CLAREMORE	OK	Southwest Plains	4	4
SWISS VALLEY FARMS CO	CEDAR RAPIDS	IA	Iowa	1	3B
SWISS VALLEY FARMS CO	DUBUQUE	IA	Iowa	1	1
TEGELERS DAIRY	DYERSVILLE	IA	Iowa	1	OOB
WELLS DAIRY, INC	LE MARS	IA	Nebraska-W Iowa	1	1
WELLS DAIRY, INC	OMAHA	NE	Nebraska-W Iowa	1	1
WESTERN DAIRYMEN COOP, INC	RIVERTON	WY	Eastern Colorado	2	2
WILD'S BROTHER'S DAIRY	EL RENO	OK	Southwest Plains	4	4
SOUTHWEST					
BELL DAIRY PRODUCTS, INC	LUBBOCK	TX	New Mex-W Texas	1	1
BORDEN, INC	CORPUS CHRISTI	TX	Texas	1	OOB
BORDEN, INC	EL PASO	TX	New Mex-W Texas	1	1
BORDEN, INC	DALLAS	TX	Texas	1	1
BORDEN, INC	ALBUQUERQUE	NM	New Mex-W Texas	1	1
BORDEN, INC	LUBBOCK	TX	New Mex-W Texas	1	OOB
BORDEN, INC	CONROE	TX	Texas	1	1
CREAMLAND DAIRIES	ALBUQUERQUE	NM	New Mex-W Texas	1	1
DAVID'S SUPERMARKETS, INC	GRANDVIEW	TX	Texas	1	1
DEAN DAIRY PRODUCTS	CLOVIS	NM	New Mex-W Texas	1	OOB
FARMERS DAIRIES	EL PASO	TX	New Mex-W Texas	1	1
HOBBS DRIVE IN DAIRY	HOBBS	NM	New Mex-W Texas	3A	3B
HYGEIA DAIRY	CORPUS CHRISTI	TX	Texas	1	1
H. E. BUTT GROCERY CO	HOUSTON	TX	Texas	1	1
H. E. BUTT GROCERY CO	SAN ANTONIO	TX	Texas	1	1
JERSEYLAND	DECATUR	TX	Texas	4	OOB
LAND O' PINES	LUFKIN	TX	Texas	1	1
LANE'S DAIRY	EL PASO	TX	New Mex-W Texas	4	4
LILLY DAIRY PRODUCTS, INC	BYRAN	TX	Texas	1	1
LOS LUNAS PRISON DAIRY	ALBUQUERQUE	NM	New Mex-W Texas	3A	3B
MICKEY'S DRIVE IN DAIRY	ALBUQUERQUE	NM	New Mex-W Texas	4	4
MIDWEST MIX CO	SULPHUR SPRINGS	TX			2 [2]
MORNINGSTAR SPECIALTY	SULPHUR SPRINGS	TX	Chicago Regional	1	2
MOUNTAIN GOLD DAIRY	CARRIZOZO	NM	New Mex-W Texas	3A	3B
NATURE'S DAIRY, INC	ROSWELL	NM	New Mex-W Texas	4	4
OAK FARMS DAIRIES	HOUSTON	TX	Texas	1	1
OAK FARMS DAIRIES	SAN ANTONIO	TX	Texas	1	1
OAK FARMS DAIRIES	DALLAS	TX	Texas	1	1
PLAINS CREAMERY	AMARILLO	TX	New Mex-W Texas	1	1
PRICES CREAMERY, INC	EL PASO	TX	New Mex-W Texas	1	1
PROMISED LAND DAIRY	FLORESVILLE	TX			4 [2]
PURE MILK CO (OAK FARMS DAIRY)	WACO	TX	Texas	4	4
RANCHO LAS LAGUNAS	SANTA FE	NM	New Mex-W Texas	4	4
RASBAND DAIRY	ALBUQUERQUE	NM	New Mex-W Texas	4	4
SCHEPPS DAIRY, INC	DALLAS	TX	Texas	1	1
SOUTHWEST DAIRY	TYLER	TX	Texas	1	1
SUPERBRAND DAIRY PRODS, INC	FT WORTH	TX	Texas	1	1
SUPERIOR DAIRIES (BORDEN, INC.)	AUSTIN	TX	Texas	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
VANDERVOORTS DAIRY	FT WORTH	TX	Texas	1	1
ARIZONA-LAS VEGAS					
ANDERSON DAIRY, INC	LAS VEGAS	NV	Great Basin	1	1
ETHINGTON DAIRY	GILBERT	AZ	Central Arizona	4	OOB
GOLDEN WEST DAIRIES	WELLTON	AZ	Central Arizona	4	4
HEIN & ELLEN HETTINGA	YUMA	AZ	Central Arizona	4	4
JACKSON ICE CREAM CO., INC	PHOENIX	AZ	Central Arizona	1	1
MEADOWWAYNE DAIRY	COLORADO CITY	AZ	Central Arizona	4	4
SAFEWAY STORES, INC	TEMPE	AZ	Central Arizona	1	1
SHAMROCK FOODS, INC	PHOENIX	AZ	Central Arizona	1	1
SMITH'S FOOD & DRUG CENTERS, INC	TOLLESON	AZ	Central Arizona	1	1
SUNRISE DAIRY	TAYLOR	AZ		5	3B
SUNSTREET DAIRY, INC	PHOENIX	AZ	Central Arizona	1	OOB
WESTERN					
BROWN DAIRY, INC	COALVILLE	UT	Great Basin	4	4
CHURCH OF JESUS CHRIST OF LATTER-DAY.	OGDEN	UT	Great Basin	3A	6B
CHURCH OF JESUS CHRIST OF LATTER-DAY.	SALT LAKE CITY	UT	Great Basin	3A	6B
COUNTRY BOY DAIRY	OGDEN	UT	Great Basin	4	4
CREAM O'WEBER DAIRY, INC	SALT LAKE CITY	UT	Great Basin	1	1
DALE BARKER	MOUNT PLEASANT	UT	Great Basin	4	4
DARIGOLD, INC	BOISE	ID	SW Idaho-E Oregon	1	1
DESERET MILK PLANT	SALT LAKE CITY	UT	Great Basin	3A	6B
FARM FRESH	SALEM	UT	Great Basin	4	4
GOSSNER FOODS, INC	LOGAN	UT	Great Basin	1	1
GRAFF DAIRY	GRAND JCT	CO	W Colorado	1	3B
IDEAL DAIRY, INC	RICHFIELD	UT	Great Basin	4	4
JOHNNY'S DAIRY	SOUTH WEBER	UT	Great Basin	4	4
JONES DAIRY & HEALTH FOODS	TAYLORSVILLE	UT	Great Basin	4	4
KDK, INC	DRAPER	UT	Great Basin	1	1
MEADOW GOLD DAIRIES, INC	POCATELLO	ID	Great Basin	1	1
MEADOW GOLD DAIRIES, INC	DELTA	CO	W Colorado	1	1
MEADOW GOLD DAIRIES, INC	BOISE	ID	SW Idaho-E Oregon	1	1
MEADOW GOLD DAIRIES, INC	SALT LAKE CITY	UT	Great Basin	1	1
REEDER SHADY BROOK DAIRY	BRIGHAM CITY	UT	Great Basin	4	OOB
REED'S DAIRY, INC	IDAHO FALLS	ID	Great Basin	4	4
ROSEHILL DAIRY	MORGAN	UT	Great Basin	4	4
SMITH FOOD&DRUG CENTERS, INC	LAYTON	UT	Great Basin	1	1
SMITH'S DAIRY	BUHL	ID	SW Idaho-E Oregon	1	3B
STOKER WHOLESALE, INC	BURLEY	ID	SW Idaho-E Oregon	1	1
UTAH STATE UNIVERSITY	LOGAN	UT	Great Basin	3A	6B
VALLEY DAIRY, INC	YERINGTON	NV		5	3B
WESTERN QUALITY FOOD PRODUCTS	CEDAR CITY	UT	Great Basin	2	2
WINDER DAIRY	SALT LAKE CITY	UT	Great Basin	1	1
PACIFIC NORTHWEST					
ALLISON HARDY	ELMA	WA	Pacific Northwest	4	4
ALPENROSE DAIRY	PORTLAND	OR	Pacific Northwest	1	1
ANDERSEN DAIRY, INC	BATTLE GROUND	WA	Pacific Northwest	1	1
BILLANJO DAIRY	EAGLE POINT	OR	Pacific Northwest	4	OOB
CAL-WASH INVESTMENTS, INC	COLLEGE PLACE	WA	Pacific Northwest	1	OOB
CURLY'S DAIRY, INC	SALEM	OR	Pacific Northwest	1	1
DARIGOLD, INC	MEDFORD	OR	Pacific Northwest	1	1
DARIGOLD, INC	SPOKANE	WA	Pacific Northwest	1	1
DARIGOLD, INC	PORTLAND	OR	Pacific Northwest	1	1
DARIGOLD, INC	SEATTLE	WA	Pacific Northwest	1	1
DEPT. OF CORRECTIONS STATE OF OREGON.	SALEM	OR	Pacific Northwest	1	3B
EBERHARD CREAMERY, INC	REDMOND	OR	Pacific Northwest	1	1
ECHO SPRING DAIRY, INC	EUGENE	OR	Pacific Northwest	1	1
EDWARD & AILEEN BRANDSMA	LYNDEN	WA	Pacific Northwest	4	4
EVERGREEN DAIRY, INC. (WEIKS)	OLYMPIA	WA	Pacific Northwest	4	4
FAITH DAIRY, INC	TACOMA	WA	Pacific Northwest	4	4
FOREMAN'S DAIRY	GRANTS PASS	OR	Pacific Northwest	4	OOB
FRED MEYER, INC	PORTLAND	OR	Pacific Northwest	1	1
GARY & MARGO WINEGAR	ELLENSBURG	WA	Pacific Northwest	1	3B
GERALD GILBERT, ET AL	OTHELLO	WA	Pacific Northwest	4	4
GRAAFSTRA DAIRY, INC	ARLINGTON	WA	Pacific Northwest	4	4
INLAND NORTHWEST DAIRIES, INC	SPOKANE	WA	Pacific Northwest	1	1
LOCHMEAD FARMS, INC	JUNCTION CITY	OR	Pacific Northwest	4	4
MALLORIE'S DAIRY, INC	SILVERTON	OR	Pacific Northwest	4	4
MIKE HARVEY	VANCOUVER	WA	Pacific Northwest	4	4
PACIFIC FOODS OF OREGON, INC	CLACKAMAS	OR	Pacific Northwest	1	3B
PALMER ZOTTOLA	GRANTS PASS	OR	Pacific Northwest	1	1
RICHARD AND LINDA KLINE	CHEWELAH	WA	Pacific Northwest	4	OOB

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
ROY KROPF	HALSEY	OR	Pacific Northwest	4	4
SAFEWAY '85, INC	MOSES LAKE	WA	Pacific Northwest	1	1
SAFEWAY STORES, INC	CLACKAMAS	OR	Pacific Northwest	1	1
SAFEWAY STORES, INC	BELLEVUE	WA	Pacific Northwest	1	1
SMITH BROTHERS FARMS, INC	KENT	WA	Pacific Northwest	4	4
SPRINGFIELD CREAMERY	EUGENE	OR		5	1
STATE OF WASHINGTON	MONROE	WA	Pacific Northwest	4	4
SUNSHINE DAIRY, INC	PORTLAND	OR	Pacific Northwest	1	1
TILLAMOOK COUNTY CREAMERY ASSN.	TILLAMOOK	OR	Pacific Northwest	1	2
UMPQUA DAIRY PRODUCTS CO	ROSEBURG	OR	Pacific Northwest	1	1
VITAMILK DAIRY, INC	SEATTLE	WA	Pacific Northwest	1	1
WALTER DE JONG	MONROE	WA	Pacific Northwest	4	4
WAYNE STRATTON	PULLMAN	WA	Pacific Northwest	4	4
WILCOX FARMS, INC	CHENEY	WA			1 [2]
WILCOX FARMS, INC	ROY	WA	Pacific Northwest	1	1
WILLIAM VENN (TIMOTHY BERNDT)	NORTH BEND	WA	Pacific Northwest	4	4

[1] DISTRIBUTING PLANT STATUS:
1: POOL
2: PARTIALLY REGULATED
3: EXEMPT BASED ON SIZE:
A. AS DEFINED UNDER CURRENT FEDERAL ORDERS
B. AS DEFINED UNDER PROPOSED RULE; WITH ROUTE DISPOSITION LESS THAN 150,000 LBS. PER MONTH.
4: PRODUCER-HANDLER
5: UNREGULATED
6: EXEMPT BASED ON INSTITUTIONAL STATUS:
A. AS DEFINED UNDER CURRENT FEDERAL ORDERS
B. AS DEFINED UNDER PROPOSED ORDERS (GOVERNMENT, UNIVERSITY, AND CHARITABLE)
[2] NEW SINCE OCT. 95: INFORMATION NOT INCLUDED IN ANALYSIS.

2. Basic Formula Price Replacement and Other Class Price Issues

This proposed rule would replace the basic formula price (BFP) with a multiple component pricing system that would determine butterfat prices for milk used in Class II, Class III and Class IV products from a butter price; protein and other solids prices for milk used in Class III products from cheese and whey prices; and nonfat solids prices for milk used in Class IV products from nonfat dry milk product prices. Prices for Class I and Class II would be determined on the basis of skim milk prices for Class III and Class IV, computed from the respective component prices. A Class I skim milk price for each order would be determined by computing a six month declining average of the higher of the Class III or Class IV skim milk prices for the second preceding month and adding a fixed Class I differential to the result. The Class I butterfat price would be determined by adding the fixed Class I differential to the six month declining average of the butterfat price used for Class II, Class III and IV butterfat for the second preceding month. The Class II skim milk price, on a current month basis, would be computed by adding $0.70 to the Class IV skim milk price. A table showing current and proposed prices for the period 1994 through 1997 appears at the end of this discussion of the proposed BFP replacement.

Provisions for Federal milk orders regulating the handling of milk in areas for which no support for a multiple component pricing system has been expressed would maintain a hundredweight skim/butterfat pricing system instead of the component pricing plan. The hundredweight prices would be determined by using the component price formulas contained in this decision and computing an appropriate hundredweight price using standard component levels. In addition, the proposed Mideast order area, for which a multiple component pricing plan similar to that now in effect in the Southern Michigan order has been supported (containing a ''fluid carrier'' component instead of an ''other solids'' component), would be modified to incorporate such provisions.

Background

In the early years of the Federal milk order program, prices that served the function of the present BFP were determined primarily from evaporated milk prices or condensery pay prices. Some markets developed formulas to determine the basic price for milk used in manufactured products and fluid milk prices. These, however, did not always reflect the actual relationship between supply and demand. Furthermore, when adjacent markets priced milk using different formulas, price disparities occurred between competing handlers regulated under different orders.

The Minnesota-Wisconsin manufacturing grade milk price series (M–W) was adopted in the early 1960s. The M–W was a competitive pay price obtained from a survey of payments made by manufacturing plants in Minnesota and Wisconsin to producers of Grade B (manufacturing grade) milk. Approximately 50 percent of total U.S. Grade B milk marketings were accounted for by these two states when the M–W was adopted. The base month M–W was updated using a second survey of a sub-sample of the plants in the base month survey. This sub-sample of plants reported pay prices for the first half, and an estimate of pay prices for the last half, of the month following the base month.

Over time the production of Grade B milk has declined steadily. In 1970, 46 percent of Wisconsin milk marketings and 71 percent of Minnesota milk marketings were Grade B. By 1989, these shares had declined to 17 and 26 percent, respectively. Around this time (1989) USDA's National Agricultural Statistics Service (NASS), which conducts the survey, considered the number of plants eligible for the smaller updating survey to be too few to be statistically reliable as an indicator of the value of milk.

Therefore, in June of 1992, a national hearing was held to consider changes to the M–W price series. The result was the current BFP, which replaced the M–W in 1995. The current BFP uses the same base month competitive pay price as the M–W, but updates the base month price with a formula that uses changes from the base month to the next month in prices paid for butter, nonfat dry milk, and cheese. An updating process

is necessary to attempt to capture current supply and demand conditions, since the base month survey price is not available until a month after the milk has already been marketed.

The problem of using a declining volume of Grade B milk to accurately represent the value of milk used for manufacturing was not solved with the implementation of the current BFP. By 1995, the percentage of milk marketed as Grade B milk had fallen to 8 percent of total Wisconsin marketings and 11 percent of total Minnesota marketings. Nationally, Grade B milk constituted less than 5 percent of total U.S. milk marketings in 1995, compared with 9 percent in 1989—a decline of 45 percent. Minnesota and Wisconsin accounted for 2.9 billion pounds, or about 42 percent of the national Grade B milk marketed in 1995; but this was less than 2 percent of all milk marketed in the U.S. that year. In fact the decision based on the basic formula price hearing recognized that ''the adoption of the base month M–W price, or any Grade B milk series, is only a short term solution, since the amount of Grade B milk production is expected to continue declining.''

The 1996 Farm Bill, enacted in early April 1996, requires consolidation of the Federal milk marketing orders into between 10 and 14 orders, and, among other provisions, authorizes the Secretary to implement the use of uniform multiple component pricing when developing one or more basic formula prices for manufacturing milk. As part of the process of implementing the provisions of the Farm Bill, several committees were formed to deal with specific issues involved in restructuring the Federal milk order system, and public comments were requested.

Basic Formula Price Replacement Committee

One of the committees formed to assist in the restructuring process was the Basic Formula Price Replacement Committee. This committee hosted a public forum on dairy price discovery techniques in Madison, Wisconsin, in late July 1996, considered numerous comments submitted by interested persons, established criteria for a new BFP, conducted extensive study and analysis, and issued a preliminary report on BFP replacement in April 1997. The report generated additional comments, and the committee studied, incorporated, and developed responses to these comments, as well as those received earlier, in the development of this proposed new basic formula price.

The Committee began with a set of goals to be met by a replacement for the basic formula price. These goals are: (a) the replacement must meet the supply and demand criteria set forth in the Agricultural Marketing Agreement Act of 1937 (the Act), (b) the replacement price should not deviate greatly from the general level of the current BFP, and (c) the replacement should demonstrate the ability to change in reaction to changes in supply and demand.

To achieve the basic goals of BFP replacement, a set of criteria was established to evaluate the various alternatives. The criteria were: (a) stability and predictability; (b) simplicity, uniformity, and transparency; (c) sound economics—e.g., consistency with market conditions; and (d) reduced regulation.

Stability refers to a moderation of month-to-month fluctuations in the basic formula price. A price that fluctuates less than the current BFP would improve the wholesale and retail pricing structure in the industry and facilitate an improved planning horizon for both producers and processors. A predictable basic formula price would allow the industry to improve long-range planning, thereby contributing to economic efficiency.

The new basic formula price should be simple to derive and easy for the dairy industry to understand, since it would be used in all Federal milk orders. The BFP also should be transparent. That is, it should be possible to see and understand the derivation of the BFP, even if a complex formula is used to determine the price. Further, the new basic formula price should be applied uniformly within orders and on a national basis.

The most important criterion is sound economics—the ability of the BFP to reflect the supply and demand for raw milk. Currently, the BFP is intended to represent the interaction of supply and demand for manufacturing milk and thereby, the supply and demand for fluid milk at a minimum level. A replacement that fits this traditional role suggests that the supply and demand for manufacturing milk should be reflected in the new price.

Sound economics also implies that minimum prices for milk used in manufactured products will be market-clearing. The use of two classes to price milk used in traditional ''surplus'' products of butter, nonfat dry milk, and cheese (that is, milk in excess of that amount needed to fill fluid demand), helps assure that only one product will have to be priced at a level that clears the market. The market-clearing product in most cases is butter/nonfat dry milk.

The criterion of sound economics is sufficiently important that it may override other criteria. For instance, supply and demand factors that result in significant price fluctuations may come at the expense of stability; simplicity may conflict with the need to incorporate important supply and demand factors reflecting market conditions for milk. A degree of complexity may be necessary to accommodate sound economics.

Finally, reduced regulation is a desirable trait of a new basic formula price, to the extent that it does not come at the expense of sound economics. One function of the BFP is to represent a market-clearing price for milk used in manufactured dairy products. Reducing regulation should be attempted while discovering such a price, but the goal of reduced regulation is of less importance than accurately reflecting the market forces of supply and demand.

A replacement for the BFP could affect regulation in two ways. In reporting price information to determine the basic formula price, many plants currently report payroll information on a monthly basis. A revised method for determining the BFP could entail reporting manufactured product transaction prices, manufacturing costs and yields, and additional auditing to assure data accuracy. Second, a system of pricing milk used in manufactured dairy products based on components might require increased reporting and accounting to determine component usage.

University Study Committee

In recognition of the expertise available within the academic community, a University Study Committee (USC) was commissioned to conduct objective analyses of the performance of numerous alternatives to the current basic formula price. The ten members of the USC represent six land grant universities around the country.

The USC established its own criteria for screening potential replacements for the basic formula price. Alternatives that met the USC's threshold criteria were then subjected to further analysis. The USC's first level criteria were: (a) a long life—alternatives that were expected to have a useful life of less than 10 years were eliminated; (b) understandable and transparent—the procedure of deriving a price must be easy to see and understand; (c) geographic uniformity—the same basic formula price would serve as the minimum price across the country; and (d) reflect the manufactured milk market—the values of milk used in butter, powder, and cheese would be combined into a single formula price.

For its second level of criteria, the USC used a form of time-series analysis called vector autoregression (VAR), to test whether the proposed basic formula price replacements would satisfy the following: (a) reflect national market conditions for manufactured dairy products—the price for milk used in manufacturing should reflect the supply and demand for milk used in those products, measured by simulating a change in the level of stocks of the products and observing the impact on prices generated by each basic formula price option; (b) reflect changes in the value of milk used in manufacturing—observing how well each option responds to changes in the prices of butter, powder, and cheese; and, (c) provide price stability—as reflected by low standard deviations and low price variation in response to a change in stocks.

Comments

Over 1,600 comments were received relative to the basic formula price in response to the invitation to comment under Federal Order Restructuring. The comments ranged from one-page letters from dairy producers to lengthy discussions of a particular alternative to the BFP from trade associations or cooperatives. Most of the comments may be grouped into five categories representing alternatives to the current BFP. These five alternatives are: economic formulas, futures markets, cost of production, competitive pay price, and product price and component formulas. In addition, numerous comments were received relative to the use of National Cheese Exchange prices in particular and exchange prices in general in the determination of a basic formula price.

Economic Formulas

Economic formulas are mathematical or statistical formulas that incorporate factors reflecting the supply and demand for a particular commodity or product. Typically, economic formulas include factors such as consumer income, production, prices of competing products, population levels or per capita consumption, and inventories. Several comments were received supporting the use of an economic formula for determining the BFP. Two parties submitted specific formulas. One formula included the cost of milk production and a commodity reference price, plus consumer prices to reflect the demand side of the supply/demand equation. A second formula included such factors as disposable per capita income, a dairy parity index, and an index of manufactured dairy product prices. This formula also included a productivity index to allow the formula to automatically adjust for changes in productivity over time.

Proponents of economic formulas expressed the view that since these formulas incorporate both the supply side and the demand side, economic formulas would truly represent the value of milk, and would therefore be appropriate for use in determining the BFP. Additionally, proponents expressed the view that economic formulas would diminish price volatility and reduce the effect of the cheese market on prices, which proponents viewed as a positive outcome.

Opponents of economic formulas expressed the view that since economic formulas do not react to changing conditions, particularly technology, the formulas would not yield a value of milk that represented the true supply and demand for milk. Since many economic formulas have a tendency to be static rather than dynamic, the formulas do not react to changing economic conditions as rapidly as may be necessary. Opponents went on to explain that economic formulas are difficult to adjust; in many cases the only people who understand them are the people who constructed them in the first place.

Economic formulas can, if properly constructed, have a tendency to reflect the supply and demand for milk used in manufactured dairy products, at least in the short run. Stability of economic formulas depends on the variables used in the formula and the weight they receive. Since agricultural commodity markets can be relatively unstable because of inherent characteristics such as seasonality, weather, perishability, etc., the more weight a commodity price has in a formula the more unstable the formula is likely to be. Thus, a formula that attributes less weight to commodity prices will be somewhat more stable than a formula that attributes greater weight to such prices. The trade-off, of course, is that higher commodity-weighted formulas react more quickly to changes in market conditions. By contrast, factors such as cost of production, per capita consumption, population, and income tend to be more stable in periods of little or no inflation, and thus have a more stabilizing influence on formula-driven price series.

Changing technology should lead to reevaluating the weights of various cost components, but this subjects the formula to legitimate debate and scrutiny that in turn diminish the simplicity, transparency, and stability of a formula-derived BFP. Thus, there is a significant risk in using methodology to develop formulas that result in a price announced on the basis of data that is not publicly known, with only those announcing the price knowing the specific details of the derivation of the price. Further, when the methodology is unveiled, further debate and scrutiny are invited.

Additionally, data availability can be a problem. Some data may be available only on an annual basis, whereas the BFP must be established monthly. Substituting or estimating data is very likely to introduce a bias into the formula. The developer must exercise considerable judgment in constructing the formula price, and a major criticism of economic formulas is that they are difficult to understand, with the developer frequently being the only one to fully understand its intricacies.

The USC divided economic formulas into three categories: (1) cost of production formulas, which will be discussed later, (2) econometric models, and (3) formulas which included either a feed cost snubber or a stock snubber. The USC dismissed econometric models on the basis of the first level criteria, as being too difficult to understand and in constant need of maintenance, re-specification, re-estimation, etc. The formulas which included the feed cost snubber or the stocks snubber passed the first level criteria, but did not perform as well as other alternatives when subjected to the level two analysis.

Futures Markets

A number of comments were received proposing that the futures market be used to replace the basic formula price. One proponent proposed using a monthly weighted average of milk futures transactions on the Coffee, Sugar, and Cocoa Exchange (CSCE) computed on a daily basis. Proponents explained that since the commodity exchange allows free and open trading the price established would represent the national supply and demand for milk. A proponent went on to explain that open trading on a daily basis on the commodity exchange allows everyone in the dairy industry to track the established prices on a daily basis rather than under the current system where the price is just announced.

Opponents to the use of the futures market in establishing the BFP explained that the futures markets for dairy, and milk in particular, have not been trading for a sufficient period of time to determine what the exchange price represents. Opponents also expressed a concern that the volume

and open interest, at least for the present, are relatively small, and questioned the future viability of the dairy futures markets. Several opponents also expressed a lack of faith in having the BFP established by commodity traders rather than by the dairy industry although many, if not most, agricultural commodity prices are determined on futures markets.

Both proponents and opponents of futures markets agreed that once a solid history of trading dairy futures is available, it may be feasible to use the futures market to establish a BFP.

There are currently two different futures contracts for pricing milk. The Coffee, Sugar, and Cocoa Exchange (CSCE) has a fluid milk contract. In addition, the CSCE and the Chicago Mercantile Exchange have basic formula price contracts, which are cash settlement contracts using the current basic formula price. The cash settlement contract would not make a viable alternative to the current basic formula price because it is settling against an announced price that will not continue to be announced.

The fluid milk contract has behaved somewhat erratically when compared to the basic formula price, leading economists to question what market the fluid milk contract is pricing. Early research indicates that the fluid milk futures market is reflecting the spot value of Grade A milk rather than the value of milk used in manufactured products. Since the BFP is intended to represent the value of milk used for manufacturing, use of the futures market in its determination would not be appropriate.

Futures markets are not necessarily stable, nor are they intended to be. Futures prices fluctuate on a daily basis, reflecting changes in expectations about supply and demand. A weighted monthly average would introduce more stability, but the commodity influence would still drive the BFP and introduce significant variation into the price series.

The use of futures markets to derive the BFP could generate a price that is applied nationally. However, the futures basic formula price, although conceptually global in terms of participation, must be heavily influenced by supply and demand conditions in the upper Midwest region, since this region is the defined delivery area in the contracts.

There is a significant lack of familiarity, particularly at the producer level, with futures markets. Thus, transparency would not be a feature of a futures-driven BFP. Since most people do not understand futures markets it would be difficult to convince individuals that a futures-derived BFP is simple or predictable.

Finally, futures markets are not, and were not intended to be, cash price-setting mechanisms. They were established to transfer price risk. There is no reason to expect them to be suitable in serving a price-setting function for which they were not intended. There are also questions about the long term viability of the milk futures contract. Although volumes traded increased last summer, they have since declined, even more after the opening of the basic formula price cash settlement contract. Even if the milk futures markets continue to operate, they are very thin. Their use in establishing Federal order prices would result in a very small amount of trading setting prices across the nation.

The USC rejected use of the futures market to replace the basic formula price for many of the same reasons discussed above. The USC expressed particular concern about what is priced by milk futures contracts, and about the future viability of the milk futures market.

Cost of Production

A considerable number of comments received, predominantly from dairy producers, supported determining the basic formula price on the basis of the cost of producing milk. Proponents explained that the minimum price for milk should be no less than the cost to produce the milk, and many proponents expressed the opinion that a profit should also be included in the cost of production figure. Other proponents suggested a yearly adjustment or updater to account for inflation. Some proponents suggested the implementation of a quota system in addition to using the cost of production to determine the BFP, realizing that a guaranteed cost of production would undoubtedly lead to over-production. Very few of the proponents discussed what cost of production figures should be used or how to implement a cost of production basis across an industry with substantially different costs, even within the same region.

Very few comments opposed the use of cost of production to establish the BFP. Those filing opposing comments pointed out that cost of production represents only the supply factor for milk, including no demand factor. The opponents also observed that there are great difficulties in determining a cost of production regionally, let alone nationally, because cost of production varies greatly across regions.

Cost of production would be more stable than the current BFP, and more stable than other options based heavily on commodity market prices. Stability is due to the fact that many of the input values do not change rapidly or as rapidly as commodity prices. In fact, some cost factors may move in opposite directions, reducing the net effect of any one input factor. This is also one of the drawbacks to a cost of production-based BFP. The cost of production may not respond quickly enough, or sufficiently to reflect changes in supply conditions if, indeed, there is any observable link between cost of production and levels of milk production.

A basic formula price based on cost of production would be more complicated than many other options suggested, since considerably more data would be needed to accurately estimate cost of production. And, although a uniform price could be calculated if national averages are used, there is a wide range of cost differences by region, which would introduce problems of uniformity in prices.

The most serious drawback with using cost of production to replace the BFP, and the reason the USC dropped cost of production from consideration based on their level one criteria, is that cost of production represents only the supply side of the market, ignoring factors underlying demand or changes in demand for milk and milk products.

Competitive Pay Price

A number of producer groups and cooperative associations submitted comments supporting the use of a competitive pay price to establish the basic formula price. These proponents expressed the view that a competitive pay price is a good indicator of the national supply and demand for milk and would provide a simple, economically defensible method of calculating the true value of milk used in manufactured dairy products. Many of the proponents suggested adding additional states to the competitive pay price survey of purchasers of manufacturing grade milk in Minnesota and Wisconsin. Some of these proponents also suggested that a competitive pay price be adjusted for hauling subsidies, that premiums be removed, and that adjustments be provided for any unique payments that would not necessarily reflect true supply/demand conditions. Several proponents suggested including a competitive pay price for Grade A milk, with some adjustments, as a way to improve the size and representativeness of the competitive pay price.

Some of the comments favoring a competitive pay price addressed the issue of adjusting the competitive pay price to the current month. For the most part, proponents were opposed to using a formula containing a cheese price established on the National Cheese Exchange or the Chicago Mercantile Exchange, but supported the use of the NASS cheese survey price for such a purpose.

Opponents of a competitive pay price expressed the view that the current BFP, which uses a competitive pay price determined in Minnesota and Wisconsin, does not represent the national supply and demand for milk used in manufacturing but represents the value of such milk in Minnesota and Wisconsin. These comments stated that supply/demand situations in other regions of the country may vary significantly from Minnesota and Wisconsin, with regional price distortions resulting from the use of prices from a specific region.

A competitive pay price results from open market negotiation between dairy farmers (or their cooperatives) and milk processors. Competition requires sufficient numbers of buyers and sellers so that no one participant or group of participants can unduly influence the price. In addition, the price can not be a Federal- or State-regulated price, such as the price for Grade A milk currently priced under Federal milk orders.

Identifying a competitive pay price in today's dairy industry, where 70 percent of the milk is currently covered under Federal milk marketing orders, is a challenge. After accounting for state regulations, only about two percent of Grade A milk is unregulated, and it is unlikely that even this small amount of milk is not affected by regulated prices. Only about five percent of the total milk marketed in the U.S. is Grade B or unregulated, and 42 percent of that milk is located in Minnesota and Wisconsin. The remainder is scattered among 23 states in amounts too small and delivered to too few processing plants to generate a competitive pay price. In areas where alternative markets exist, the price for unregulated milk likely will not be below the price paid for regulated milk, since producers would prefer to sell their milk to regulated handlers to receive the higher regulated price. Thus, unregulated handlers are compelled to meet the regulated price in order to attract sufficient supplies of milk. The circular result is that the regulated price ultimately becomes the competitive price. This process does not lead to a representative competitive pay price for milk.

Most competitive pay price alternatives are not structurally different from the current BFP and will not yield a price series any more stable than the current BFP. Some improvement in stability might be possible with a more stable ''updater'' to adjust the competitive pay price. However, the updater may then result in a competitive price that fails to reflect the current value of milk used in manufacturing.

Competitive pay prices may have problems associated with uniformity, simplicity, and sound economics. With regard to simplicity, an updater would be necessary in conjunction with a method to determine premiums and federal order payments to deduct from the competitively set price. These adjustment mechanisms are neither very simple nor transparent. A competitive pay price may be uniformly applied, but as the competitive pay price often reflects the use of prices in just one region, the derived price may not be fully applicable across regions.

The concept of a competitive pay price has appeal from the standpoint of sound economics. But the submitted proposals, as well as the current basic formula price construction, raise concerns about the degree of competition reflected in a price based on the declining volume of Grade B milk produced and purchased, or the introduction of Grade A milk that, even if unregulated, is significantly influenced by minimum order prices and therefore suspect as a ''competitive'' price.

The addition of a Grade A price to a competitive pay price survey has been considered likely to raise the level of the BFP significantly above the level of the current basic formula price. The Minnesota-Wisconsin Grade A/B price currently collected by NASS has averaged about $0.75 per hundredweight above the BFP over the past five years. While the proposal to exclude performance premiums and the need for adjustment for the current month may help to minimize problems associated with the regulated price serving as the competitive price, serious issues are raised by this proposal. More data would be necessary, increasing the burden of reporting premiums paid to producers, the basis for such premiums, hauling subsidies, and hauling cost data.

The changes in market conditions and limited information would reduce the predictability of the new basic formula price, and transparency would not be assured, particularly if the price is based on a survey. The current BFP suffers from these same shortcomings, particularly as the price support program has declined in importance in the market.

In response to comments concerning the declining base of manufacturing milk in Minnesota and Wisconsin from which to draw survey information and the limited geographical area encompassed by the current survey, Grade A manufacturing milk data was gathered to analyze alternatives to the Minnesota-Wisconsin base month price. A Grade A pay price series was then computed. The price series included nine states' pay prices for Grade A milk that is used in manufacturing. These nine states, California, Idaho, Iowa, Minnesota, New Mexico, New York, Pennsylvania, Washington, and Wisconsin, account for approximately 75% of the Grade A milk used for manufacturing in the U.S. The Grade A pay prices were adjusted for protein content, performance premiums, over-order premiums, and hauling subsidies. The Grade A competitive pay price was below the current BFP base month price in 27 of the 35 months included in the study. When the product price formula updater was included, the Grade A pay price averaged $0.11 per hundredweight below the current BFP.

The determination that a Grade A pay price is lower than the current BFP conflicts with the hypothesis presented earlier. However, further analysis indicates that the result is not surprising when one considers the relative pay price and the quantity of milk used for manufacturing in each of the states that were included. Also, the 5-percent weighting of butter/powder versus 95 percent cheese production in the current BFP updating formula changed significantly, to approximately 30 percent butter/powder and 70 percent cheese with the use of national production data rather than the Minnesota-Wisconsin production data.

The reduced price level that would result from this study certainly provides justification for discarding a competitive pay price as a replacement for the basic formula price. One reason for the lower price level is the inclusion of prices from western states, especially California. California has become the nation's largest milk-producing state, and a major percentage of California milk is used in manufactured products. California has its own State milk order regulation, and maintains prices for milk used in manufactured products at levels below those in other areas of the nation, largely through use of very generous manufacturing allowances in computing milk prices from product prices. Handlers in other western states, even those under Federal order price

regulation, must compete with California handlers to sell their manufactured products. As a result, pay prices to producers in these areas tend to be lower than in the rest of the United States.

The USC evaluated several different competitive pay price series. Two of these price series, an A/B series and an adjusted A/B series, passed the level one criteria, but even these two series were questionable in their ability to reflect the manufactured milk market. Neither one of these two price series performed well when tested using the level two criteria and therefore were dropped from further consideration.

Product Price Formulas and Component Pricing

In comments supporting the use of a product price formula to replace the current basic formula price, proponents expressed the opinion that a price determined from the national finished product markets more accurately reflects the value of milk for manufacturing than other methods of determining a milk price. Proponents explained that the price handlers can afford to pay for milk is determined by the price for which the finished product can be sold. Therefore, a pricing system that translates finished product prices to a price for raw milk would result in the most representative raw milk price for both producers and handlers. Proponents of product price formulas explained that component pricing, with prices determined for butterfat, protein, nonfat solids, etc., would best be accomplished through product price formulas, to reflect the value of each component in finished product prices. Proponents also explained that product price formulas are relatively easy to use and understand, and that the value of milk may be computed on an on-going basis by everyone in the dairy industry by following commodity markets.

Proponents of multiple component pricing (MCP) explained that since the components of milk are what give milk its value, particularly in manufactured products, it is the components that should be priced; particularly butterfat and protein, and to a lesser extent the other solids contained in the milk.

Opposition to product price formulas was directed at the need for product yields and make allowances in determining a milk price or component prices. Opponents expressed the view that yields and make allowances would not reflect the true results in manufacturing plants, and therefore would not yield an accurate price for milk. Opponents further explained that when yields and make allowances are determined, they would be difficult to adjust and would not react to changes in manufacturing conditions. Opponents also argued that when an incorrect make allowance is established, plants are guaranteed a return, or profit, to the detriment of dairy farmers. Other opponents explained that an incorrect yield or make allowance may force payment for milk at a level that would not allow a return to the manufacturing plant.

The USC tested several product price formulas, including a one-class multiple component pricing formula and a set of formulas similar to the formulas recommended in this decision. Based on the results of the USC analysis measured against their level two criteria, the multiple component pricing formulas had the best overall performance of any of those alternatives reaching the level two testing.

Commodity Prices

A considerable number of comments were received concerning the use of commodity prices in determining a basic formula price. Most of the comments were directed at the use of National Cheese Exchange prices in the computation of the current BFP. Commenters expressed the view that the prices were being manipulated by the big cheese companies in order to keep milk prices low so that the cheese companies could make a larger profit.

Proposed Basic Formula Price Replacement

Application of the BFP and USC Committees' criteria for BFP replacement to the various BFP alternatives resulted in the determination that the proposed component pricing product price formulas best meet the stated goals and criteria.

Prices derived from product price formulas that use commodity prices as the basis for the computed price are subject to the same problems of stability as the underlying commodity prices. For the most part product price formulas do not include a factor to improve stability.

Product price formulas are relatively simple to compute and understand, and may be applied uniformly, or on a regional basis, accommodating differences in yields or make allowances. Product prices established in a relatively free and open interaction between supply and demand directly translate the value of the finished products to the value of milk and its components. Therefore, they have a sound economic underpinning. Arguably, product price formulas reflect the supply and demand for the manufactured product, rather than for raw milk used to produce the product, and therefore may be criticized for not adequately representing market conditions for milk used in manufacturing. They should, however, reflect accurately the market values of the products made from such milk.

Product price formulas can require increased data collection, particularly if industry insists on audited make allowances and actual transaction prices to be used in the formulas.

The predictability of prices computed from product price formulas should be reasonably good, or at least no worse than predictability of the underlying commodity prices. Short run predictability should even improve since all information needed to compute prices is reported on an ongoing basis, unless survey information is used. This contrasts with the present BFP computation in which a major part of the formula, the base month Minnesota-Wisconsin price, is not available until the actual basic formula price is announced.

Product price formulas are transparent, since the information to compute the price is available, and the effect of a change in commodity prices or one of the other factors may be observed and quantified.

This proposed rule recommends that the BFP be replaced with a multiple component pricing system which will determine butterfat, protein, and other solids prices for milk used in Class III products and butterfat and nonfat solids prices for milk used in Class IV products.

Numerous comments were received concerning whether the revised orders should keep Class III–A (i.e. a four class market) or whether all hard manufactured products should be priced in Class III. The opposition to Class III–A centered around two issues: (1) the integrity of the classified pricing system, and (2) the perception that a butter/nonfat dry milk class would reduce producer pay prices. The supply/demand for butter and nonfat dry milk is sufficiently different from the supply/demand for cheese to justify separate classification and pricing. In addition, the recommendation to use the higher of the Class III or Class IV price for determining the Class I price, and base the Class II price on the Class IV price, should more accurately reflect the value of these different categories of use.

Changes in the cheese markets have a major impact on the dairy industry. The cheese industry has evolved from cheese production being a means of surplus milk storage and removal to a competitive consumer demand-driven

industry. Currently, more milk is used in cheese production than is used in Class I. The nonfat dry milk industry is now one which balances surplus milk storage and removals. This category is also evolving, with increasing commercial uses for nonfat dry milk, and dry milk products formulated for specific needs. Increasing quantities of nonfat dry milk are being produced for use in other dairy products and the food and pharmaceutical industries.

The separation of manufacturing milk into two classes will assure that shifts in demand for any one manufactured product will not lower the prices for milk used in all other classifications, including Class I prices. Recent milk price increases have been attributed to increased cheese values. Many people expect that per capita cheese consumption will continue to grow. However, some warn of impending market saturation as more cheese plant capacity materializes and consumer tastes and preferences change. Cheese consumption patterns are based on many factors outside the dairy industry's control. Health concerns relating to changing demographics, changes in pizza consumption and income growth, as well as retail and wholesale inventory decisions, etc., will impact consumption and prices. A recent report by the Food and Agricultural Policy Research Institute noted that ''anything that results in demand weakness for cheese will likely result in a markedly different outlook for the entire dairy sector . . .'' The proposed pricing system will allow other manufactured products (i.e. Class IV) to move Class I prices, helping to reduce the volatility in milk prices.

Over the last six years cheese prices, and to a lesser extent butter prices, have shown considerable fluctuation while the nonfat dry milk price remained relatively stable. Price changes for these finished products are indicative of various supply/demand situations over time. The stable nonfat dry milk prices and the butter prices prior to the fall of 1995 were a reflection of large stocks being carried in storage and flat demand. Prices for nonfat dry milk and butter became more volatile once government inventories were depleted and were no longer a factor in stabilizing prices. Butter prices increased during May and June of 1997 in response to demand for cream, while both cheese and nonfat dry milk prices remained relatively flat. These differences in price movements indicate separate supply and demand balances for different manufactured dairy products.

The different supply and demand characteristics for the cheese and butter/nonfat dry milk market segments warrant separate classification and prices. Research by Emmons (discussed in the BFP Committee Preliminary Report) concluded that no single pricing system is appropriate for all classes of milk and, in fact, that multiple pricing formulas are appropriate. Each product would be allowed to achieve its market clearing level independent of the other products. Dairy farmers will be paid a price which is more representative of the level at which the market values their milk.

The current BFP serves two functions: (1) a fixed differential is added to the current BFP to establish the Class I and Class II prices; and (2) the current BFP serves as the Class III price, or the price for milk used in manufactured products. In some Federal milk orders a seasonal adjuster is added to the BFP to determine the Class III price. The proposed replacement would function in a similar fashion, using component prices. Class IV (butter/nonfat dry milk) would be priced on a butterfat and nonfat solids basis. Class III (hard cheese) would be priced on a butterfat, protein, and other solids basis. The price of butterfat would be the same in Class II, Class III, and Class IV. Payments to producers under MCP would be based on the Class III prices for butterfat, protein, and other solids in addition to a producer price differential computed from the value differences between other classes and Class III components and from differences in butterfat and other solids values between classes. Producer pay prices also would be adjusted for the somatic cell count of producers' milk under orders with MCP.

Because nonfat dry milk may be substituted for fresh milk or wet solids in the production of many Class II products, the Class II price should be determined using Class IV butterfat and nonfat solids prices plus a fixed per hundredweight differential of $0.70 over the Class IV skim price. The $0.70 differential represents the cost of converting concentrated milk to dry solids, plus rehydration. Class II would be priced on a current basis rather than in advance to enable the Class II price to be aligned with the Class IV price. This alignment should also reduce perceived problems in the use of nonfat dry milk to make Class II products. Tying the Class II price to the Class IV price by this fixed differential should reduce the incentive to produce nonfat dry milk for use in Class II products.

The Class I price should consist of a Class I butterfat price and a Class I skim milk price. The Class I butterfat price would be determined by adding a fixed Class I differential to a 6-month declining average of the second preceding month's butterfat price (used in Classes II, III, & IV). The Class I skim milk price would be determined by adding a Class I differential to a 6-month declining average of the second preceding month's skim milk price (using the higher of Class III or Class IV skim prices). The calculation of Class I prices would be the same for both MCP and non-MCP markets.

Announcement of Class I butterfat and skim milk prices in advance eliminates current problems caused by butterfat differential fluctuations. Handlers would have true advance Class I pricing. There would be two different butterfat prices each month but no butterfat differential. The separate Class I butterfat price should integrate easily since Class I butterfat testing and reporting currently exists.

The prices for butterfat, protein, and other solids used in Class III would be computed as follows:

Butterfat price=(NASS AA Butter survey price − 0.079)/0.82)

Protein price=((NASS block cheese survey price − 0.127)x1.32)+((((NASS block cheese survey price − 0.127)x1.582) − butterfat price)x1.20)

Other solids price=((NASS dry whey survey price − .10)/0.968).

The butterfat price for Class IV products is the same as for Class III while the nonfat solids price is computed as follows:

Nonfat solids price=((NASS nonfat dry milk survey price − 0.125)/0.96)

This system of pricing best fits the three established goals and criteria, discussed previously, for a replacement to the BFP.

The first goal, that a replacement for the basic formula price meet the supply/demand criteria set forth in the Act, may be the most difficult to evaluate definitively since the Act specifically mentions minimum prices to producers. The BFP, as part of a classified pricing system, does contribute to minimum prices to producers. However, the basic formula price does not need to be set at a level to ''assure an adequate supply of wholesome milk.'' The proposed BFP replacement meets the supply and demand criteria for milk used in butter/nonfat dry milk and cheese even though they are established from finished product commodity prices. The commodity prices are based on a competitive marketplace and reflect the supply and demand for those products (Class III and Class IV) that utilize

approximately 50% of the Grade A milk supply.

The supply and demand for Grade A milk is not limited to one category of products. The same milk may be used for fluid or soft manufactured products as well as the Class III and Class IV products used to determine the BFP. As a result, the minimum prices established for Class III and Class IV reflect supply and demand not only for finished products but for the milk used to make them.

The second goal is that a BFP replacement should not deviate greatly from the price level of the current BFP. Several comparisons of this proposed basic formula price replacement were made to the current BFP to determine whether the proposed formulas resulted in a price level for milk used in manufactured products that is reasonably close to the current BFP.

Protein, butterfat, and other solids values were combined to compute a Class III hundredweight price using standard factors of 3.15 for protein and 5.5 for other solids. The resulting price averaged $0.26 or 2 percent above the current BFP for the 69-month period of September 1991 through May 1997. The Class IV hundredweight price, computed from the butterfat price and the nonfat solids price using a constant 8.65 for nonfat solids, averaged $0.22 or 2 percent below the current BFP during the same period. The proposed Class III and Class IV prices were both highly correlated with the current basic formula price. The Class III price had a .963 correlation coefficient while the Class IV price had a .749 correlation coefficient.

The proposed basic formula price replacement also meets the third primary goal. The proposed formulas have the ability to respond to supply/demand changes. The Class III and Class IV prices should respond appropriately since the formulas use NASS-surveyed commodity prices that reflect the supply and demand for these commodities.

Overall, the proposed BFP replacement formulas (for Class III and Class IV) meet the established criteria necessary for a BFP replacement. The formulas are relatively simple to use and can be applied uniformly. The formulas are transparent and the Class III and Class IV formulas meet the sound economics criterion.

The proposed use of NASS survey prices may reduce the ability to predict prices, at least in the near term, since there is a limited history of using NASS survey prices for computing Federal order prices. Predictability should improve over time as the relationship between the survey prices and easily-tracked exchange prices becomes apparent to industry observers. Regulation should be reduced since NASS is collecting the weekly cheese survey, and the manufacturing plant survey would no longer be required. Regulation could increase, however, make allowances are audited.

The proposed formulas used in the basic formula price replacement may result in prices that are less stable than the current BFP. Unlike the current BFP, in which commodity updates are used to adjust the producer pay price survey, changes in product prices would be the sole determinant of changes in component prices. The current BFP is based primarily on the base month survey price, which does not move as rapidly as the commodity markets (as noted by many respondents). As a result, the current BFP reacts more slowly to changes in the commodity markets than does the proposed commodity-driven price series.

There has been considerable criticism of the use of exchange prices (particularly cheese) in determining the basic formula price. This criticism ranged from inaccurate representation of commodity values to accusations of market manipulation. The National Cheese Exchange eventually closed and the Department decided to use a new NASS Cheddar cheese price survey in the computation of the basic formula price and in federal milk order component pricing plans. Cheese transactions occurring during the week are surveyed and released by NASS on the following Friday. From the weekly price and sales volume a monthly weighted average price is determined.

The BFP Committee recommended using NASS cheese survey prices and having NASS develop a price survey for butter. This survey would have to be expanded and data released more often. Nonfat dry milk and dry whey prices are currently surveyed and published, but will need to be published on a more timely basis if they are used in component price computations.

Several alternatives to a NASS price survey were considered. There is a cash butter market at the Chicago Mercantile Exchange (CME). These prices are currently used to determine the butterfat differential and butterfat price in all federal milk orders. Dairy Market News (DMN) publishes a wholesale butter price. Both of these price series have been criticized due to the ''thinness'' of trading. There is no exchange trading of dry milk products. Alternatives to a NASS survey are limited to prices published by Dairy Market News or a California survey. The prices reported by DMN are generally considered to be representative of the dry product markets. However, the prices are reported as a range. A simple average of the prices is used to compute a monthly price and may not reflect the weighted average price at which the product moved. In many instances multiple heat treatment products are involved, and a substantial number of forward contracts are included. The DMN prices are not intended to establish prices but are provided for market information.

NASS data traditionally have been collected via a survey with voluntary participation. The price information in the current cheese price survey, like most NASS data, is not audited. NASS applies various statistical techniques and cross-checking with other sources to provide the most reliable information available.

Alternatives and comments regarding exchange trading and the use of NASS survey prices are invited. This decision proposes the use of NASS survey prices for computing the component values used in the BFP replacement.

Make Allowances

Several characteristics of Federal milk orders should be kept in mind concerning make allowances. First, federal milk order prices are minimum prices. Second, the BFP and its replacement should price milk used in what have been considered surplus products. The BFP is not intended to represent the total value of all milk. Third, most dairy manufacturing plants are not required to participate in the federal milk order pool and are not required to pay federal milk order prices.

An economic engineering approach to determine appropriate make allowances was investigated. Neither the time nor the resources are available to construct models for determining appropriate make allowances at this time. As an alternative, various sources were used to determine appropriate make allowances for the basic formula price replacement. Research by Stephenson and Novakovic of Cornell University indicates that results obtained by using an economic engineering approach can be comparable to a survey of plants. Resources may need to be devoted to developing an economic engineering model, a survey, or a combination of the two.

The proposed butter make allowance of $0.079 per pound and the nonfat solids make allowance of $0.125 per pound were developed from an analysis of several sources. Research by Stephenson and Novakovic on surveyed data from butter and nonfat dry milk manufacturing plants resulted in

equations for estimating the long-run average cost per pound of producing butter and nonfat dry milk.

Applying these equations to national average nonfat dry milk production resulted in make allowances ranging from $0.1166 to $0.1561 per pound. These values are in alignment with the seven-year average, $0.1392 per pound, based on audited cost of production data published by the California Department of Food and Agriculture. This California average included a return on investment. These computed costs straddle the proposed $0.125 make allowance. The proposed $0.125 make allowance is approximately 90 percent of the California production costs. The $0.125 make allowance is appropriate, as it covers the costs of most plants but does not cover the costs of all manufacturing plants. Several comments in support of product price formulas also suggested that a make allowance of $0.125 for nonfat dry milk was appropriate.

The determination of the $0.079 butter make allowance is also based on research by Stephenson and Novakovic. However, applying the long run cost equations to national production results in national make allowances ranging from $0.1318 to $0.1013. These values are considerably higher than the seven-year average of $0.0879 reported by California. Variation in plant size, or capacity, is the main reason for the differences between the computed values and the average for California butter plants. Many plants produce small quantities of butter, resulting in an understated average plant size and overstated cost figures. This rapidly becomes apparent when comparing California data to the national average data. California produces approximately three times more butter per plant than the national average at a lower cost. The $0.079 make allowance is set at 90 percent of the California audited cost of production. This make allowance should allow an efficient butter plant to operate.

The other solids make allowance is based on research conducted by Hurst, Aplin, and Barbano of Cornell University. Their research indicated a make allowance range of $0.079 to $0.259 per pound of whey powder, depending on plant size. The $0.10 used in the other solids price computation corresponds to the area of the manufacturing cost curve at which manufacturing costs per unit, that diminish as volume of production increases, begin to level off. This part of the cost curve would appear to be the most appropriate to use for determination of the other solids make allowance.

As in the case of the other solids make allowance, the proposed $0.127 per pound protein make allowance reflects the point where the long-run average cost curve begins to level off for Cheddar cheese production. This cost curve was developed by Mesa-Dishington, Barbano, and Aplin of Cornell University. The combination of the cheese and other solids (dry whey) make allowances result in a total Class III make allowance approximately $0.10 below the reported California audited make allowance.

The proposed make allowances used in computing the component prices for Class III and Class IV result in per hundredweight prices which did not deviate greatly on average from the current BFP over the period analyzed, one of the criteria for a basic formula price replacement. During the September 1991 through May 1997 period on which this analysis is based, Class III prices would average $0.26 per hundredweight above the current BFP, with Class IV prices averaging $0.22 per hundredweight below.

Changes in make allowances will affect component prices and per hundredweight milk values. A one-cent per pound change in the butter make allowance will affect the butterfat price in the opposite direction by $0.0122 per pound. This would be $0.0427 per hundredweight for milk at 3.5 percent butterfat. The butterfat price also is used in the computation of the protein price. The protein price will change inversely to the butter make allowance by $0.0146 per pound or $0.046 per hundredweight for milk with 3.15 percent protein. A positive make allowance change for nonfat dry milk will result in a decline in the nonfat solids price. A one-cent change in the nonfat dry milk make allowance will result in a $0.0104 per pound or $0.094 per hundredweight opposite change in the nonfat solids price. A one-cent change in the cheese make allowance will cause an opposite change in the protein price by $0.0322 per pound or $0.1014 per hundredweight for milk with 3.15 percent protein. Finally, a one-cent change in the other solids (dry whey) make allowance will change the other solids price by $0.0103 per pound or $0.0567 per hundredweight in the opposite direction.

The factors used in the proposed formulas to compute component prices are determined by the quantity of the component in the commodity, except for protein, for which the Van Slyke yield formula is used. In the protein formula, the 1.32 and 1.582 are yield factors derived from the Van Slyke cheese yield formula. The 1.32 factor times the cheese price is used in the protein price formulas in many current Federal order component pricing plans. Both the 1.32 and 1.582 are determined by calculating the change in cheese yield if an additional tenth of a pound of protein or butterfat is contained in the milk, holding everything else constant. Accounting for the additional value of butterfat in cheese is necessary. This additional value is included with the protein price calculation as a means of quantifying the amount by which the value of butterfat in cheese exceeds the value of butterfat in butter, and because it is the casein in protein that forms the molecular matrix that retains the butterfat in cheese. The ratio of butterfat to protein is calculated from the protein and butterfat yield factors of 1.32 and 1.582.

The nonfat solids formula uses the 0.96 factor as the percent or quantity of nonfat solids in a pound of nonfat dry milk. The 0.82 in the butterfat formula represents the percent or quantity of butterfat in one pound of butter. The 0.968 factor in the other solids formula represents the percentage of other solids in whey powder.

This proposed pricing system eliminates the need for regional yields based on regional differences in milk composition. The value of milk would be adjusted automatically based on the level of components contained in the milk in each order even though the component prices are the same nationally. This automatic adjustment means that handlers would pay the same price per pound of component but have differing per hundredweight values based on the milk component levels, creating equity in the minimum cost of milk used for manufacturing purposes.

An analysis of the basic formula price replacement requires several assumptions. Historic commodity price surveys are not available for all of the commodities. Prices used as substitutes for historic price survey data in this analysis include: the National Cheese Exchange 40-pound block prices for computing protein prices; the Chicago Mercantile Exchange Grade AA butter prices for computing butterfat prices; and the Dairy Market News Central States dry whey price for computing the other solids prices. Available survey prices used were nonfat dry milk prices published monthly by NASS in ''Dairy Products''.

One of the requirements of a basic formula price replacement, based on the assumption that the current basic formula price reflects the national

supply and demand for manufacturing milk, is that the price level not deviate greatly from the current basic formula price. All comparisons are thus made to the current basic formula price.

Three different comparisons were examined. First, standard component levels were used to compute a hundredweight price that was compared to the current basic formula price. The standards for computing Class III prices were 3.5 percent butterfat, 3.15 percent protein, and 5.5 percent other solids. The standards for computing Class IV prices were 3.5 percent butterfat and 8.65 percent nonfat solids. The second comparison computed a per hundredweight price using actual component tests to determine an ''at test'' value. A third comparison computed hundredweight prices at 3.5 percent butterfat with protein and other solids adjusted to reflect the change in skim milk that occurs as the butterfat is changed from ''at test'' to 3.5 percent. The latter two comparisons: (1) eliminate any bias occurring from the use of ''standard'' component levels, and (2) address seasonality of component levels. These latter two comparisons require tests for protein and other solids and were only performed for months in which test data was available (September 1991 through May 1997).

Statistically, the Class III hundredweight price and the Class IV hundredweight price did not equal the current basic formula price for all comparisons. However, in absolute terms, the average differences were relatively small. When compared to the Class III and Class IV prices computed using the constants, the current basic formula price averaged $0.26 per hundredweight below the Class III price and $0.22 per hundredweight above the Class IV price during the September 1991 through May 1997 period. Comparing the Class III and Class IV prices at test to the current basic formula price at test, the Class III price averaged $0.35 per hundredweight above the current basic formula price while the Class IV price averaged $0.19 below the current basic formula price. The third comparison, in which the Class III and Class IV prices are adjusted to 3.5 percent butterfat, had the Class III price averaging $0.32 per hundredweight above the current BFP, while the Class IV price averaged $0.22 per hundredweight below the current BFP.

In addition to comparing the absolute Class III and Class IV prices to the current BFP, it is important to compare the relationship between the Class III and Class IV prices and the current basic formula price. Correlation coefficients were computed to statistically test the relationships between the Class III and Class IV prices and the current basic formula price. Statistically, the correlation coefficients are positive and significant, indicating positive relationships between the current basic formula price and the Class III and Class IV prices. The correlation coefficient between the Class III price and the current basic formula price is generally above .95 while the correlation coefficient between the Class IV price and the current basic formula price is approximately .75. These relationships are expected since the current basic formula price is weighted more heavily on milk used for the manufacture of cheese than on the value of milk used in the manufacture of butter and nonfat dry milk.

The proposed Class III and Class IV formulas are computed from product prices representing the use of milk in each class. That is, the Class III price would be derived from the value of cheese while the Class IV price would be derived from the value of butter and nonfat dry milk. Therefore the Class III and Class IV prices could, and would, vary significantly from the current BFP in individual months, reflecting the economic (supply and demand) conditions for cheese, butter, and nonfat dry milk. This situation is particularly true of the Class IV price. For example, during 1993 and 1994 the price of butter and nonfat dry milk was relatively low and stable compared to the price of cheese. The degree of variability of individual months' prices from the average for the year is expressed by a standard deviation. A lower standard deviation indicates that individual observations (in this case, monthly product prices) vary less from the mean than would be indicated by higher standard deviations. These statistical descriptions indicate the difference in variability of prices between butter/powder and cheese in 1993 and 1994. Further examples are included in the attached table.

During 1993 the proposed Class IV price would have averaged $11.51 with a standard deviation of .15, compared to the 1993 BFP average of $11.80 with a standard deviation of .72, and the average Class III price of $11.99 with a standard deviation of .83. In 1994, the proposed Class IV price would have averaged $11.15 with a standard deviation of .13, compared to the 1994 BFP average of $12.00 with a standard deviation of .57, and the average proposed Class III price of $12.18 with a standard deviation of .65. For 1996, when the economic conditions for butter and nonfat dry milk had changed, and the prices become more volatile, the proposed Class IV price averaged $13.82 with a standard deviation of 2.19 versus the 1996 BFP average of $13.39 with a standard deviation of 1.26, and the proposed Class III average price of $14.04 with a standard deviation of 1.33.

The Class III and Class IV prices clearly reflect the value of the milk used in the respective manufactured products, whereas the current basic formula price reflects primarily the value of milk used to manufacture cheese. Therefore, to the extent the proposed Class III and Class IV formulas deviate from the present level of the BFP, they may be more appropriate indicators of the value of milk used in those products than the current BFP.

Class I

The basic formula price replacement also will act as a mover for the Class I price in addition to establishing prices for milk used in Class III and Class IV. Several comments were filed relative to the use of the basic formula price replacement to establish the Class I price. These comments ranged from continuing the current system to establishing the Class I price independently of the basic formula price(s) for milk used in manufactured products. One comment suggested eliminating the basic formula price and pooling only the Class I and Class II differentials.

In comments suggesting that the Class I price not be computed from the basic formula price, commenters expressed the opinion that the Class I price should not be based on prices for milk used in manufactured products because these prices do not reflect the market for Class I milk. The comments noted that fluctuations in the Class I price do not result in corresponding changes in the retail price for fluid milk, particularly when the Class I price is declining. These commenters suggested including the retail milk price, as well as other factors, in computing the Class I price. The result would be to determine the Class I price from an economic formula.

Other commenters expressed the opinion that the Class I price should be more stable, and that with advance pricing it is very difficult to price fluid milk products because of large fluctuations in the butter market. (It is the Class I hundredweight price at 3.5 percent butterfat that is announced in advance. Fluctuations in the butterfat differential, which is not announced in advance, result in corresponding fluctuations in the skim price, which is predominately applicable to Class I

milk.) Other commenters suggested that if the current basic formula price reflects the demand for fluid milk, the basic formula price and the Class I price should at least move in the same direction, rather than in opposite directions as they have done at times over the past several years. In addition, commenters expressed the opinion that the elasticity of demand for fluid milk products is significantly different from the elasticity of demand for manufactured products, justifying separate pricing of Class I and the basic formula price.

Proponents of eliminating the BFP and pooling only the Class I and Class II differentials explained that this proposal would eliminate the need and controversy of determining a basic formula price while still distributing the proceeds of the Class I and Class II markets to producers. The remainder of the producer value of milk would be determined directly by the market rather than from an administratively-established value for milk used in manufacturing.

The concept of pooling differentials only would eliminate the need to determine a basic formula price. However, the Act states that the Secretary shall establish minimum prices for milk and classify milk in accordance with the purpose for which it is used. The differential milk value would not be the minimum value nor differentiate between classes as specified in the Act. As interpreted herein, the Act does not provide for pooling differentials only and new legislative authority would be required in order to do so.

There certainly are some reasons for partially breaking the direct link between Class I prices and the BFP. This proposed rule includes a method for pricing Class I based on a six-month declining average of the higher of the Class III or Class IV prices. A complete separation should not occur since handlers compete for the same undifferentiated milk to use in Class I fluid milk products as well as in cheese and other manufactured dairy products. Therefore, an appropriate price relationship must be maintained between Class I and the manufacturing classes to assure an adequate supply of milk for Class I uses.

Partially breaking the direct link between Class I prices and the basic formula price replacement would reduce the volatility in producer prices. This rule proposes that the fixed Class I differential for each order be added to a 6-month declining average of the higher of Class III or Class IV skim prices and a 6-month declining average of the butterfat price. The skim milk price is determined for Class III by combining the result of multiplying 3.3 by the protein price and 5.7 by the other solids price, and for Class IV by multiplying the nonfat solids price by 9. These factors represent the quantities of the respective components in 100 pounds of skim milk. The use of a 6-month declining average would significantly decrease monthly Class I price volatility while minimally affecting the long-run price. Application of the 6-month declining average of the higher of the Class III or Class IV prices to the computation of Class I prices for the period February 1992 through May 1997 would have resulted in prices which averaged only two cents below the average price computed by adding a fixed differential to the higher of the Class III or Class IV skim milk price for the second preceding month.

The Class I butterfat price computation adds the Class I differential to the 6-month declining average of the butterfat price. Application of the Class I differential to both the skim and butterfat pounds rather than to total product pounds achieves true Class I advance pricing. A Class I handler consequently would know both the skim milk and butterfat prices in advance.

Several options were analyzed with respect to selecting the appropriate Class I price mover. The options included using the second preceding month's prices, using a moving average, and using a declining average. A declining average weights the current price most heavily, with the next most current price receiving a smaller weight, and so forth for the number of months included. For example, a three month declining average would weight the most current price by three, the next most current by 2, and the third price by 1, with the resulting sum divided by 6 to determine the average.

All options were evaluated on the ability to improve price stability while maintaining appropriate producer price signals. A Class I price mover using the higher of the Class III and Class IV skim milk prices for the second preceding month (most resembling the current mover) was the least stable option, with a standard deviation of 1.3188. A 12-month moving average of the higher of the Class III and Class IV skim milk prices resulted in the most price stability with a standard deviation of .8840. However, a 12-month moving average tends to react more slowly to economic signals since the most current month, which most nearly reflects current economic conditions, has a weight of only 8.3 percent. The 6-month declining average contributes a weight of 28.6 percent of the price to the most current month, while a 6-month moving average reflects only 16.7 percent of the current month's price in the average. By reflecting current economic conditions more rapidly than the longer moving averages, the 6-month declining average strikes an acceptable balance between responsiveness to current market values and the goal of stability.

The combination of advanced butterfat and skim milk pricing and a 6-month declining average will allow Class I handlers true advanced Class I pricing and increased price stability. Increased producer pay price stability as a result of increased Class I price stability will remain dependent on the Class I utilization of each market.

Improving price stability has other advantages. Dairy processors, consumers, and producers will benefit from less month-to-month variation in prices than is experienced under the current pricing mechanisms. Increased Class I price stability may result in lower prices to consumers.

As discussed previously, the price link between Class I use and Grade A milk used to manufacture Class III and Class IV products should be maintained since Grade A milk can be used for fluid uses as well as for manufacturing uses. Because handlers compete for the same milk for different uses, Class I prices should exceed Class III and Class IV prices to assure an adequate supply of milk for fluid use. Federal milk orders traditionally have viewed fluid use as having a higher value than manufacturing use. The proposed Class I price mover reflects this philosophy by using the higher of the Class III or Class IV price for computing the Class I price.

In some markets the use of a simple or even weighted average of the various manufacturing values would inhibit the ability of Class I handlers to procure milk supplies in competition with those plants that make the higher-valued of the manufactured products. Use of the higher of the Class III or Class IV price will make it more difficult to draw milk away from Class I uses for manufacturing. For example, if the Class IV price were used as the Class I mover there would be months in which the Class III price would be more than two dollars above the Class IV price. As a result, the Class I differential would have to be well over two dollars for the Class I price to remain above the Class III price. Certainly, in this scenario the economic decision would be to sell milk for Class III manufacturing, at least in those markets with a Class I differential below two dollars, since the price is above the Class I price. If the Class III

price is used as the Class I price mover, the reverse situation of having the Class IV price well above the Class III price would result in the same problem. The potential of having a Class III or IV price in excess of the Class I price is not entirely eliminated by using the higher of the Class III or Class IV price because of the advance Class I pricing feature, and, to some extent, because of the effect of using a 6-month declining average on which to base the Class I price. However, use of the higher of the two manufacturing prices for each of the months averaged and weighting the average toward the most recent month should reduce the popential considerably, allowing Class I handlers to compete more effectively with manufacturing plants for fluid milk.

Class II

Under this proposed rule, the value of Class II milk would be determined by multiplying the pounds of nonfat solids in producer milk allocated to Class II by the nonfat solids price, the pounds of butterfat by the butterfat price, and the hundredweight of Class II skim milk by $0.70. Generally, the source of inputs alternative to producer milk for the manufacture of Class II products is dry milk products and butterfat. Basing the price of milk used to make Class II products on these alternative ingredients should help considerably to remedy a situation in which it is perceived that a separate product class for dry milk (Class III–A) has a competitive advantage over producer milk used to produce Class II products. The 70-cent differential between the Class IV and Class II skim milk prices is an estimate of the cost of drying condensed milk and re-wetting the solids to be used in Class II products. One commenter suggested that there should be a $1.00 difference between Class IV and Class II. Additional comments on the appropriate level of this differential, with supporting data, are encouraged.

The proposed rule would not provide for advance pricing on Class II milk, for several reasons. First, although the current Class II price is announced in advance on the basis of the second preceding month's BFP, it is announced as a hundredweight price for milk containing 3.5% butterfat. When the butterfat price changes between the time the price is announced and the month to which the price applies, the 3.5% hundredweight price is still applicable, but the balance between the skim milk price and the butterfat price may have shifted significantly. This phenomenon effectively eliminates the advance announcement feature of Class II pricing. For example, on July 3rd the June basic formula price was announced, establishing the August Class II price for milk containing 3.5 percent butterfat at $11.04 per hundredweight. The June butterfat differential was $0.114, which if applied to the $11.04 would have resulted in a butterfat price of $1.2105 per pound of butterfat and $0.0705 per pound of skim milk. However, the August butterfat differential was $0.106. The actual butterfat price would therefore have been $1.11333 per pound, and the actual skim milk price would have been $0.0733. This example illustrates that even though the Class II price is announced in advance, the price of the skim milk and butterfat used in Class II currently is not known in advance. The further a product varies from a 3.5 percent butterfat content, the greater will be the effect of the butterfat price changes between the announcement date and the month in which the milk is used.

Second, although advance pricing would be possible under the proposed component plan, a problem occurs in accounting for the skim milk and butterfat, particularly butterfat, in Class II products. Additional finished product testing and accountability, and therefore increased regulation, would be needed to account properly for butterfat used in Class II since it would have to have a different price than the butterfat, priced on a current basis, used in other manufacturing classes.

Third, pricing Class II on a current basis would allow the price relationship between the nonfat solids and butterfat in Class IV and Class II to remain constant from month to month. With a constant price relationship between these two classes, competition and substitution between milk and the Class IV products used to make Class II products will be based on the relative merit of the alternative inputs rather than on regulated price relationships. The use of product price formulas, for Class II and well as for Class IV, should allow industry participants to track price trends throughout the month, enabling them to estimate changes in price.

Quality Adjustments

This proposed rule would adjust producer payments for the somatic cell count of producers' milk under orders using multiple component pricing. Payments made by handlers for milk used in Class II, Class III, and Class IV should also be adjusted on the basis of the somatic cell count of the milk. A somatic cell adjustment is appropriate for several reasons. First, somatic cell levels are not only an indicator of general milk quality, but also are an indicator of the potential yield of milk in cheese and other products that require casein for their structure and body. Research has shown a direct link between increased somatic cell counts and decreased cheese yields. Milk with the same protein content but different somatic cell counts has different values due to the difference in cheese yields caused by varying somatic cell counts.

Second, many producers currently are subject to some type of multiple component pricing plan or quality premium program that adjusts their pay prices for somatic cell levels even if the order in which their milk is pooled does not incorporate such adjustments. Although many producers' returns are affected by the somatic cell count of the milk, there is little, if any, oversight of the testing for somatic cells if the order does not include pricing adjustments. Fair and accurate testing can be assured by incorporating multiple component pricing and somatic cell adjustments into Federal orders. Third, somatic cell counts have taken on greater importance in the world dairy market, as evidenced by the recent debate between the European Community and the United States over allowable somatic cell counts in milk used to make exported dairy products. It is now more important that the somatic cell level of producer milk be verifiable.

The somatic cell adjustment should apply on a hundredweight basis and be computed by subtracting the somatic cell count (in thousands) from 350 and multiplying the result by the product of .0005 times the monthly average cheese price. This level of adjustment has worked well in orders currently containing somatic cell adjustments, and is supported by data and research contained in Federal order milk hearing records.

Application of the Proposed Basic Formula Price

Under this proposed rule, producers in most Federal order markets would be paid on a multiple component basis since the basic formula price replacement is based on individual milk component prices. Producers will be paid for the pounds of butterfat, pounds of protein, pounds of other solids, a per hundredweight price known as the producer price differential, and a per hundredweight somatic cell adjustment. The producer price differential returns to producers their pro rata share of the proceeds of the classified pricing system. The butterfat price for producers would be the same butterfat price computed for Class III and Class

IV butterfat. The protein and other solids prices would be the same protein and other solids prices computed for Class III.

Handler obligations and producer payments under the orders that are not proposed to have component pricing provisions would be based on hundredweight prices computed from these component prices.

All of the Federal milk orders will require changes to accommodate replacement of the current BFP with the proposed multiple component pricing plan or with its hundredweight price equivalent. There would no longer be a butterfat differential under any order, but a butterfat price. The same butterfat price would be used for butterfat in Class II, Class III, and Class IV, while a separate butterfat price, announced in advance, would apply to butterfat used in Class I.

For purposes of allocation of producer receipts the assumption will be made that the protein and other solids (nonfat solids) can not be separated easily from the skim milk. The protein and other solids will therefore be allocated proportionately with the skim milk based on the percentage of protein and other solids in the skim milk received from producers. Accordingly, the pounds of protein and other solids will be determined by multiplying the percent protein or percent other solids in the skim milk of the total producer milk received by the handler times the pounds of skim milk allocated to each class. The assumption that the nonfat components follow the skim milk may need to be revisited as the fractionation technology of milk continues to improve and the pricing system falls short of meeting the needs of marketing practices. At the present time such a problem is not apparent.

For the Market Administrator to compute the producer price differential, handlers will need to supply additional information on their monthly reports of receipts and utilization. Handlers that are filing reports in orders that currently have multiple component pricing and a somatic cell adjustment will see little or no change in their reporting requirements. Under orders that would be adopting component pricing for the first time, the pounds of protein, the pounds of other solids, and somatic cell information will be needed in addition to the product pounds and the butterfat currently reported. This data will be required from each handler for all producer receipts, including milk diverted by the handler, receipts from cooperatives as 9(c) handlers and, in some cases, receipts of bulk milk received by transfer or diversion.

Payments by handlers to cooperative associations for Class I milk would be calculated on the basis of Class I skim pounds times the Class I skim price plus the pounds of Class I butterfat times the Class I butterfat price. Payment for Class II milk would be paid for based on the Class II differential times the hundredweight of producer skim milk in Class II, the pounds of nonfat solids in Class II times the nonfat solids price, and the pounds of butterfat in Class II times the butterfat price. Class III milk will be paid for based on the pounds of protein in Class III times the protein price, the pounds of other solids in Class III times the other solids price, and the pounds of butterfat in Class III times the butterfat price. The pounds of nonfat solids in Class IV times the nonfat solids price, and the pounds of butterfat in Class IV times the butterfat price would be used to calculate obligations for Class IV milk. The appropriate somatic cell adjustment will apply to milk in Class II, Class III, and Class IV.

The Class I value of milk to handlers would be calculated by multiplying the skim pounds of producer milk in Class I times the Class I skim price plus the pounds of Class I butterfat times the Class I butterfat price. Class II milk value would be computed on the basis of the Class II differential times the hundredweight of producer skim milk allocated to Class II, the pounds of nonfat solids in Class II times the nonfat solids price, and the pounds of butterfat in Class II times the butterfat price. Class III milk value would be computed based on the pounds of protein in Class III times the protein price, the pounds of other solids in Class III times the other solids price, and the pounds of butterfat in Class III times the butterfat price. The pounds of nonfat solids in Class IV times the nonfat solids price, and the pounds of butterfat in Class IV times the butterfat price would comprise the value of Class IV producer milk. Also included would be the appropriate somatic cell adjustment applied to milk in Class II, Class III, and Class IV, the value of overage, the value of inventory reclassification, the value of other source receipts and receipts from unregulated supply plants allocated to Class I, and the value of handler location adjustments.

The handler's obligation to the producer settlement fund will be determined by subtracting from the handler's value of milk the following values: (a) the total pounds of producer milk times the producer price differential adjusted for location, (b) the total pounds of butterfat times the butterfat price, (c) the total pounds of protein times the protein price, (d) the total pounds of other solids times the other solids price, (e) the total value of the somatic cell adjustments to the producer milk, and (f) the value of other source milk at the producer price differential with any applicable location adjustment at the plant from which the milk was shipped deducted from the handler's value of milk.

Payments to producers traditionally have been made in two payments, a partial payment based, in most cases, on the prior month's Class III price and a final payment at the uniform price. This traditional payment system will continue, with any exceptions for local marketing practices noted in the regional discussions. The partial payment will be paid on a per hundredweight basis with the price equaling the combined value of the skim and butterfat prices for the lowest-priced class in the previous month. By computing the partial payment on a hundredweight basis, confusion about the use of partial month component test averages will be eliminated and handler's partial payroll processing costs should not be affected. Final payments to producers and for 9(c) milk will be based on: (a) the hundred weight of milk times the producer price differential adjusted for location, (b) the pounds of protein times the protein price, (c) the pounds of other solids times the other solids price, (d) the pounds of butterfat times the butterfat price, and (f) the somatic cell adjustment rate times the hundredweight of milk.

Since producers will be receiving payments based on the component levels of their milk, the payroll reports that handlers supply to producers and to the Market Administrator must reflect the basis for such payment. Therefore the handler will be required to supply the producer not only with the information currently supplied, but also: (a) the pounds of butterfat, protein, and other solids in the producer's milk, as well as the average somatic cell count of the producer's milk, and (b) the minimum rates that are required for payment for each pricing factor and, if a different rate is paid, the effective rate also. The requirement that payment factors be reported to producers when producers are paid currently exists in all of the orders. Addition of the component information is purely a conforming change. Administration of these provisions should not be changed from current practices.

With advance pricing of Class I and the inherent instability of the commodity markets there may be occasions when the computation of the

producer price differential results in a value of zero or below. In such a situation, the producer price differential will be as computed.

The following table is of actual and proposed class prices and the proposed Class I price mover for the period of January 1994 through December 1997. The proposed prices are shown for information purposes only. These prices result from the strict application of the proposed formulas using current market situations. These prices should not be interpreted as prices that would have actually occurred throughout the data period because industry participants likely would have reacted differently to the proposed price levels than they reacted to the actual price levels.

Although the proposed formulas for calculating the Class III and Class IV prices resulted in prices fairly close to the BFP for the period over which data was collected and analyzed (September 1991 through May 1997), the price differences during the last six months of 1997 have been considerably greater. The proposed Class II price has averaged 83 cents over the BFP during July through December 1997, with a range of 63 cents to $1.00 more than the BFP. Over the same period, the proposed Class IV price has averaged $1.01 more than the BFP, with differences ranging from 3 cents under to $1.97 over. Comments on this failure of the more recent data to fit the relationship between the BFP and the proposed Class III and IV prices observed over the earlier and longer period are invited.

A feature of the relationships between the proposed class prices that should be pointed out is that there is no assurance that the class prices will retain the relative values that their designations might imply. Because of the advance pricing feature for Class I, and because the Class I price would be based on a declining average of former months' prices, there is some possibility that the Class I price level for some markets may fall below the levels of one or more of the other classes. At the same time, basing the Class II price on the Class IV component values might, at times, result in the Class II price falling below the level of the Class III price. Comments on whether such changing price relationships are appropriate and, if not, how they might be avoided, are welcome.

The pricing formulas contained in this proposed rule are suggested as viable replacements for the current basic formula price for use in establishing minimum prices for milk and the components of milk. Comments should address whether the formulas suggested are appropriate or whether other pricing methods would be preferable. In addition, comments are welcomed on the specific details of the suggested pricing formulas. This would include comments on the appropriate commodity prices from which component prices are to be calculated, the method of obtaining such prices, the content of each component to be priced in the relevant commodity, the appropriate make allowance to be used in the determination of each component price, the optimum method of determining the Class I price mover, as well as the appropriate level of the Class II skim milk differential. Such comments should incorporate relevant data and rationale to support the adoption of factors that differ from those proposed herein.

ACTUAL CLASS PRICES, PROPOSED CLASS PRICES, AND PROPOSED CLASS I PRICE MOVER, BY MONTH

[January 1994 through December 1997]

Year and month	Basic formula price	Proposed Class I price mover *	Proposed Class III price	Class III-A price	Proposed Class IV price	Class II price	Proposed Class II price
	Dollars per cwt						
1994:							
January	$12.41	$12.55	$12.36	$10.22	$11.00	$13.25	$11.67
February	12.41	12.55	12.43	10.23	11.01	12.26	11.68
March	12.77	12.69	13.09	10.32	11.22	12.61	11.90
April	12.99	12.88	13.36	10.34	11.31	13.19	11.99
May	11.51	12.57	11.69	10.24	11.08	13.88	11.75
June	11.25	12.16	11.15	10.09	11.02	12.18	11.70
July	11.41	12.01	11.85	10.13	11.08	10.35	11.76
August	11.73	11.96	12.08	10.38	11.21	11.84	11.88
September	12.04	12.03	12.44	10.35	11.25	12.95	11.92
October	12.29	12.16	12.55	10.36	11.29	12.15	11.97
November	11.86	12.14	11.88	10.40	11.29	12.53	11.97
December	11.38	11.94	11.31	10.17	10.99	12.24	11.67
Average	12.00	12.30	12.18	10.27	11.15	12.45	11.82
1995:							
January	11.35	11.78	11.44	10.06	10.83	11.02	11.51
February	11.79	11.78	11.96	10.12	11.05	11.35	11.72
March	11.89	11.85	12.17	10.22	11.14	12.20	11.81
April	11.16	11.72	11.42	10.27	11.17	12.09	11.84
May	11.12	11.62	11.36	10.21	11.19	12.19	11.87
June	11.42	11.64	11.69	10.37	11.28	11.46	11.96
July	11.23	11.65	11.70	10.61	11.49	11.42	12.17
August	11.55	11.83	12.36	10.82	11.72	11.72	12.40
September	12.08	12.24	13.22	10.90	11.82	11.53	12.50
October	12.61	12.74	13.69	11.66	12.45	11.85	13.12
November	12.87	13.18	13.89	12.40	12.89	12.38	13.56
December	12.91	13.54	14.01	11.24	11.99	12.91	12.66
Average	11.83	12.13	12.41	10.74	11.58	11.84	12.26
1996:							
January	12.73	13.62	13.43	11.16	11.95	13.17	12.63
February	12.59	13.59	13.31	10.39	11.54	13.21	12.21
March	12.70	13.54	13.41	10.32	11.40	13.03	12.07

ACTUAL CLASS PRICES, PROPOSED CLASS PRICES, AND PROPOSED CLASS I PRICE MOVER, BY MONTH—Continued

[January 1994 through December 1997]

Year and month	Basic formula price	Proposed Class I price mover*	Proposed Class III price	Class III-A price	Proposed Class IV price	Class II price	Proposed Class II price
April	13.09	13.61	13.88	10.52	11.55	12.89	12.23
May	13.77	13.80	14.32	11.90	12.66	13.00	13.34
June	13.92	14.23	14.18	15.12	15.24	13.39	15.91
July	14.49	14.91	14.86	16.01	16.33	14.07	17.01
August	14.94	15.46	15.71	15.82	16.33	14.22	17.00
September	15.37	16.10	16.31	15.85	17.17	14.79	17.84
October	14.13	16.21	15.04	14.94	15.91	15.24	16.58
November	11.61	15.42	12.45	12.18	13.12	15.67	13.80
December	11.34	14.56	11.59	11.75	12.67	14.43	13.34
Average	13.39	14.59	14.04	13.00	13.82	13.93	14.50
1997:							
January	11.94	13.77	11.92	11.50	12.48	11.91	13.16
February	12.46	13.36	12.36	12.36	13.18	11.64	13.86
March	12.49	13.25	12.47	12.78	13.73	12.24	14.40
April	11.44	13.12	11.51	12.10	13.06	12.76	13.73
May	10.70	12.97	10.69	11.56	12.49	12.79	13.17
June	10.74	12.98	10.76	12.22	12.98	11.74	13.66
July	10.86	12.93	11.51	12.06	12.83	11.00	13.50
August	12.07	12.94	13.07	11.88	12.69	11.04	13.36
September	12.79	13.06	13.42	11.87	12.76	11.16	13.43
October	12.83	13.43	13.71	13.50	14.27	12.37	14.95
November	12.96	13.89	13.88	14.01	14.79	13.09	15.47
December	13.29	14.08	14.23	12.46	13.53	13.13	14.20
Average	12.05	13.32	12.46	12.36	13.23	12.07	13.91
48-Month Avg	12.32	13.09	12.77	11.59	12.45	12.58	13.12

*To be used to calculate Class I price for second succeeding month.

3. Class I Pricing Structure

Although not required by the 1996 Farm Bill, the legislation provided authorization for the Secretary to review the Class I (fluid milk) price structure (as part of the consolidation of the orders) including the consideration of utilization rates and multiple basing points for developing a pricing system. In any event, the consolidation of orders requires the review of the pricing system because historically Class I pricing provisions, as well as other Federal order provisions, have been reviewed on an individual market basis.

The 1996 Farm Bill suggested two possible methods for establishing a Class I price structure, and USDA also specifically requested input from the public on this issue. As a result of these requests, more than 1400 letters were received that addressed Class I pricing. The ideas submitted were divided into several categories including: basic formula price (market driven) plus a differential established on location, demand-based, or flat; decoupling Class I pricing from the basic formula price; pooling Class I differentials only; basing Class I pricing on the cost of production; end product pricing for all classes of milk; and various other ideas including farm point pricing, a two-class milk system, and differentials reflecting only regional supply and demand conditions.

To assist in analyzing and developing a Class I price structure, USDA established a partnership with Cornell University (Cornell). Cornell's analysis, in part, was based on the U.S. Dairy Sector Simulator Model (USDSS). The USDSS is used to evaluate the geographic or 'spatial' value of milk and milk components across the U.S. under the assumption of globally efficient markets. Using 240 supply locations, 334 consumption locations, 622 dairy processing plant locations, 5 product groups, 2 milk components (fat and solids-not-fat) and transportation and distribution costs among all locations, USDSS determines mathematically consistent location values for milk and milk components. The model uses data from May and October 1995.

The supply and consumption at the county level are aggregated to geographic points-cities central to a multi-county farm or population density-to simplify a very complex problem. The production of milk and the consumption of dairy products are fixed at the various supply and consumption points used. Plant locations are restricted to those presently processing products but plant processing locations were not constrained with respect to the volume processed. Processing costs are assumed to be uniform between locations and across plant volumes (no economies of scale). Therefore, processing is allowed to move among available locations to find the least cost solution in terms of assembly from supply points through distribution to consumption points.

Transportation costs are categorized by raw milk assembly, interplant bulk shipments, refrigerated and non-refrigerated finished products. Transportation costs among regions reflect not only distance traveled, but also differences in wage rates and actual highway weight limit restrictions. While assembly costs and interplant bulk shipments are calculated using a linear cost function, the refrigerated and non-refrigerated finished product functions are non-linear. In fact, refrigerated costs (e.g., packaged milk) fell below raw milk assembly costs on an equivalent unit basis in many cases at distances more than 900 miles. Previous spatial modeling at Cornell had assumed constantly higher finished product transportation costs versus raw milk assembly costs for all distances.[22]

[22] Earlier research that has been reported elsewhere was based on an older version of the model. Present revisions have made substantial changes to the various transportation cost functions. In particular, distribution costs for refrigerated products were reduced substantially and now are on par with bulk milk assembly costs.

The output from the USDSS model provides information as to optimal processing locations and volumes at those locations, milk assembly, and intermediate and finished product distribution flows. It represents a least cost, or 'efficient' organization of the industry. Importantly for the research, the model provides the marginal values (i.e., the value of one more unit) of milk at each location. These values, technically known as shadow prices, are indicative of values that are consistent with the optimized solution. A shadow price on one unit of milk at any processing location can be interpreted as follows: If the processor at a particular location had one more unit of milk, the entire pattern of milk assembly, and product transportation could be reorganized in such a way that marketing costs, equal to the shadow price, could be saved. This notion of marginal value is consistent with economic theory on how prices are determined in a competitive market.

The significance of the shadow value in terms of milk price regulation may be stated. If the regulated price, or cost of milk, is arbitrarily set higher than the shadow price at a particular processing location, a lower cost solution could be found by processing more milk at other locations. This would imply higher transportation costs for either raw milk assembly, finished product distribution, or both. Such a result clearly leads to a higher cost, less efficient system. It is also contrary to what is generally thought of as ''orderly'' marketing of milk which is a fundamental reason for the existence of federal milk marketing orders.

It should be stressed that for the purposes of looking at Class I values, the calculated shadow prices provide information regarding the relationship of the prices between geographic locations. They do not provide guidance regarding the overall level of Class I price or differential values. That is, the model does not help us understand whether the Class I prices should be $14 in Minneapolis and $15 in New York City, or $15 in Minneapolis and $16 in New York City. However, it does tell us that the Class I price difference between the two locations should be about one dollar.

A relative merit of the USDSS model is the degree of detail available in the output. This detail is achieved through the careful assembly of spatially disaggregated data. However, it should be remembered that by its construction the USDSS is a 'model' and thus a simplification of a complex dairy industry. In actuality, both the level and relative values between locations would change virtually daily and would reflect a host of influences not represented in the model. That notwithstanding, the USDSS model provides an objective guidepost from which to compare current federal order differentials and to consider possible alternatives.

Several factors must be considered when selecting a replacement for the current [23] Class I price structure. First, a Class I price structure must be considered from a national, as well as a local or regional, perspective. As expected, many comments from industry address Class I pricing issues from a local or regional perspective. These comments provide valuable information about particular markets but do not consider the feasibility or impact of a local or regional issue on a national basis. While remaining mindful of local and regional concerns, USDA has also evaluated structures from a national perspective.

Second, a Class I price structure must recognize the location value of milk. Results from the USDSS model confirm that milk has value at location. As described earlier, the model provides shadow prices reflecting the relative values of milk and milk components at geographic locations. While shadow prices do not suggest Class I differentials for specific locations, they do provide a means to evaluate price relationships among locations.

Third, a Class I price structure must recognize all uses of milk. The classified pricing system contained in the Federal milk order program values milk for fluid use higher than milk used for soft or hard manufactured products. The higher Class I price encourages all milk to be used first to satisfy Class I needs. At the point where the cost of moving milk from an alternate location for Class I use is equal to the cost to supply milk for manufactured products, demand for manufactured products influences a market's ability to procure milk for Class I needs. Thus, all uses of milk must be considered when evaluating a national Class I pricing structure.

Finally, a Class I price structure must meet the requirements of the AMAA. The broad tenet of the AMAA is to establish and maintain orderly marketing conditions. For the Federal milk order program this is achieved primarily through classified pricing and pooling. With regard to pricing, it is recognized that the objective of the AMAA is to stabilize the marketplace with minimum prices, not to set market prices. In evaluating a national Class I pricing structure, consideration was given to whether the proposed prices reflect enough of the milk value to maintain sufficient revenue for producers to maintain an adequate supply of milk and provide equity to handlers with regard to raw product costs.

Of the numerous Class I price proposals submitted, seven broad categories of proposals were selected for further evaluation. These seven categories of proposals are all based on a basic formula price plus a differential. The seven categories of proposals were selected because they basically adhered to these four standards. The seven options considered in further detail are location specific differentials, flat differentials, relative use differentials, demand-based differentials, and decoupled baseline with adjusted differentials. These options will be explained in more detail later.

Several comments were received that suggested pooling only Class I differentials as a replacement for the current Class I price structure. This proposal was eliminated from further analysis because it would require new legislative authority to implement since the AMAA requires the Secretary to establish minimum prices for milk. This proposal would result in the elimination of all manufacturing milk classes. Processors and manufacturers would compete for available milk supplies providing producers with a basic competitive price for their milk.

The AMAA requires in 7 U.S.C. 608c(5)(A) that the Department classify ''* * * milk in accordance with the form in which or the purpose for which it is used * * *'' and establish ''* * * minimum prices for each such use of classification.'' If the Department did not differentiate between the uses of milk as suggested in this proposal, it is difficult to determine how this would be accomplished. Moreover, Section 8c(5)(B) provides ''* * * for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handlers to whom it is delivered * * *.'' This further indicates that the intent of the authorizing legislation is the classification and pricing of all producer deliveries. Otherwise, it would be difficult to pay producers a uniform price for all of their milk ''* * * irrespective of the uses made of such milk by the individual handler to whom it is delivered.''

Several proposals were submitted supporting ''decoupling'' Class I prices

[23] Any references to the ''current'' system of Class I prices or the ''current'' price structure are to be interpreted as those established in or after the final decision based on the 1990 national hearing issued March 5, 1993 (58 FR 12634).

from Class III prices. The term ''decoupling'' has been construed in a number of ways; however, a review of the proposals indicates that the primary concern is about how the BFP influences Class I prices. The purist definition of decoupling is to determine Class I prices without relating them to the Class III price through differentials. This approach implies no relationship between the value of milk for fluid use and milk used for manufacturing. With this in mind, in general, decoupled prices could be determined in two ways: (1) Set Class I prices administratively; or (2) Set Class I prices based on a relationship that does not include the Class III price.

While it is true that milk for fluid use and milk for manufacturing use have different values, the realities of the characteristics of milk supply and demand, and the AMAA mandate ''to provide an adequate supply of milk'' for fluid use, suggests the necessity of a relationship between the price of milk for fluid use and milk used for manufacturing. Adopting a Class I price based on the purist definition of decoupling would not provide a relationship between fluid and manufacturing uses. In this context, decoupling Class I prices from Class III prices has been eliminated. However, the use of a ''decoupled'' price based on the Class III price is considered in further detail later.

Some comments were received recommending the use of end product pricing. One comment specifically recommended it on all classes of milk while others were unclear if end product pricing should apply to all classes of milk. Under end product pricing, milk components would be priced according to their value in the product mix.

A number of questions arise with the recommendation of end product pricing. Mathematically it is relatively easy to take commodity prices and work backward on the average. However, where is the appropriate ''end'' to work backward from? Nonfat dry milk, for example, is not an end product at the consumption level. Likewise, sweet butter can be used for ice cream, etc. Other questions raised by this option include: Is a Class I milk value properly discovered based on component value in manufacturing products? Do make allowances protect inefficiencies in the manufacturing sector and thereby transfer costs to the other sectors?

At this point in time there is no need to price Class I milk on end product components. The market system has limited ability to value additional nonfat solids in fluid milk sales. However, technology is on the horizon that may substantially change milk composition. If it results in a consumer acceptable product at some point in the future, end product pricing to establish fluid milk prices may need to be revisited.

Several comments supported the adoption of a cost of production factor in the determination of a Class I price. Milk prices are a result of the supply and demand conditions in the marketplace. The cost of producing milk is obviously a factor in the supply function. However, many other factors affect the price of milk. Demand influences such as household income levels, prices of substitutes or complements, and availability all have a significant impact on the price. Pricing milk solely on the cost of production lacks economic justification.

Numerous other Class I pricing proposals were presented to the Department. At this time they are not being further considered primarily because they are regionally based and are not feasibly adaptable on a nationwide basis, do not adhere to the requirements of the AMAA, do not recognize the location value of milk, or do not recognize all class uses of milk.

Of the seven categories of options selected for further review, six options were contained in the pricing reports issued by AMS Dairy Programs in March 1997. Based on the feedback received from these reports, another pricing option was submitted for consideration by USDA and has been included for further review. In addition, further analysis and development of the modified location-specific differentials (Option 1B), presented in the March pricing reports, has resulted in a revision of this proposal and it is now referred to as relative value-specific differentials. The seven options analyzed in further detail, representing a broad spectrum of views expressed by interested parties, are as follows:

Option 1A: Location-Specific Differentials—$1.60 per hundredweight fixed differential for three surplus zones (Upper Midwest, West, and Southwest) within a nine-zone national price surface, plus for the other six zones, an added component that reflects regional differences in the value of fluid and manufacturing milk.

Option 1B: Relative Value-Specific Differentials—Class I differentials are established based on a relationship between prices and geographic location. This option establishes the differential levels by equating the relative value-specific differential in Minneapolis, Minnesota, to current Class I differential level at this location of $1.20 per hundredweight. A location adjusted price differential for every county is established by evaluating differences between nearby Class I differential pricing points generated by the USDSS model.

Option 2: Relative Use Differentials—$1.60 per hundredweight fixed differential plus a formula-based differential driven by the ratio of Class I milk to all other uses of milk.

Option 3A: Flat Differentials—$1.60 per hundredweight flat differential, uniformly applied across all orders to generate an identical minimum Class I price at all locations.

Option 3B: Flat Differentials Modified by Class I Use—$2.00 per hundredweight differential in markets where Class I utilization is less than 70 percent on an annual basis and a differential equal to $2.00+$0.075 (Class I use % − 70%) in markets where the Class I utilization is equal to or exceeds 70 percent.

Option 4: Demand-based Differentials—$1.00 per hundredweight fixed differential plus a transportation credit based on location of reserve milk supplies.

Option 5: Decoupled Baseline Class I Prices with Adjustors—Baseline 1996 Class I prices adjusted by a supply/demand adjustor that uses a 12-month rolling average utilization to determine a 2 percent change that results in a $0.12 per hundred weight price adjustment. A short-term cost of production adjustor may also be applied to this option.

Evaluation Criteria

In order to evaluate the Class I pricing options, nine performance criteria, based upon the regulatory objectives and limitations of the AMAA, were developed. Economic principles of efficiency and equity were used to describe market performance. These evaluation criteria established an initial framework for analysis of the Class I pricing options. The nine evaluation criteria were divided into two categories, objective and administrative. Six objective criteria were identified and defined as follows:

1. Ensure an adequate supply of milk for fluid use. Class I price levels need to provide a sufficient price signal to maintain an adequate supply of milk for fluid use. This supply level can be achieved through either the movement of milk to where it is needed, increased production, or some combination of both.

2. Recognize quality (Grade A) value of milk. Grade A milk is required for fluid use. Additional costs of obtaining

and maintaining Grade A status need to be reflected in Class I prices.

3. Provide appropriate market signals. A Class I price should send timely signals to the market regarding supply/demand conditions.

4. Recognize value of milk at location. Basic economic theory, validated by actual market observations and University-based research, affirms that milk for Class I use has a different value at different locations. This value needs to be reflected in the Class I price in order for the system to recognize and resemble the market rather than interfere with the market.

5. Facilitate orderly marketing with coordinated system of prices. A system of Class I prices needs to be coordinated on a national level. Appropriate levels of prices will provide alignment both within and among marketing areas. This coordination is necessary for the efficient and orderly marketing of milk.

6. Recognize handler equity with regard to raw product costs. Appropriate levels of Class I prices provide known and visible prices at all locations thereby ensuring that handlers are able to compete for available milk supplies on an equitable basis.

Three administrative criteria were identified and described as follows:

1. Minimize regulatory burden. The Class I price structure should not significantly increase the burden on handlers, particularly small businesses. This would include increased reporting requirements and recordkeeping, as well as possible increases in administrative assessment should Market Administrators be required to manage a more complex regulatory system.

2. Minimize impact on small businesses. The Class I price should be set at a level that does not disadvantage small businesses in competition with large businesses.

3. Provide long-term viability. The Class I price structure should be expected to operate for an extended time period without major modifications.

The nine evaluation criteria listed above were used to qualitatively evaluate each of the seven options. Each option was evaluated based on how the option performed compared to the current system, either better than, worse than, or the same as, for each performance criterion. The results of the qualitative analysis provided a preliminary framework from which to identify options that would be analyzed quantitatively using a multi-regional model developed by the Economic Research Service of the Department.

Based on the qualitative analysis, four of the seven options were eliminated from further analysis. These options were: Option 2—Relative Use Differentials, Option 3A—Flat Differentials, Option 3B—Modified Flat Differentials, and Option 4—Demand-Based Differentials. These options were eliminated for various reasons including failure to adhere to AMAA, creation of disorderly marketing conditions, and impacts on small businesses. A discussion of the four eliminated options, including the evaluation against the evaluation criteria follows.

Option 2: Relative Use Differential. Utilization-based differentials were discussed extensively during the Farm Bill debate and have been discussed by the industry for several years. The 1996 Farm Bill specifically authorizes the Secretary to consider utilization rates when establishing Class I differentials. This is perceived to be based on an order's marketwide utilization. A utilization-based differential would allow Class I differentials to adjust automatically with changing market supply and demand conditions. An increased demand for fluid milk relative to supply would generate an increase in the Class I differential. Hence an incentive is provided to increase local production or attract alternate supplies. Likewise, if milk supplies increase in relation to fluid sales, the differential would adjust downward signaling to producers and handlers that milk is more than adequate to meet the local needs.

One possible option of a utilization-based differential is relative use. Under this concept, a marketing area's differential would be determined by a formula based on the ratio of Class I milk to milk in all other classes. In order to prevent widely fluctuating prices, a percentage limit could be placed on differential changes to temper adjustments based on market supply and demand conditions. For this analysis, a limit of 25 percent has been applied. The relative use ratio could be computed on a monthly, quarterly, or annually moving average basis.

Using this concept, the relative use Class I differential would equal $1.60 per hundredweight plus the relative use ratio times $1.00. A 25 percent limit would be applied so the new differential would not exceed 125 percent of the current differential nor fall to less than 75 percent of the current differential. The $1.60 base differential was selected to be comparable with other options considered in this rule such as Option 1A, location-specific differentials. Further discussion of the $1.60 base differential will be addressed under the discussion of Option 1A later in this proposed rule.

The table below illustrates the Class I differentials under the proposed consolidated orders. These differentials are not location-specific within the applicable orders. For purposes of this analysis and to provide a basis for comparison within the proposed consolidated orders, a weighted average Class I differential for each order has been calculated, based on October 1995 data. This weighted average differential is computed by multiplying the percentage of Class I milk in each of the current orders that comprise the consolidated order by the applicable current order differential and adding the resulting amounts. This weighted average differential is not location-specific for the consolidated orders.

TABLE 1.—CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON OCTOBER 1995 DATA UNDER OPTION 2—RELATIVE USE

Proposed order [1]	Relative use ratio [2] (%)	+ $1.60=Class I diff. ($/cwt) [3]	Weighted average diff. ($/cwt) [3]	Maximum diff. range (75%–125%)	New diff. ($/cwt)	Change in diff. ($/cwt)
Northeast	0.92	2.52	3.14	2.35–3.93	2.52	−0.62
Appalachian	4.60	6.20	2.79	2.09–3.49	3.49	0.70
Southeast	5.76	7.36	3.04	2.28–3.80	3.80	0.76
Florida	7.54	9.14	3.89	2.92–4.86	4.86	0.97
Mideast	1.26	2.86	1.91	1.43–2.39	2.39	0.48
Central	0.95	2.55	2.52	1.89–3.15	2.55	0.03
Upper Midwest	0.53	2.13	1.32	0.99–1.65	1.65	0.33
Southwest	0.93	2.53	3.01	2.26–3.76	2.53	−0.48
AZ-Las Vegas	1.04	2.64	2.46	1.85–3.08	2.64	0.18

TABLE 1.—CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON OCTOBER 1995 DATA UNDER OPTION 2—RELATIVE USE—Continued

Proposed order [1]	Relative use ratio [2] (%)	+ $1.60=Class I diff. ($/cwt) [3]	Weighted average diff. ($/cwt) [3]	Maximum diff. range (75%–125%)	New diff. ($/cwt)	Change in diff. ($/cwt)
Western	0.42	2.02	1.84	1.38–2.30	2.02	0.18
Pacific NW	0.55	2.15	1.90	1.43–2.38	2.15	0.25

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Relative use ratio = Class I÷all other uses.
[3] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

Analysis Based on Evaluation Criteria

In one of the nine criteria, Option 2 may perform slightly better than the current system. In five of the nine criteria, Option 2 performs poorer than the current system, while in the remaining three criteria, it performed about the same as the current system.

Option 2 was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. In terms of ensuring an adequate supply of milk for the fluid market, Option 2 provides for the appropriate minimum price levels necessary to bring forth adequate milk supplies to meet the needs of the fluid market. Based on the comparisons of weighted average current differentials versus the relative use ratio differentials, eight of the proposed orders would receive moderate to significant increases while three markets would have slight to significant decreases. Differential changes of these magnitudes could have some effect on milk supplies in some regions. However, the availability of milk for fluid use would not be significantly different from what exists today.

2. Recognize quality (Grade A) value of milk. Option 2 does recognize the quality value (Grade A) of milk with the $1.60 base differential.

3. Provide appropriate market signals. One of the benefits of a self-adjusting system is to provide producers with a better signal of the market conditions. In theory, when supplies increase in relation to fluid demand, the Class I utilization would decrease precipitating a downward adjustment in the differential thereby signaling producers to decrease production. Likewise, if supplies decrease relative to demand, the Class I utilization would increase precipitating an upward adjustment in the differential signaling producers to increase production and/or signaling processors of the need to reach further for the milk supply. Option 2 provides for a faster market signal than the current system of simply pooling the various classes of milk.

Option 2 does not recognize that utilization percentages may be affected by factors such as decisions to pool or not pool manufacturing plants, shifting supplies among markets, market incentives or disincentives such as transportation credits, and pool plant and producer definitions. These may or may not be appropriate factors to consider in determining supply/demand conditions accurately but these factors will directly impact the relative use ratio.

4. Recognize value of milk at location. Cornell's economic research indicates that milk has different values based on location and use. The relative use concept suggests that a market has only some average value and not a value at any specific location. Markets such as the Arizona-Las Vegas and Southwest would have similar utilizations but are quite different in size and in the distance milk must be hauled to provide sufficient supplies for the fluid market. Phoenix, Arizona handlers receive milk from relatively close supplies, less than 50 miles, whereas the San Antonio, Texas handlers must reach out 200–500 miles and Houston, Texas handlers must reach out 270–650 miles to adequately supply their total needs. The relative use concept does not take this into account. Location adjustments could not overcome this deficiency since they would create disorderly marketing conditions at points where they bordered on neighboring orders. Market structure with regard to supply areas and demand centers must be considered, thus Option 2 performs worse than the current system.

5. Facilitate orderly marketing with coordinated system of prices. The need for coordination of prices between and among markets is not recognized under the relative use concept. Markets with high Class I utilization could be adjacent to low utilization markets. Prices in adjacent markets need to be aligned to facilitate orderly marketing conditions. If utilization is the primary criteria for establishing Class I differentials, price alignment may not exist between adjacent markets creating handler inequity and disorderly marketing conditions.

6. Recognize handler equity with regard to raw product costs. Markets can adjust rapidly depending on pooling decisions of cooperatives. In 1996, the New Mexico-West Texas Order had a Class I utilization high of 52.1% in May falling to a low of 23.9% in December. Heavy manufacturing markets regularly have larger volumes of milk depooled during periods of rapidly increasing prices. If Class I differentials were allowed to adjust too frequently, price alignments established between and among markets would disappear causing inequity among competing handlers. To prevent extreme differential changes, percentage limits are proposed to limit differential changes. However when a change is warranted, a significant price adjustment could occur requiring realignment of zones between adjacent markets. Thus, the main attraction of this concept, the self-adjustment of differentials, actually creates problems with price alignment and handler equity between orders.

Option 2 was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. Option 2 would not likely increase the regulatory burden on handlers. Differentials would be set until market conditions warranted a change. No additional reporting would be necessary to implement such a system.

2. Minimize impact on small businesses. Small handlers in markets where Class I differentials are decreasing might be somewhat disadvantaged since over-order charges would probably increase. This tends to affect small and large handlers disproportionately. Small milk producers in these markets could also experience a small decline in their pay prices.

3. Provide long-term viability. As supply and demand conditions in markets adjust to the point where differentials need to be changed, administrative input may be required to

align markets and maintain handler equity. Thus, the system becomes an administered system such as we have today rather than a self-adjusting procedure. This fact, as well as the other shortcomings, mentioned tends to negate its appeal as a viable long-term option.

Although Option 2 appears to perform better than the current system in providing appropriate market signals to producers, this becomes a major obstacle with this proposal. In fact, it is because of this self-adjustment that Option 2 performs poorer than the current system in five of the criteria. Even though independent of other factors Option 2 provides more appropriate price signals, it does so in a way that will have significant impacts on certain regions of the country. The projected impacts of Option 2 by region are discussed below:

Central, Mideast, and Upper Midwest. Class I differentials are estimated to increase from $0.00–$0.48 in the Central, Mideast, and Midwestern regions. Currently, over-order charges are significantly higher and likely would largely absorb these differential increases. Impacts on producers and processors would be minimal.

Northeast. The Northeastern marketing area would be affected significantly by the adoption of a relative use differential. Processors would pay on average $0.58 less for Class I milk as compared to the current system. Producers would likely turn to over-order charges to try to make up for their lost revenue. Historically, this region has had difficulty maintaining a large over-order premium structure and assumptions are that this would continue. Producer incomes would decrease possibly impacting the total market's milk supplies.

Southeast. Large increases in Class I differentials would occur in the orders located in the Southeast. Class I handlers would experience increased competition from lower cost handlers in nearby markets. Producers in these markets would probably not experience any significant gains from these increased differentials due to the over-order premiums that are currently being charged.

Southwest. The Southwest market is the only other market to experience decreases in differentials. Over-order charges currently are relatively small in this market and an attempt to increase the charges would likely occur. However, producer groups have had the same difficulty as the Northeast in maintaining an over-order structure. A $0.48 drop in the average differential in the Southwestern market would surely be felt by producers and accelerate the exodus of producers from the East Texas supply area. Producers in New Mexico and West Texas would also be affected, but the impact may not be as severe.

Arizona-Las Vegas, Western, and Pacific Northwest. In the Western regions, Class I differentials are expected to increase slightly. Over-order charges in these markets are not as great as in the Midwestern markets and would probably be unable to totally absorb any significant Class I price increase. Producer pay prices and Class I handler costs would increase slightly.

Because of the limited effect of overall Class I differential changes, Option 2 would have a minimal effect on small businesses, both producers and processors. Areas that have decreases in Class I differentials would have a minimal negative impact on producer pay prices. The majority of producers impacted in these regions are categorized as small businesses. On the other hand, handlers in areas with larger increases in the Class I differentials would experience increased competition from lower cost regions. Location advantages of some small handlers would disappear while others emerge. Handler equity in these competing markets could erode placing some small handlers under greater risk.

It is difficult to quantify the impact to consumers under this option. Federal Order Class I differentials around the country would likely increase slightly. Over-order charges may decline to offset this increase. It is expected that overall handler costs would change slightly under this option resulting in little change to consumer prices.

Although this option would provide more appropriate and timely market signals to producers, setting Class I differentials based solely on utilization presents price alignment problems. Because Class I differentials would be allowed to change independently from adjacent markets, this would result in significant equity problems among competing handlers thus impacting small businesses on a continual basis. Consequently, this proposal would lead to disorderly marketing conditions throughout the Federal order program and is not given further consideration as a possible Class I price structure.

Option 3A: Flat Differential. Under this option, an equal differential would be applied in all orders resulting in an identical minimum Class I price at all locations. For example, the Class I differential in Atlanta, Georgia, would be the same as the Class I differential in Minneapolis, Minnesota. For comparison to other Class I price options discussed in this proposed rule, a flat $1.60 differential level has been evaluated even though some public comments proposed flat differentials of $2.00 or more per hundredweight.

The concept of flat Class I differentials across all orders is largely predicated on the view that current Class I differential levels are too high in many parts of the country. Accordingly, regionally differentiated Class I prices are generally unwarranted and have led to or have not been properly adjusted to reflect changes in milk production. The most recent consideration of a flat Class I price plan was considered during a National Hearing held in Fall 1990.

Proponents of flat Class I pricing maintain that the marketplace should establish more of the value required to draw milk to fluid outlets than is reflected in the minimum prices established by the current Class I system. Increased reliance on the marketplace in determining a price has appeal because the competitive normal marketplace, where there are many buyers and sellers with equal market knowledge and power, is generally viewed as the most efficient determinant of values and prices.

The following table illustrates the differential-level impact on the suggested consolidated orders based on October 1995 data assuming a flat differential level of $1.60. As indicated in the table, a flat $1.60 differential level is significantly less than the calculated weighted average differential level in most marketing areas, except for the suggested Upper Midwest regional order.

TABLE 2.—CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON OCTOBER 1995 DATA UNDER OPTION 3A—FLAT DIFFERENTIALS

Suggested consolidated order [1]	New differential ($/cwt)	Weighted average differential ($/cwt) [2]	Change ($/cwt)
Northeast	1.60	3.14	−1.54
Appalachian	1.60	2.79	−1.19
Southeast	1.60	3.04	−1.44
Florida	1.60	3.89	−2.29
Mideast	1.60	1.91	−0.31
Central	1.60	2.52	−0.92
Up Midwest	1.60	1.32	0.28
Southwest	1.60	3.01	−1.41
Arizona-Las Vegas	1.60	2.46	−0.86
Western	1.60	1.84	−0.24
Pacific NW	1.60	1.90	−0.30

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated orders is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

Analysis Based on Evaluation Criteria

In two of the nine evaluation criteria, the concept of a flat Class I price structure performs equal to the current Class I system. In all the other criteria, a flat Class I price structure performs worse than the current Class I price system.

Option 3A was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. A flat Class I price structure performs worse than the current Class I price structure in ensuring an adequate supply of milk for fluid use because it ignores the fundamental fact that Class I milk has different values depending on its location. As a result, the marketplace would have to establish all of the appropriate values of milk within and between markets. The current method of establishing Class I differentials reflects the sufficiency and availability of local milk supplies together with valuing alternative milk supplies. Because some milk is produced just about everywhere, a Class I differential needs only to be high enough to bring forth enough milk—''local'' and milk from alternative and more distant supply areas—at any location to meet Class I demand. The cost of transporting alternative milk supplies into an area places an upper limit constraint on the value of milk at that location and thus provides a measure by which to evaluate whether or not the differential level established is reasonable.

Under a flat Class I price plan, the assumption is made that the minimum differential value of Class I milk is the same at all locations. Reforming the Class I price structure should continue to recognize the observable and measurable fact that Class I milk has a location value. At all locations, the Class I differential value needs to represent a reasonable sum of such factors that, taken as a whole, accomplish the goal of assuring an adequate supply of milk to meet demands. In this context, there does not appear to be a sufficient economic rationale to apply a flat Class I differential value that may be appropriate to one market and apply it to all other markets. Doing so would not reflect the important and measurable characteristic that fluid milk takes on different relative value depending on where it is located and where it needs to go to satisfy demand. Therefore, the Class I milk pricing plan needs to establish a price level that provides sufficient economic incentives for the movement of Class I milk. Such a basis is consistent with the supply and demand pricing criteria of the AMAA.

2. Recognize quality (Grade A) value of milk. A flat Class I price structure does recognize the quality value (Grade A) of milk with the $1.60 flat differential.

3. Provide appropriate market signals. Because a flat Class I price option does not recognize the observable fact that milk has differing location values, it cannot provide the appropriate price signals to ensure that, in all markets, the differential level is sufficiently high enough to bring forth the amount of milk needed to satisfy demand. Additionally, a flat Class I price option does not provide appropriate market signals on how a deficit market can obtain needed supplemental milk supplies. For example, if the Class I price in Chicago is the same as Atlanta, where supplemental supplies are often needed, a flat Class I price provides no economic incentive to absorb the producer-incurred cost of moving milk to Atlanta. In this example, the total price incentives that would encourage milk to move must come from outside the pricing structure.

The following real-world intra-market example demonstrates problems with flat Class I pricing. In Texas, the cities of Dallas and Houston are major milk consumption centers. Dallas is located nearly equidistant (about 70 miles) from two major milk supply areas to the east and south. Houston is located much further (about 255 miles) from the same two milk supply areas and, like Dallas, relies on the same two milksheds for satisfying its Class I demands. A flat Class I price surface applicable to both cities does not, in and of itself, provide the price difference necessary to cause producers to deliver their milk to Houston. The additional dollars (value) that would need to attach to milk to cause it to be delivered to Houston would fall outside of the regulated price. Producers might not share in the value above the minimum regulated price if handlers have the market power to play one producer against another to lower prices. Because this additional value is not represented in a regulated price charged to handlers, a degree of market power is returned to handlers. Those producers located nearer to Houston would have no marketing alternative since they could only haul their milk greater distances to a manufacturing outlet for surplus disposal. Additionally, handlers at Houston would also be less certain of the price their competitors were paying for milk than they were with a regulated price that more adequately reflected different location values of milk. Location adjustments, which address such problems, could not be used under

a flat differential option since they would create disorderly marketing conditions at points where they bordered on neighboring orders.

Examining an inter-market example moves the analysis to one that is more regional and national in scope. Using prevailing Class I utilization rates between the Ohio and Carolina markets at an assumed flat Class I differential of $2.00 results in nearly no change in the blend price to producers in the Ohio market. However, in the higher Class I use Carolina market, producer blend prices are reduced by 81 cents, changing the blend price differences between the two markets from $1.27 (current blend price difference) to only 46 cents. Since the blend price provides the price signal to producers in a market to alter production, and should provide the incentive to move milk from the Ohio market to the Carolina market, the 46-cent price difference is simply not enough of a price signal difference to achieve this outcome.

4. Recognize value of milk at location. Flat Class I pricing does not fully recognize that milk has value at location. Instead, it assumes that all Class I milk has the same value at any location. To the extent that milk would take on additional value above a specified flat differential, that additional value would be determined by the marketplace and be outside of the minimum regulated value which is shared with producers. Research conducted by Cornell University suggests that Class I prices would vary in the absence of regulation on the basis of supply and demand conditions under assumptions of a rational, competitive market. Results of the USDSS model conclude that there is a location value for milk used in fluid uses and that value does not resemble a flat Class I price surface. Because flat Class I pricing does not fully recognize the value of milk at location, it can only be concluded that it does not perform as well as the current Class I price system.

5. Facilitate orderly marketing with a coordinated system of Class I prices. Flat Class I pricing does not assure orderly marketing with a coordinated system of Class I prices. Flat Class I pricing sets an equal value on Class I milk in all markets even when such a price is not warranted. Flat Class I pricing does not provide for coordination of Class I milk value on a national scale because the location value is not reflected in the regulated price but left for the producers and processors to individually negotiate.

6. Recognize handler equity with regard to raw product costs. Class I values that are location-based assure that handlers' costs for milk are more equitable and uniform. Because differential levels largely represent location value, adjusting the level by location relative to all other locations from the lowest point level (price alignment), assures that all handlers are paying the same relative price for their milk supply. The need or incentive for handlers to compete on the basis of the cost of a milk supply, otherwise a burden borne by dairy farmers, is mitigated because of the location adjustments on the minimum procurement prices paid by their competitors. Mitigated also is the possible disorder from price uncertainty for both handlers and producers. Because milk is valued on an equitable basis, handlers compete with each other on the basis of plant operations and on the basis of service to their customers.

Option 3A was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. The flat differential price structure performs equal to the current system in minimizing the regulatory burden on handlers because no additional information would be required under this option than is currently required.

2. Minimize the impact on small businesses. Flat Class I pricing can impact small businesses, both producers and handlers. Flat Class I pricing changes the competitive relationship between large and small handlers. Under the current Class I pricing system all handlers, regardless of size, compete equally on the cost of their milk supply. Under a flat pricing system, a large handler could have a greater competitive advantage in procuring a milk supply because it may be able to, in the short run, offer producers a price somewhat above the flat minimum level or above what a small handler is able to pay. Over a longer time period, the small handler might not be able to procure a supply of milk.

3. Provide long-term viability. An important objective in the reform of the Class I price structure is that the resulting price structure be viable for a longer period of time. Given the potential competitive problems associated with flat Class I pricing addressed above, a flat Class I price structure would seem to fail the criterion of offering an alternative that would endure.

Flat Class I pricing performs worse than the current system, raising a number of issues regarding its impact on dairy farmers. As Table 2 suggests, there is significantly less Class I revenue that could be shared with producers resulting in a lowering of producer blend prices everywhere. Only in the proposed Upper Midwest order would there be an increase, all other areas would lose revenue. However, even with the increase in the Class I differential in the Upper Midwest, given the relatively low Class I utilization of this market the actual change in producer blend prices would be much smaller than the change in the differential.

As discussed earlier, flat Class I pricing could effect small businesses, both producers and handlers, depending on where they are located and the magnitude of change in the Class I differential. Plants located further from significant surplus regions would experience losses. Similarly producers more distantly located would also experience significant revenue losses. Apparent advantages of a flat Class I price plan are the initial equity among all producers regardless of their location and the short-run potential for lower prices to consumers in areas that would experience a lowering of Class I prices. The long-run effect on producers in distant and generally milk deficit markets is unclear.

Because flat Class I pricing does not ensure an adequate supply of milk for fluid uses as well as the current system, it is unclear that over the long run consumers would actually enjoy lower milk prices. Should a flat Class I price structure negatively affect producer income, there is diminished certainty that the order program would ensure consumers with an adequate supply of milk at reasonable prices.

A problem in employing a flat Class I differential was demonstrated in the intra-market example discussed previously. Producers might not share in the value above the minimum regulated prices which more fully represents the value of Class I milk because handlers have the market power to obtain price concessions from producers. Likewise, those producers who are located more distant from the primary milk sheds could have reduced market power since the alternative would be to haul their milk greater distances to a manufacturing outlet for surplus disposal. Handlers at greater distances from the milkshed would be less certain of the price their competitors are paying for their milk supply than they were with a regulated price that more fully reflected the value of milk at location.

In the inter-market example also discussed earlier, flat Class I pricing introduces another variable, Class I utilization rates, into the increased market power transferred from the producer to the handler. Flat Class I pricing combined with Class I

utilization rates results in an insignificant change in the blend price paid to producers in an adequately supplied market. However, in higher Class I utilization and deficit markets, producer blend prices are significantly reduced. Since the blend price provides the price signal to producers in a market to alter production based on demand, and provides the incentive to move needed milk between two markets, the narrower price difference may not provide an adequate price difference for more adequately supplied markets to ship needed milk to deficit markets.

There are few real experiences on what might happen under a system of flat Class I differentials. The Mississippi milk order was voted out during May 1973 (38 FR 8751) through March 1976. In the absence of the order, ''flat'' pricing replaced classified pricing. Sharp variations in prices paid to producers by individual handlers developed as sales shifted from handler to handler within the market. Producers shifted from handler to handler, and milk that would otherwise have been used for manufacturing purposes was brought in from outside the state at lower prices and displaced the Class I marketings of local producers.

Finally, adoption of a flat Class I pricing plan was rejected by the Secretary in the recommended and final decisions of the 1990 National Hearing because it did not meet the supply and demand pricing standard of the AMAA, namely § 608c(18). In light of this statutory requirement that Federal milk order prices be established based on economic conditions that affect supply and demand, flat Class I pricing has no legal foundation.

Option 3B: Flat Differential Modified by Class I Use.

Under this option, an equal differential of $2.00 per hundredweight would apply in an order if the Class I use is less than or equal to 70 percent. If Class I use exceeds 70 percent, the Class I differential in an order would be $2.00 + $0.075* (Class I use percent—70 percent). This option is based on the flat Class I price concept modified by the relative use price concept. This option assumes that markets with Class I use equal to or below 70 percent have an adequate reserve supply of milk to meet fluid needs and that markets with Class I use above 70 percent require additional milk supplies to meet fluid demand. This 70 percent figure was merely selected for illustrative purposes and no analysis has been done to determine if this is an appropriate percentage.

A level of $2.00 per hundredweight for the flat portion of the differential was selected because such a level has been suggested in comments concerning the flat Class I price concept.

The differentials resulting from this option are listed in the table below. As with the relative use option (Option 2), the estimated Class I differentials presented in the table are not entirely location-specific within the consolidated order. To provide a basis for comparison, a weighted average differential for each order has been calculated based on current differentials for the consolidated orders using October 1995 data. These differentials are also not location-specific for the consolidated orders.

TABLE 3.—CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON OCTOBER 1995 DATA UNDER OPTION 3B—FLAT DIFFERENTIAL MODIFIED BY CLASS I USE

Proposed order [1]	Class I use (percent)	New differential ($/cwt)	Weighted avg diff [2] ($/cwt)	Change ($/cwt)
Northeast	47.9	2.00	3.14	−1.14
Appalachian	81.5	2.86	2.79	0.07
Southeast	85.2	3.07	3.04	+0.03
Florida	88.3	3.37	3.89	−0.52
Mideast	55.8	2.00	1.91	0.09
Central	48.8	2.00	2.52	−0.52
Upper Midwest	34.5	2.00	1.32	0.68
Southwest	48.1	2.00	3.01	−1.01
AZ-Las Vegas	48.9	2.00	2.46	−0.46
Western	29.6	2.00	1.84	0.16
Pacific NW	35.6	2.00	1.90	0.10

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

Analysis Based on Evaluation criteria.

Of the nine evaluation criteria developed to evaluate Class I pricing options, the concept of a modified flat Class I price structure performs equal to the current system in two of the criteria and worse than the current system in the rest of the criteria. However, this option does perform marginally better than Option 3A in the three proposed southern orders. Nevertheless, Option 3B would still perform worse than the current system because the remainder of the proposed orders retain a purely flat differential.

Option 3B was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. The concept of a modified flat Class I price structure performs poorer than the current Class I price structure in ensuring an adequate supply of milk for fluid use for the same reasons articulated in Option 3A. In three of the suggested orders with over 70% Class I utilization, this option does give marginal increased recognition to the inherent location value of milk by relying on Class I utilization to trigger price incentives for attracting Class I milk. However, a majority of the suggested new orders continue to employ a lower and purely flat differential because Class I utilization does not exceed 70 percent. It is unlikely that an adequate supply of milk for fluid use would be ensured.

2. Recognize quality (Grade A) value of milk. A modified flat Class I price structure does recognize the quality (Grade A) value of milk with the $2.00 base differential.

3. Provide appropriate market signals. The concept of a modified flat Class I price structure that changes based on Class I utilization appears to provide marginally superior market signals in three of the proposed new orders than does the purely flat option. The modified flat Class I price structure offers the potential for being self-

adjusting in both deficit and adequately supplied markets as relative use changes. However, a majority of markets would maintain a purely flat differential and likely would experience the same problems that a flat Class I price structure presents. While the modified flat Class I price structure may provide more appropriate market signals by establishing economic incentives that will encourage milk to move to more deficit markets, it fails to provide appropriate market signals for a majority of the orders.

4. Recognize the value of milk at location. A modified flat Class I price structure, like Option 3A, does not fully recognize the location value of milk. As discussed in Option 3A and Option 2, the relative use adjustor to the flat differential only recognizes that a market with a certain utilization has an average value above markets that are more deficit and does not recognize the value of milk at location. In fact Option 3B assumes that milk has the same value in a majority of the orders. Because Option 3B does not fully recognize the value of milk at location, it does not perform as well as the current system.

5. Facilitate orderly marketing with coordinated system of Class I prices. Independently, both a flat Class I price structure and a relative use Class I price structure fail to provide a coordinated system of Class I prices. Hence, when the two price structures are combined in the modified flat Class I price structure it can be concluded that the combined price structure will not facilitate orderly marketing with a coordinated system of Class I prices. The flat differential portion imposes an equal value on Class I milk in all markets with less than a specified Class I utilization, in this example 70 percent, even when such a differential level is not warranted. Producers and processors are left to negotiate the real value of the milk resulting in an uncoordinated system of Class I prices. Then, when the relative use factor is utilized to adjust the prices, problems arise because of a lack of alignment between orders.

6. Recognizes handler equity with regards to raw product costs. Since both Option 3A and Option 2 do not adequately recognize handler equity with regards to raw product costs as well as the current system, this modified flat Class I price structure option similarly cannot recognize handler equity for raw product costs for the same reasons discussed in the analysis of the other individual options.

Option 3B was evaluated against the objective criteria as follows:

1. Minimize regulatory burden. The flat differential modified by Class I use concept performs equal to the current system in minimizing the regulatory burden on handlers because no additional information than what is currently required would be requested under this option.

2. Minimize the impact on small businesses. As with Option 3A a modified flat Class I pricing structure could have dramatic impacts on small businesses, both producers and handlers. Like Option 3A, the modified flat pricing concept changes the competitive relationship between large and small handlers. Large handlers in areas where the differential is flat would have a competitive advantage in procuring milk supplies over small handlers because they may be able to pay more than the flat price. In markets where the relative use modifier becomes effective, small handlers could further be at a competitive disadvantage to neighboring handlers merely required to pay the flat portion of the differential. Price variances between large and small producers are likely to increase as well. The analysis for this option is fundamentally the same as discussed previously in Option 3A and Option 2.

3. Provide long-term viability. Given the difficulties associated with Option 3A and Option 2, a system that combines the two into a Class I pricing structure would perform worse than the current Class I price structure.

Because a modified flat Class I pricing option performs worse than the current system and is so similar in application to a purely flat pricing structure, it too raises a number of issues regarding its impact on dairy farmers. These issues are nearly identical to those applicable to purely flat pricing. Using October 1995 data, almost 87 percent of all milk would have been in the eight markets with a flat price under this option. In the consolidated markets with utilization above 70 percent (Appalachian, Southeast, and Florida), this option, based on October 1995 data, would still lower Class I differentials in two of the three markets.

As with Option 3A, Option 3B would have a significant economic impact on a substantial number of small businesses depending on where they are located and the magnitude of the change from the current Class I differential. The estimated impact on consumers for this modified flat Class I pricing option is nearly identical to that presented in the Option 3A analysis.

The same problems presented and discussed in the analysis of Option 3A using both inter- and intra-market examples are applicable to Option 3B. These problems are exhibited for this modified flat pricing option. Using an intra-market example, producers would not likely share in the value above the minimum regulated prices that more fully represents the value of Class I milk because handlers would have the greater degree of market power. In the inter-market example, blend price differences would not provide adequate price differences for more adequately supplied markets to ship needed milk to deficit markets, although the modified flat option may perform marginally better than a purely flat differential structure.

Option 4: Demand-based Differential. Under this option, an equal differential would be applied in all orders and in defined demand centers an additional component would be added to reflect the cost of transporting milk from reserve supply areas to demand centers. The differentials would be adjusted periodically to reflect changes in supply/demand conditions.

One possible option of a demand-based differential concept was proposed by the Upper Midwest Dairy Coalition (UMDC). Under this proposal, a fluid supply area would be established for each market from which milk production around the major bottler locations is procured. Also, for each market, a reserve supply area would be established that would be outside the fluid supply area from which milk production is generally supplied to fluid handlers in the major fluid bottling locations.

The Class I differential for the reserve area under this proposal would be set at $1.00 per hundredweight. For fluid supply areas, the differential would be $1.00 plus transportation costs from the reserve area to the fluid demand area. Fluid handlers in the fluid supply area would pay the higher differential, and transportation and balancing credits would be drawn from the market order pool.

Using this demand-based option, a market with a 100-mile supply area would have a differential of $1.00 + ($0.35*1) = $1.35 (if the cost of transportation is 35 cents per hundredweight per 100 miles). A market with a 700-mile supply area, on the other hand, would have a differential of $1.00 + ($0.35*7) = $3.45. Monies paid by Class I handlers through the second part of the Class I differential would be used to fund the order's system of transportation credits and balancing payments. These transportation credits and balancing payments would be provided to organizations that supply the order's fluid market.

To encourage movement of the nearest milk supply for fluid use, two restrictions would be implemented. First, a handler's total transportation credits would be limited to the variable amount paid in by the handler for transportation. Secondly, a handler's total transportation credit would not exceed 80% of the handler's transportation bill on each Class I shipment or 2.8 cents per hundredweight per 10 miles (28 cents per 100 miles), whichever is less. Any residual left after paying transportation credits would be added to the $1.00 differential and paid to all producers in the pool.

While Class I handlers would be required to pay the established Class I price ($1.00 + transportation), from a producer point of view, this option is in essence a flat differential proposal. No amount over the $1.00 is guaranteed to return to producers in a blend price. Thus, this option suffers from the shortcomings of a flat differential option.

The table below contains a few examples of differentials that would apply to specific locations. These differentials are based on the furthest distance milk for fluid use is transported using the USDSS model solving for each consumption point individually. Such demand-based differentials would be established at every fluid milk processing location. UMDC has suggested that the USDSS model be used as a guide in establishing differentials and that expert judgment will be employed to adjust for proper alignment in pricing relationships.

TABLE 4.—CLASS I DIFFERENTIALS FOR SELECTED CITIES UNDER OPTION 4: DEMAND-BASED DIFFERENTIALS

Selected location	Current differential ($/cwt)	Demand-based differential ($/cwt)	Change ($/cwt)
Miami, FL	4.18	3.88	−0.30
Tampa, FL	3.88	2.05	−1.83
Orlando, FL	3.88	3.08	−0.80
New Orleans, LA	3.65	1.28	−2.37
Atlanta, GA	3.08	2.38	−0.70
New York City, NY	3.14	1.80	−1.34
Chicago, IL	1.40	1.49	0.09
Minneapolis, MN	1.20	1.11	−0.09
Phoenix, AZ	2.52	1.00	−1.52
Dallas, TX	3.16	1.40	−1.76
Denver, CO	2.73	1.19	−1.54
Portland, OR	1.90	1.13	−0.77
Seattle, WA	1.90	1.31	−0.59
Boise, ID	1.50	1.06	−0.44

Analysis Based on Evaluation Criteria

In eight of the nine criteria, Option 4 performs poorer than the current system. In the remaining criterion, Option 4 performs about the same as the current system.

Option 4 was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. In terms of ensuring an adequate supply of milk for the fluid market, proponents argue that the package of Class I differentials and pool structure established under this option would produce an adequate supply of milk for the fluid market. It is apparent, however, that the Class I differentials on their own would not. This is a prime function of Federal milk marketing orders. While Class I differentials should be set at the minimum level necessary to bring forth adequate milk supplies, Option 4 would not result in differentials that would perform this function. Substantial over-order values would be required in many areas to attract adequate milk supplies for fluid purposes plus a reserve. Over-order prices are useful tools for allowing the market to find the final value of Class I milk; however, it is Federal order Class I prices that must meet the basic tenets of the AMAA.

2. Recognize quality (Grade A) value of milk. As with all of the seven options, Option 4 does recognize the quality (Grade A) value of milk with the $1.00 base differential.

3. Provide appropriate market signals. The net result of Option 4 failing to provide Class I differentials that recognize an appropriate price level for milk at location is that appropriate market signals are not sent to market participants. Federal orders should provide known and visible prices to market participants at all locations. The net effect of Option 4 would be to provide frequently shifting prices to market participants that fail to provide appropriate market signals.

Currently, blend prices and changes in blend prices provide signals to producers to make production adjustments. Under this option, the transportation portion of the Class I differential (the amount above $1.00) would be paid to those responsible for transporting milk, while producers would be guaranteed only $1.00 on Class I milk. Thus, the option by design could send distorted price signals to producers in blend prices. At times when milk supply is plentiful, local fluid handlers may need to go a relatively short distance to procure milk. Thus, there may be residual transportation credit revenues in the pool to be paid to producers in the blend price signaling that supplies are short and more production is needed. However, when handlers bring milk in from long distances, all transportation credit revenue would be used up and producers would only share in the $1.00 differential indicating to producers that there are ample supplies of milk. Thus, blend prices could be lower when local supplies are tight than when local supplies are plentiful.

4. Recognize value of milk at location. Option 4 would result in differing Class I levels at different locations that may significantly underrepresent the true Class I value at many locations. This would force a greater portion of the true Class I value outside of the order structure. Moreover, higher or lower price levels for fluid milk in an area may not be reflected in Federal order blend prices to producers in the area due to transportation costs. In terms of blend prices, producers in all areas would share in $1.00 plus potentially a variable residual of their respective

differential. Hence, Option 4 performs worse than the current system.

5. Facilitate orderly marketing with coordinated system of prices. Another problem with Option 4 is that resulting Class I differentials are not coordinated across wide areas and thus do not facilitate orderly marketing. Milk, both packaged and bulk, moves long distances. Class I differentials should encourage milk to move in directions indicated by underlying economics, essentially from areas that have relative surpluses of milk to areas that are relatively deficit. Option 4 performs worse than the current system in this area.

6. Recognize handler equity with regard to raw product costs. Processor equity suffers under Option 4 because Class I over-order charges would need to increase in many areas. While it may be desirable for the market to set the final Class I price charged to bottlers, when a large portion of this price occurs outside of regulation, Federal orders cannot assure a reasonable degree of handler equity concerning prices paid for Class I milk. Additionally, the net effect of the Class I price paid by handlers less the transportation credits received would likely create inequity among handlers.

Option 4 was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. Option 4 would increase the regulatory burden on handlers as compared to the present system. Additional reporting on sources of milk and transportation costs would be required. Fluid handlers would be required to report, and Market Administrators to verify, hauling cost information on each load of bulk milk received. This additional regulatory requirement may also result in an increase in administrative assessments to handle the additional record verifications.

2. Minimize impact on small business. It is likely that small handlers might be disadvantaged by this option. With demand-based differentials, a substantial part of the Class I value needed to attract adequate milk supplies would likely come from over-order payments. Federal order Class I prices are mandatory and should affect handlers in an area equally. Over-order pricing is not mandatory and may or may not affect different handlers equally. The potential exists under Option 4 for large handlers to have an advantage over small handlers in competing for milk for Class I purposes because they will be able to outbid smaller handlers for a supply of milk.

3. Provide long-term viability. Option 4 would involve Class I differentials that could change over time as milk supply/demand conditions change. As such, the system could remain viable for a long period of time if the problems outlined above did not jeopardize the viability of this proposal. There is a certain attractiveness to a system which is self-adjusting. The difficulty is in deriving a system where the self-adjusting feature stays current over time.

This proposal could have a significant impact on various sectors of the dairy industry. The impact would likely vary by region, with large impacts on regions where Class I differentials would change significantly and lesser impacts in regions with small changes in Class I differentials. The impacts by region are discussed below:

Midwest. Class I differentials in the Midwest would be similar to current differentials under Option 4. In addition, the vast majority of milk produced in the Midwest is used for manufactured products, not for Class I. As such, the impact on producers and processors would be expected to be relatively small. Producer groups and cooperatives in this area fully recognize that, due to low Class I utilization in this area, changes in Class I differentials will have relatively less impact here than in other areas which have higher rates of Class I utilization.

Northeast. In the Northeast, Class I differentials would be substantially reduced from current levels under Option 4. For example, the Class I differential in New York City would be $1.34 less than the current differential, while the Class I differential in Baltimore would be $1.80 less than under the current system. Producer organizations in the Northeast have historically had a difficult time enforcing Class I over-order charges significantly above Federal order minimums. Cooperatives have depended heavily upon Federal order minimums, and more recently upon the Northeast Dairy Compact, to try to maintain revenues from Class I sales.

Processors in this area have historically had significant marketing power over cooperatives. Substantial drops in Class I differentials would likely increase processor marketing power and prevent cooperatives from establishing over-order prices that would reflect the full Class I value thus, dairy farmers would see a decline in their revenue.

Producer income levels in this area would be expected to decrease with a resulting decline in producer numbers, milk production and, eventually, manufacturing capacity. The decline in manufacturing capacity, over time, would likely be the most significant impact on the processing side of the industry in the Northeast.

Southeast. In the Southeast, Class I differentials would be substantially reduced from current levels under Option 4 in many areas. For example, the Class I differential in Atlanta would be set at $0.70 less than the current system, while the Class I differential in New Orleans would be $2.37 less than under the current system. It is unclear if over-order charges in most parts of the Southeast could be increased enough to compensate for the drop in Federal order Class I differentials. Thus, producer income and milk production would be expected to decrease in total in this area. Much of this area is deficit of milk production and, at certain times of the year, for fluid needs. Dropping the Class I differentials substantially would likely increase this deficit and make it increasingly difficult to meet the AMAA requirements for meeting the needs of the fluid market.

Southwest. In the Southwest, Class I differentials would be substantially reduced from current levels under Option 4. For example, the Class I differential in Dallas would be set at $1.76 less than the current system, while the Class I differential in Denver would be $1.54 less than under the current system. It is unlikely that over-order charges in most parts of the Southwest could be increased enough to compensate for the drop in Federal order Class I differentials. Thus, producer income and milk production would be expected to decrease in total in this area. The impacts would likely vary within this region as lower production costs in West Texas and New Mexico could offset the drop in Class I revenues, but higher production cost areas (e.g., East Texas) would likely show substantial drops in milk production.

Pacific Northwest. In the Pacific Northwest, Class I differentials would be reduced from current levels under Option 4 in many areas. For example, the Class I differential in Portland, Oregon, would be set at $0.77 less than the current system, while the Class I differential in Seattle would be $0.59 less than under the current system. It is unlikely that over-order charges in most parts of the Pacific Northwest could be increased enough to compensate fully for the drop in Federal order Class I differentials.

This proposal would, all else being equal, result in lower blend prices to producers in most parts of the country. It is expected that mailbox prices to producers would also decline in most regions. The vast majority of producers pooled on Federal orders are considered

as small businesses. Thus, this proposal would have a negative impact on small business producers through a loss of income.

In addition, it is expected that in regions that are deficit of milk for some or all uses, an increased reliance on over-order prices would result from this proposal. Experience has shown that in an unregulated or partially-regulated environment, such as where substantial over-order premiums are paid, large producers often have greater leverage with milk buyers than small producers. This advantage can take many forms including volume premiums, lower hauling rates, and the ability to negotiate individually with handlers in a manner difficult for small producers.

This proposal could likely increase the regulatory burden on handlers that are small businesses. Maintenance of transportation credit records and increased verification that may be required could burden small business handlers. Moreover, setting Class I differentials at levels significantly below the full economic value of Class I milk at location has the impact of deregulating the effective price of Class I milk. As such, small handlers would be competing for milk supplies with large handlers with no assurance of similar prices. Equity among handlers is one of the benefits of the Federal order system. By setting Class I differentials at a level well under the full economic value, some of the handler equity is lost. It is expected that such a scenario would provide a greater burden on small business handlers than on large business handlers.

It is difficult to quantify the impact to consumers under this option. Federal order Class I differentials around the country would likely be lower than under the current system at many locations. Increased over-order charges may make up part of the difference, at least at locations with strong supply organization cooperation. It is expected that the overall impact on consumer prices would be slight.

Option 4 presents certain attractive provisions when viewed as a theoretical model for establishing Class I differentials. While it is intellectually appealing to have frequently adjusting Class I differentials, this type of proposal contains significant challenges to actual implementation. A substantial set of calculations would be necessary, together with strong assumptions regarding transportation costs, to determine Class I differentials under this option. The proponents of Option 4 utilized the USDSS model to estimate their Class I differentials. Proponents were unclear as to the specific points for calculating transportation. Arguably, the distance from each farm to each distributing plant that the farm supplies, as well as the distance from each supply plant or reserve processing plant to each distributing plant, would need to be determined.

Option 4 is not a pure pricing concept, but an allocation of costs. It proposes ''Class I differentials'' at location, thereby intimating value of milk at location. However, such a surface conclusion is erroneous when it becomes operational. It essentially becomes a flat price proposal insofar as milk value (price) is concerned.

This option in essence proposes that regulators intervene in the contractual relationships among producers, processors and haulers. Rather than creating a system whereby producers are paid a price for a product (valued to include all costs of producing and delivering the product to market), this proposal seeks to administratively isolate transportation cost and reimburse that cost at a fixed rate. To attempt to intervene in marketplace relationships in this way, particularly under the umbrella of price, does not seem appropriate.

As a result of this analysis, it is concluded that Option 4 would merely result in a greater degree of regulation with less money returned to producers. Thus, based on the issues discussed, Option 4 is not further considered as a replacement for the Class I price structure.

Based on the qualitative analysis, three pricing options were selected for further quantitative analysis. The Department determined that the three options selected represented a broad spectrum of possible Class I price structures. These three options are Option 1A, Option 1B, and Option 5.

To further analyze these options, beyond the evaluation criteria and basic quantitative analyses, a multi-regional model of the U.S. dairy sector, developed by the Economic Research Service of USDA, was used to generate both the ''model baseline'' results and analysis of the three pricing options. The model has been specified to generate a long-term outlook that is consistent with the Department's official baseline forecast for the dairy sector. The model baseline serves as a benchmark for comparing price and income changes of an option. For example, price impacts are reported as differences from the baseline for each of six years (1999–2004) and from the 6-year average. A more detailed explanation of the model and the economic impact results are included in the initial regulatory impact analysis.[24]

Based on this analysis, Option 5 was eliminated from further consideration as a viable replacement for the Class I price structure. Although Option 5 appeared appealing in the qualitative analysis, the quantitative analysis revealed that Option 5 would create an unsustainable situation, based on the degree of increased price levels, given the dynamics of milk marketing. The analysis of Option 5 follows:

Option 5: Decoupled Baseline Class I Price with Adjustors. Option 5, as proposed by Mid-America Dairymen, Inc. (Mid-Am), is a price structure that would decouple Class I prices from the volatility of the commodity markets. Since the Class I price would be decoupled from the basic formula price, the proponents suggest that 1996 average Class I prices become the base, with adjustments made utilizing changes in fluid use rates and short term costs of production (i.e., feed costs). Thus, for Class I purposes the BFP would be floored at $13.63 per hundredweight, the 1996 annual average BFP. This price level would be used to establish Class I prices using current differentials.

A supply/demand adjustor would be used to change prices in each of the orders to reflect long-term trends. Proponents suggest using a 12-month rolling average Class I utilization, rounded to the nearest full percentage. Class I prices would be adjusted by $0.12 per hundredweight for each 2 percent change in the rolling average utilization. For example, a Class I utilization change from 44 percent to 46 percent in a market would result in a $0.12 per hundredweight gain in the market's Class I differential. Once the utilization level changes, the new utilization rate becomes the base for future changes. Thus, if a market falls from 44 percent to 42 percent, the new base for comparing a 2-percentage point change up or down is 42 percent.

In addition to the supply/demand adjustor, a cost of production indicator would be developed whereby Class I prices would be increased in a timely manner when input costs to dairy farmers are increasing. One such economic indicator might be feed costs.

The table below illustrates the initial Class I differentials under the proposed consolidated orders. These differentials are not location-specific within the applicable orders. For purposes of this

[24] Copies of this analysis can be obtained from Dairy Programs at (202) 720–4392, any Market Administrator office, or via the Internet at http://www.ams.usda.gov/dairy/.

analysis and to provide a basis for comparison within the proposed consolidated orders, a weighted average Class I differential for each order has been calculated for each order based on October 1995 data. This weighted average differential is computed by multiplying the percentage of Class I milk in each of the current orders that comprise the consolidated order by the applicable current order differential and adding the resulting amounts. The weighted average differential is not location-specific for the consolidated orders. Initially the differentials will be the same. However, as Option 5 impacts production and utilization, and when an economic indicator (such as feed costs) is calculated, the differentials will vary.

TABLE 5.—INITIAL CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON 1995 DATA UNDER OPTION 5: DECOUPLED BASELINE CLASS I PRICE WITH ADJUSTORS

Proposed order [1]	Weighted average differential ($/cwt) [2]	Initial differential ($/cwt)	Change in differential ($/cwt)
Northeast	3.14	3.14	0.00
Appalachian	2.79	2.79	0.00
Southeast	3.04	3.08	0.00
Florida	3.89	3.89	0.00
Mideast	1.91	1.92	0.00
Central	2.52	2.41	0.00
Up Midwest	1.32	1.41	0.00
Southwest	3.01	3.01	0.00
AZ-Las Vegas	2.46	2.46	0.00
Western	1.84	1.84	0.00
Pacific NW	1.90	1.90	0.00

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk for each current order multiplied by the applicable current order differential.

Analysis Based on the Evaluation Criteria

Option 5 performs about equal to the current system in five of the nine evaluation criteria. The option performs poorer than the current system in the other four evaluation criteria.

Option 5 was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. With a high baseline and a supply/demand adjustor (and possibly an economic adjustor), Option 5 performs on a national level about the same as the current system, particularly in the short term.

2. Recognize quality (Grade A) value of milk. As with all of the options, Option 5 does recognize the quality (Grade A) value of milk. Use of the current differentials to achieve the Class I price recognizes this value.

3. Provide appropriate market signals. Option 5 decouples the Class I price from the basic formula price and thus the commodity market. A rolling average Class I utilization is proposed as the appropriate measure of supply/demand. A rolling average further delays any market signal sent by Class I utilization. Moreover, the option proposes to change the Class I price only when the rolling average utilization changes by 2 percent or more. Option 5 essentially freezes prices, albeit, at a historically high level. In fact, it appears to suggest that the market signal for fluid use milk should be fairly static.

Proponents have suggested an economic indicator (feed cost adjustor) of some kind be used to adjust prices short term. While it is likely true that inclusion of such an index would mute declines in milk prices when feed costs are rising, market driven declines in milk prices also could be accelerated if feed costs were declining at the same time. Thus, even combined with a supply/demand adjustor, this option would not perform as well in providing appropriate market signals as the current system.

4. Recognize value of milk at location. Option 5 would include the current system of differentials. Therefore, this option does recognize the value of milk at location and performs as well as the current system.

5. Facilitate orderly marketing with coordinated system of Class I prices. As long as no adjustment is made to the baseline prices, alignment would be maintained fairly well. However, Option 5 has no provision to align prices when price changes occur. A possible $0.24 price spread between two markets within one month could exist. Moreover, misaligned prices could create disorderly conditions as industry participants between and among the markets seek other measures to regain alignment in prices. Hence, Option 5 performs worse than the current system because it would lead to disorderly marketing conditions.

6. Recognize handler equity with regard to raw product costs. As long as no adjustment is made to the baseline prices, handler equity would be maintained fairly well. Option 5 does ignore the relationship of handlers in adjacent markets. If prices are increased or decreased in a market, the handler regulated in an adjacent market may be affected by the misalignment of prices. Misaligned prices could create disorderly conditions as industry participants between and among the markets seek other measures to regain alignment in prices.

Option 5 was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. Option 5 is not likely to increase the regulatory burden on handlers when compared to the current system. The addition of adjustors would create some additional burden on regulators; however, this would not be substantial.

2. Minimize impact on small business. Option 5 performs worse than the current system with regards to small businesses. It is likely that the individual market supply/demand adjustor will create some disruption in inter-market price alignment over time. Such a system may result in the need for over-order charges in some markets. Small handlers would likely be affected in their ability to compete with large handlers for a raw milk supply.

3. Provide long-term viability. The use of a historic baseline price as the major portion of a price fails to factor into the

competitive price of milk any of the influences of the national milk market. It ignores advances in technology and increased efficiencies. In addition, it fails to recognize trends in the overall economy such as inflation and interest rates. Thus, this option does not provide long-term viability.

Upon implementation, all Class I differentials would be equal to current differentials. With the baseline utilizations established at 1996 levels, producers would experience Class I price increases since 1996 was a record high year for milk prices. Every existing order area would see increases in Class I prices of $0.85 per hundredweight above the baseline in the initial year. However, even with this increase, some producers may see declines in blend prices as a result of the proposed consolidation of orders contained in this proposed rule.

Initially, Option 5 would not have a significant impact on the competitiveness of small businesses, producers, or processors because prices would remain relatively the same. However, as the supply/demand adjustor modifies the differentials based on changes in Class I utilization, price alignment between markets will become an issue that would affect a small business' ability to compete. This option would increase the retail cost of fluid milk in the initial year or two but would lower the cost of manufactured dairy products.

This option appears attractive on the surface since higher Class I prices will help most producers. If utilization and feed costs do not move abruptly, or if the feed cost formula is designed in such a way as to moderate any abrupt price movements, then variability in Class I prices would be moderated. However, it seems likely that milk prices will be increasing or decreasing in the same direction as feed prices (i.e., higher feed prices means less milk production thus higher milk prices, lower feed prices means more milk production thus lower milk prices.)

Another attractive feature of this option is that the use of a feed cost adjustor would adhere to requirements of the AMAA that the Department consider such costs and other economic conditions in the establishment of prices. In addition, an automatic utilization adjustor could reduce the need to have hearings to change Class I differentials if changes in production or consumption in an area make the existing differentials inappropriate.

Although attractive on the surface, further analyses of Option 5 reveals significant problems. First, analysis completed by the multi-regional ERS model indicates that the increase in prices experienced will not be sustainable. The results of the model analysis indicate that the higher floored Class I prices will impact the all-milk price, and after 3 years, producers will begin seeing a decrease in the revenue initially generated by Option 5. This will occur because the higher Class I prices will stimulate milk production, which will then lead to lower manufacturing prices. Because it is the blend price that is paid to producers, the increase in the Class I prices will not be enough to offset the decrease in prices of the other classes of use and the changes in utilization which will affect the differential level. Further details of the model results are included in the economic impact analysis published in conjunction with this proposed rule.

Next, Option 5 may cause disorderly marketing with the introduction of inter-market disparities based on temporary changes in use. Producers in high Class I markets would benefit at the expense of producers in low Class I markets. In addition, flooring the Class I price will shift volatility to milk prices in manufacturing markets. If the feed cost adjustor only affects Class I prices, high utilization markets will gain relative to producers in lower Class I use markets, who would also bear the higher feed costs.

Finally, Option 5 uses current differentials to establish Class I prices. Although, the 1990 hearing resulted in changes to many of the current Class I differentials, many of the current differentials are similar to those that were prescribed in the 1985 Farm Bill. Thus, arguments could be made that using the current 1996 Class I differentials as a base for a new Class I pricing surface runs counter to the 1996 Farm Bill mandate that the new Class I differentials cannot be based on the differentials described in the 1985 Farm Bill.

As discussed, Option 5 will create several problems if implemented as a Class I price structure. Furthermore, questions arise as to whether or not Option 5 is legal as it may violate the mandates of the 1996 Farm Bill. Finally, proponents may no longer be actively supporting this option as a viable replacement for the Class I price structure. Thus, based on this qualitative and quantitative analysis, Option 5 is eliminated from further consideration as a Class I price structure replacement.

With the elimination of Option 5, only two Class I price structure options remain as possible replacements for the current Class I price structure, Option 1A and Option 1B. These two options present national price structures developed utilizing the USDSS model. The options vary in their reliance and application of the USDSS model but both are based on economic principles contained within the model. Both price structures have been evaluated qualitatively against the evaluation criteria and quantitatively utilizing the multi-regional ERS model discussed earlier. In addition to analysis conducted by the multi-regional ERS model, a static Federal order pool analysis has been conducted for Option 1A and Option 1B to provide an estimate of how the options would have impacted producer prices during October 1996. The results of the pool analyses will be addressed in a discussion comparing the two price structures.

It should be noted that both Option 1A and Option 1B may require additional fine-tuning of the Class I differentials and adjustments for location when actual implementation of the selected price structure occurs within the Federal order program. However, this fine-tuning would only slightly alter the impacts of either option. The price surfaces presented provide a reasonable indication of the level of Class I differentials that may result under each price surface.

Option 1A: Location-Specific Differentials. Option 1A would establish a nationally coordinated system of location-specific Class I price differentials reflecting the relative economic value of milk by location. An important feature of the option is that it would also include location adjustments that geographically align minimum Class I milk prices paid by fluid milk processors nationwide regardless of defined milk marketing area boundaries or order pooling provisions. It is based on the economic efficiency rationale presented in Cornell University research on the U.S. dairy sector.[25] A basic premise of Option 1A, confirmed by the Cornell research, is that the value of milk varies according to location across the United States. Option 1A combines these concepts of spatial price value and relative price relationships together with marketing data and expert knowledge of local conditions and

[25] Pratt, James E., Phillip M. Bishop, Eric M. Erba, Andrew M. Novakovic, and Mark W. Stephenson, ''A Description of the Methods and Data Employed in the U.S. Dairy Sector Simulator, Version 97.3,'' Research Bulletin 97–09, A Publication of the Cornell Program on Dairy Markets and Policy, Department of Agricultural, Resource, and Managerial Economics, Cornell University, July 1997.

marketing practices to develop a national Class I price structure.

Compared to other Class I price structure options which have been proposed by interested parties and/or are under consideration by the Department, this option reflects the current Class I pricing surface more than the others. Although similar to the current Class I price surface, there are distinct differences.

Under Option 1A, Class I differentials are lowest in geographical areas evidencing the largest supplies of milk relative to local/regional fluid milk needs. The differentials become progressively higher as they move from these areas to markets with less production relative to demand for fluid milk. Nine differential zones provide the basis for establishing the price structure. These zones were established based on results of the USDSS model, knowledge of current supply and demand conditions, and recognition of other marketing conditions such as fluid versus manufacturing markets, urban versus rural areas, and surplus versus deficit markets.

Class I differentials under this option range from a low of $1.60 per hundredweight in the base zones of the Upper Midwest, Southwest, and West, where there are abundant supplies of milk in excess of fluid milk use, to a high of $4.30 per hundredweight in Florida, where there are deficit supplies of milk for fluid use, thus reflecting the location value of milk for fluid use. The nine zones, differential ranges, and basis for establishing the Class I differential levels are as follows:

Zone 1. The suggested differentials within Zone 1 range from $1.60 to $1.90 per hundredweight. Geographically this zone is very large and encompasses the entire Northwestern United States. It consists of Washington, Oregon, Montana, Idaho, Northern and Central California, Northern and Western Nevada, Northern and Western Wyoming, and Northern Utah.

The area defined includes the top milk production state as well as two more of the top ten milk producing states. Milk production in this region has grown and continues to do so. Milk production in this zone tends to be concentrated in three areas: Western Washington and Oregon, the Southern Valley of Idaho and Northern Utah, and the Central Valley of California. Due to the numerous mountain ranges it encompasses, much of the zone is rural and sparsely populated. The exception is the heavily populated Western Coastal areas.

Class I utilization for this zone is fairly low and a significant amount of manufacturing is required to balance the markets. Manufacturing facilities are readily accessible in the milk producing areas. Zone 1 has excess supplies of milk, and therefore, could be an additional source of milk for other regions of the country.

It is expected that Zone 1 will continue to maintain adequate supplies of milk for the Northwestern United States. The supplies of milk are within relatively short distances of plants thus not requiring significant location adjustments within the zone.

Zone 2. The suggested differentials within Zone 2 would range from $1.60 to $2.65 per hundredweight. Zone 2 is a large region encompassing the Southwestern United States. It consists of Arizona, New Mexico, Colorado, Southern California, Southeastern Nevada, Southern Utah, Southeastern Wyoming, Southwestern Kansas, West Texas, and the Panhandle of Oklahoma.

The area defined includes portions of two of the top ten states in milk production as well as two more in the top twenty. Milk production in this zone has grown significantly over the last several years, but has recently slowed. Milk production in this zone tends to be concentrated in five areas: the Southern Valley of California, the Phoenix area of Arizona, North Central Colorado, the El Paso area of Texas and New Mexico, and the Roswell area of New Mexico. Much of this region is rural and sparsely populated due to the mountainous and arid terrain. The only heavily populated area is the Coastal region of Southern California. For the rest of the zone, populated areas tend to congregate around the capital cities of the Southwestern states.

Class I utilization for this area is slightly greater than the average for the United States. Manufacturing is needed to balance these markets; however, only a limited number of plants are located within the zone. Milk supplies in the zone are ample for Class I demand, but not always within a short distance of these needs. Distant manufacturing facilities are used at times for balancing. Other regions of the country have relied on this zone as a supplemental supply source. However, a slight change in the manufacturing capacity of this zone could change milk availability for other regions. Some location adjustments are needed for alignment purposes with the more deficit markets to the East.

Zone 3. The suggested differentials within Zone 3 would range from $1.60 to $1.80 per hundredweight. Geographically this zone encompasses the Upper Midwest region including the states of Minnesota, Wisconsin, Iowa, and North Dakota, the Michigan Upper Peninsula, and parts of South Dakota, Nebraska, Missouri, and Illinois.

This zone includes two of the nation's top five milk producing states, Wisconsin and Minnesota, as well as the substantial milk supplies available in parts of surrounding states. The vast majority of milk in Zone 3 is used for manufacturing purposes throughout the year. In addition, as was readily apparent in the fall of 1996, this area provides large quantities of milk to distant markets at times of shortages for fluid purposes in those markets. The $1.60 differential equates to the Class I differential in base zones to the Southwest and West that also use substantial quantities of milk for manufacturing purposes throughout the year. The 20-cent range provides some flexibility in setting Class I differentials that align with neighboring zones and in encouraging shipments to high Class I demand areas within the zone.

In addition, a Class I differential of $1.60 to $1.80 in this zone will provide a greater incentive for manufacturing organizations in this zone to pool milk. Historically, there have been small pool draws (that at times fluctuate between positive and negative) and negative location adjustments. Generally, over-order charges have been required to ensure adequate milk supplies for fluid purposes. Hence, the additional revenue generated in this region will be used to move some of these over-order charges under the Federal order program in the form of transportation credits. As a result, the $1.60 to $1.80 Class I differentials will help to establish higher pool draws and enable more market participants to share in the benefits of servicing the fluid market.

For a number of years, prevailing over-order charges in this zone have resulted in effective Class I prices to fluid milk processors that are well above the Federal order minimums herein proposed. Thus, Class I processors should see no increase in their milk procurement costs, but would likely only see a partial redistribution of their costs from over-order charges to Federal order obligations.

Zone 4. The suggested differentials within Zone 4 would range from $2.65 to $3.65 per hundredweight. Geographically, this zone is fairly small and primarily covers two states: Louisiana, west of the Mississippi River, and central and east Texas.

The zone defined has a significant amount of milk production and population. Texas ranks as the sixth largest milk-producing state and is the second most populated. Milk production in this zone is concentrated in two areas: East of Dallas and

Southwest of Dallas. Population centers are spread throughout the region with significant population along the Gulf Coast of Texas and Louisiana.

Class I utilization is moderately high and the zone has primarily been considered a fluid market. Much of the manufacturing in this zone is based on weekly and seasonal balancing. Excesses tend to be limited to Spring flush periods while Fall usually brings a deficit. Local demand along the Southern Coastal area requires supplies to travel significant distances to meet fluid demands. Seasonal deficits are handled by various other regions of the country.

The differential range proposed is needed to move milk supplies south and east to align with Southeastern deficit markets. Zone 4 may depend increasingly on milk suppliers from other regions of the country. However, the range of differentials suggested should be adequate to maintain a local milk supply.

Zone 5. The suggested differentials within Zone 5 range from $2.00 to $3.00 per hundredweight. Geographically, this zone ranges from Maine in the east to Oklahoma and southeastern Kansas in the west. The zone encompasses parts of the milk-producing areas of New York and Pennsylvania and the more dispersed production in the eastern mountains, the Ohio and mid-Mississippi River basins, and reaches into the southwestern United States. This zone is populated with a mix of rural areas plus a number of medium-sized metropolitan areas. The suggested price flow is generally from north to south and from west to east within this long narrow zone.

The range of differentials from $2.00 to $3.00 provides a transition from the surplus areas of the North and West to the deficit areas of the Southeast.

Zone 6. The suggested differentials within Zone 6 range from $3.00 to $3.75 per hundredweight. Geographically this zone encompasses all of South Carolina, most of the states of North Carolina, Georgia, Alabama, Mississippi, and parts of Louisiana and Florida.

This is a zone of deficient milk supplies and declining milk production. This zone contains many rural areas with a heavy concentration of population along a corridor from Raleigh, North Carolina, to Atlanta, Georgia. It is a zone which currently has a high Class I utilization and little access to manufacturing milk facilities.

The differentials increase moving toward the south and southeastern parts of Zone 6. The Atlantic and Gulf Coast areas are also in the higher end of the range because these areas are not heavy milk production areas. Zone 6 may depend increasingly on milk supplies from outside the areas; however, the differential range proposed should be adequate to provide a milk supply to meet the fluid demand in the zone.

Zone 7. The proposed differentials within Zone 7 range from $3.75 to $4.30 per hundredweight. Geographically it encompasses all of the lower two-thirds of Florida. Annual milk production in the zone does not meet Class I needs or provide an adequate volume. Milk supplies needed to meet the demand in this zone are procured from distant areas of the country. The price increases as the surface moves from north to south allowing milk to move to the deficient areas of Florida. Population density relative to viable milk-producing areas within this zone is creating increasing land-use pressure. The differentials proposed should be adequate to attract necessary milk supplies to meet the fluid demand.

Zone 8. The suggested differentials within Zone 8 range from $1.80 to $2.00. The zone covers parts of 12 states ranging from the southwest corner of South Dakota to the western corner of New York. This zone, together with parts of Zone 5, form an intermediate area between Zone 3, where milk is used primarily for manufacturing purposes, and Zones 4, 6, 7, and 9, where milk is used primarily for Class I purposes.

The price range in this zone would provide for alignment with markets to the north, south, and east, and set differentials at a level that would recognize the supply/demand conditions in this area. Alignment of Zone 8 with neighboring zones, particularly to the east and south, minimizes disruptions to the existing competitive relationships for Class I handlers in these areas.

Zone 9. The proposed differentials in Zone 9 range from $3.00 to $3.25 per hundredweight. Geographically Zone 9 encompasses the north Atlantic coastal area of the United States. The zone includes the major cities of Boston, New York, Philadelphia, Baltimore, and Washington, D.C. The differentials in Zone 9 allow for recognition of the need to move milk to major metropolitan areas on the Atlantic coast. The 25-cent range will provide the pool structure to compensate for individual locations within a narrow geographic area.

Zone 9 represents a major consumption area. The zone will need to look to the milk production areas north and west of the cities for milk supplies. The differentials proposed for this zone should allow the area to maintain adequate milk supplies relative to fluid demand.

This price variance in Class I differentials across the country presented in Option 1A is less than the range in relative values for milk (i.e., shadow prices) determined through the USDSS model and lower than the difference in the current price structure. The range of differentials developed by the USDSS model is $3.60 based on October 1995 data, typically a more deficit month, and $3.40 based on May 1995 data, typically a more surplus month. The price spread for Option 1A is $2.70. The ranges discussed above are set forth in Map 1. The differentials adjusted for location established for each county are set forth in Maps 2A, 2B, and 2C. Table 6 sets forth examples of differentials adjusted for location at selected cities.

TABLE 6.—COMPARATIVE CLASS I DIFFERENTIALS ADJUSTED FOR LOCATION AT SELECTED CITIES UNDER OPTION 1A—LOCATION-SPECIFIC DIFFERENTIALS

City	Class I differential		Difference
	Current	Option 1A	
	Dollars per hundredweight		
New York City, NY	3.14	3.15	.01
Charlotte, NC	3.08	3.10	.02
Atlanta, GA	3.08	3.10	.02
Tampa, FL	3.88	4.00	.12
Cleveland, OH	2.00	2.00	.00
Kansas City, MO	1.92	2.00	.08
Minneapolis, MN	1.20	1.70	.50

TABLE 6.—COMPARATIVE CLASS I DIFFERENTIALS ADJUSTED FOR LOCATION AT SELECTED CITIES UNDER OPTION 1A—LOCATION-SPECIFIC DIFFERENTIALS—Continued

City	Class I differential		Difference
	Current	Option 1A	
Chicago, IL	1.40	1.80	.40
Dallas, TX	3.16	3.00	(.16)
Salt Lake City, UT	1.90	1.90	.00
Phoenix, AZ	2.52	2.35	(.17)
Seattle, WA	1.90	1.90	.00

Analysis Based on Evaluation Criteria

Option 1A performs equal to or better than the current Class I system in each of the evaluation criteria. This is largely explained by the adjustments made to the current system based on current marketing conditions and USDSS model results. However, Option 1A leaves essentially unchanged the role of market forces and the Federal government, in determining Class I prices and the incentives to move milk to deficit areas.

Option 1A was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. Option 1A performs essentially the same as the current price structure in ensuring an adequate supply of milk for fluid use. Proposed changes from current differential levels by region or locality to more accurately reflect current milk supply-demand conditions and inter-market price alignment contributes to more appropriate market by market supply adjustments. Option 1A will have minimal impacts on farm level milk prices and should continue to ensure adequate supplies of milk for fluid use.

2. Recognize quality (Grade A) value of milk. Option 1A does recognize the quality value (Grade A) of milk through the addition of a differential that begins at $1.60 per hundredweight in the base zone.

3. Provide appropriate market signals. Option 1A adjusts and refines the existing Class I price structure to more accurately reflect recent prices. In some geographical areas, Class I differentials would be modestly increased. In certain other areas, Class I differentials would be lowered somewhat, suggesting that they now exceed levels necessary to adequately supply the associated markets with their fluid milk needs.

4. Recognize value of milk at location. The spatial values of milk as reflected in Option 1A recognize the value of milk at location more accurately than the current system for two principal reasons. First, in structuring the differentials in Option 1A, the effect of current Class I differential levels on milk supplies, demand, and dairy farmer returns regionally during the past decade were reviewed. Second, the results of the USDSS model, explained previously, that obtained the relative values of milk and milk components at geographic locations throughout the United States, were used. Together, the results of these studies provided the basis to construct the Option 1A price surface.

5. Facilitate orderly marketing with coordinated system of prices. A primary element of Option 1A is the coordination of Class I differential levels and location adjustments within and among regional marketing areas. As such, Option 1A is an improvement over the current price structure which evolved in a piecemeal fashion. The Class I differentials and location adjustments in Option 1A will facilitate orderly marketing of milk for fluid use through the nationwide coordination of prices.

6. Recognize handler equity with regard to raw product costs. Class I differentials proposed under Option 1A reflect differences in economic costs of procuring and marketing milk depending upon geographic location. This coordination and alignment of prices based upon cost differences and current marketing conditions better ensures handlers of equity in competing for available milk supplies and sales of fluid milk products.

Option 1A was evaluated against the objective criteria as follows:

1. Minimize regulatory burden. Option 1A would not change the regulatory burden of the Federal order program. Because Option 1A is similar to the current Class I pricing structure, it would not result in increased reporting, record keeping, compliance, or administrative costs to handlers. The role of regulation in influencing Class I prices would also be about the same as the current system.

2. Minimize impact on small businesses. In regions where more of the actual value of fluid milk would be reflected in the differentials than is currently reflected, small businesses may have a marginal improvement in their relative competitive bargaining position vis-a-vis large businesses. This is based on the concept that large businesses (producers, cooperatives or handlers) are better able to negotiate premiums above minimum order prices due to advantages attained from size. Overall, this option is not expected to materially impact small businesses differently than the current price structure.

3. Provide long-term viability. To the extent the proposed location adjusted Class I differentials under Option 1A will correct instances of price misalignment and more accurately reflect the economic value of milk by location, the long-term viability of Option 1A is expected to exceed that of the current price structure.

Option 1A utilizes the USDSS model results as a basis for development. All results, including the preliminary results based on 1993 annual data and the preliminary results based on May 1995 and October 1995 data, were used. However, the variance of price differentials under Option 1A are somewhat less than the range in relative values of milk (shadow prices) determined through the USDSS model. There are several explanations for the differences, including the fact that the model generates value differences between geographic locations, not actual prices. That is, it computes the marginal value of an additional hundredweight of milk supplied to a plant at a specific location for fluid use. This approach results in a pricing or value surface for Class I milk but does not take into account marketwide pooling and other factors affecting the supply of and demand for milk.

Since the USDSS model only determines the spatial value differences for fluid milk between location and not the price level, Option 1A utilizes $1.60 as the minimum price in the three base zones. Currently, the lowest differential in Federal orders is $1.04 ($1.20 in Minneapolis) in the Upper Midwest order.

A review of current marketing practices has revealed that the $1.04 per

hundredweight base zone differential may not be established at a level high enough to ensure adequate milk supplies for fluid use. First, a portion of the Class I differential must reflect the value associated with maintaining Grade A milk supplies since this is the only milk available for fluid use. Originally the differential needed to be established at a level that would encourage conversion from Grade B to Grade A status. With approximately 96 percent of all milk already converted to Grade A,[26] this value now needs to reflect the cost of maintaining Grade A milk supplies. Although it may be difficult to quantify the cost to maintain Grade A status, there are specific associated costs, as described below.

There are several requirements for producers to meet to convert to a Grade A dairy farm and then maintain it. A Grade A farm requires an approved water system (typically one of the greatest conversion expenses), specific facility construction and plumbing requirements, certain specifications on the appearance of the facilities, and specific equipment. After achieving Grade A status, producers must maintain the required equipment and facilities, and adhere to certain management practices.[27] Often, this will require additional labor, resource, and utility expenses. It has been estimated that this value may be worth approximately $0.40 per hundredweight.[28]

Traditionally, the additional portion of the Class I differential reflects the marketing costs incurred in supplying the Class I market. These marketing costs include such things as seasonal and daily reserve balancing of milk supplies, transportation to more distant processing plants, shrinkage, administrative costs, and opportunity or ''give-up'' charges at manufacturing milk plants that service the fluid Class I markets. This value has typically represented approximately $0.60 per hundredweight.

Originally recognizing these two factors in the base zone was sufficient to bring forth enough milk to meet Class I demands given the abundant volumes of milk and the abundance of manufacturing plants. However, recognizing just these two factors at the values specified may no longer be adequate to ensure sufficient supplies of Class I milk in the Upper Midwest region.

The Upper Midwest region is considered a surplus market for fluid use because its average Class I utilization is only approximately 20 percent.[29] However, as a result of the abundance of manufacturing facilities that require milk, the Upper Midwest region is actually a highly competitive area in which to procure Grade A milk. Because of this competitiveness, manufacturing facilities are willing to pay more than the Federal order minimum price, the basic formula price (BFP), for Grade A milk used in manufactured products. For example, during 1995, Minnesota manufacturing plants paid, on average, $0.77 per hundredweight more than the BFP for Grade A milk; price premiums in excess of the BFP ranged from $0.38 per hundredweight in June to $1.24 per hundredweight in December. In 1996, the average pay price for Grade A manufacturing milk in Minnesota was $0.94 per hundredweight more than the BFP, ranging from $0.68 per hundredweight in October to $1.18 per hundredweight in November. Similar pay price patterns occur in Wisconsin for Grade A milk used in manufactured products. In 1995, the average pay price for Grade A milk used in manufacturing was $0.85 per hundredweight more than the BFP, with pay prices ranging from $0.55 per hundredweight above the BFP in July to $1.22 per hundredweight in December. During 1996, the average pay price for Grade A milk used in manufacturing was $0.93 per hundredweight more than the BFP, ranging from $0.82 per hundredweight (January) to $1.10 per hundredweight (September). Table 7 sets forth specific data for pay prices for Grade A milk used in manufacturing for 1995 and 1996.

TABLE 7.—COMPARISON OF PRICES PAID FOR GRADE A MILK USED IN MANUFACTURING PRODUCTS IN MINNESOTA AND WISCONSIN TO THE BASIC FORMULA PRICE

Year/Month	Basic formula price	Minnesota		Wisconsin	
		Grade A pay price @ 3.5% [1]	Diff. between BFP and grade A pay price	Grade A pay price @ 3.5% [1]	Diff. between BFP and grade A pay price
	$ /hundredweight				
1995:					
January	11.35	12.13	0.78	12.24	0.89
February	11.79	12.56	0.77	12.63	0.84
March	11.89	12.52	0.63	12.64	0.75
April	11.16	11.77	0.61	11.92	0.76
May	11.12	11.67	0.55	11.79	0.67
June	11.42	11.80	0.38	12.07	0.65
July	11.23	11.81	0.58	11.78	0.55
August	11.55	12.14	0.59	12.14	0.59
September	12.08	12.95	0.87	13.04	0.96
October	12.61	13.66	1.05	13.74	1.13
November	12.87	14.11	1.24	14.09	1.22
December	12.91	14.12	1.21	14.13	1.22

[26] Milk Production, Disposition and Income, 1996 Summary, National Agricultural Statistics Service, USDA, DA 1–2 (97).

[27] References: *Grade ''A'' Pasteurized Milk Ordinance*, 1993 Revision, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration and *General Instructions for Performing Farm Inspections According to the USDA Recommended Requirements for Manufacturing Purposes and Its Production and Processing For Adoption by State Regulatory Agencies*, USDA, AMS, Dairy Division, August 1, 1976.

[28] This is the value associated with Class I milk. The amount of this value actually returned to a producer is dependent upon a marketing order's Class I utilization and is reflected in the blend price. For example, in the proposed Upper Midwest order approximately $.06/hundredweight would be returned to producers to cover the costs associated with maintaining Grade A milk supplies.

[29] Federal Milk Order Statistics, 1996 Annual Summary, USDA, Marketing and Regulatory Programs, Agricultural Marketing Service, Dairy Division, Statistical Bulletin 938.

TABLE 7.—COMPARISON OF PRICES PAID FOR GRADE A MILK USED IN MANUFACTURING PRODUCTS IN MINNESOTA AND WISCONSIN TO THE BASIC FORMULA PRICE—Continued

Year/Month	Basic formula price	Minnesota		Wisconsin	
		Grade A pay price @ 3.5% [1]	Diff. between BFP and grade A pay price	Grade A pay price @ 3.5% [1]	Diff. between BFP and grade A pay price
Average	11.83	12.60	0.77	12.68	0.85
1996:					
January	12.73	13.78	1.05	13.55	0.82
February	12.59	13.56	0.97	13.44	0.85
March	12.70	13.68	0.98	13.72	1.02
April	13.09	14.01	0.92	14.11	1.02
May	13.77	14.57	0.80	14.65	0.88
June	13.92	14.71	0.79	14.78	0.86
July	14.49	15.32	0.83	15.39	0.90
August	14.94	16.00	1.06	15.96	1.02
September	15.37	16.33	0.96	16.47	1.10
October	14.13	14.81	0.68	15.06	0.93
November	11.61	12.79	1.18	12.47	0.86
December	11.34	12.39	1.05	12.18	0.84
Average	13.39	14.33	0.94	14.32	0.93

[1] Fluid Grade A pay price for milk used in all manufacturing products in Minnesota and Wisconsin as reported by the National Agricultural Statistic Service adjusted by butterfat differential used under Federal milk orders.

Because manufacturing facilities are willing to pay these values above the BFP to ensure adequate supplies of milk into their plants, fluid processors must pay at least these values to attract the necessary supplies of fluid milk to the bottling plants. Although data indicating the exact value that fluid plants are willing to pay to ensure this supply is not published, an indication of the market value of this milk can be obtained from the announced cooperative Class I prices.[30] Other than in Miami, Florida, which is a deficit Class I market with a 1996 annual average Class I utilization of nearly 90 percent,[31] the announced cooperative Class I prices are the highest in the Upper Midwest region. These prices range from $1.19 per hundredweight above the minimum Class I price in Minneapolis, Minnesota, to $1.79 per hundredweight above the minimum Class I price in Milwaukee, Wisconsin, and Chicago, Illinois.

Option 1A presumes that the $1.04 per hundredweight minimum Class I differential is no longer adequate to ensure a sufficient supply of milk due to the competitive nature of the manufacturing facilities in this region. Thus, Option 1A establishes an additional competitive factor into the development of the base zone Class I differential. Option 1A values this competitive factor to be worth about $0.60 per hundredweight. This value reflects approximately two-thirds of the actual competitive costs incurred by fluid plants to simply compete with manufacturing plants for a supply of milk.

An additional benefit of establishing the minimum Class I differential at a level that more accurately reflects the actual value of milk for fluid purposes is the added monies generated in the Federal order pool. Class I milk provides the vast majority of pool value in Federal orders. If an order has a low Class I differential and a low Class I utilization, it frequently does not have enough pool value to provide proper price signals to pool participants. In these orders, the Class I price is established by the suppliers of milk at levels above the Federal order minimums. When these over-order markets dictate substantially higher prices than the order minimums there is a risk that handlers may not face equal raw product costs for various reasons. Thus, having a larger proportion of the actual value of Class I milk in the market order pool in these areas, than is now the case, should promote pricing equity among market participants. The $1.60 minimum differential level proposed is perceived to be the lowest value necessary under present supply and demand conditions to maintain stable and viable pools of milk for Class I use in markets that are predominantly manufacturing oriented. Applying this minimum differential to each of the three low pricing areas will ensure that low utilization and surplus markets will have similar differentials. However, having a larger portion of Class I value pooled could mute price signals to producers more than prices determined strictly by market forces. If the blend price exceeds the marginal value of milk in manufacturing, there would be an incentive to overproduce for fluid needs.

Quantitative analysis using the ERS multi-regional model which assumed the eleven market order consolidation, four classes of utilization, and the BFP as proposed, suggests that most producers for the 6-year average would see little to modest changes in revenue due to Class I price increases resulting from Option 1A when compared to the baseline. However, some producers would experience Class I price decreases. Producers located in the following Federal milk markets would experience revenue reductions due to average Class I price decreases: New Mexico-West Texas—($0.19/cwt), Eastern Colorado—($0.12/cwt), Central Arizona—($0.11/cwt), Southwest Plains—($0.11/cwt), and Texas—($0.10/cwt). All other orders for the 6-year average would have a Class I price increase. The Chicago Regional, Michigan Upper Peninsula, and Upper Midwest orders would experience the largest increases: $0.46, $0.51, and $0.56 per hundredweight, respectively.

Overall, the magnitude of price and income changes under Option 1A is small when compared to the baseline. Option 1A results in a 10-cent increase in the average Class I price for all current Federal orders. Further details

[30] Table 35—1996 Annual Average Announced Cooperative Class I Prices in Selected Cities, Dairy Market Statistics, 1996 Annual Summary, USDA, AMS.

[31] Federal Milk Order Statistics, 1996 Annual Summary, USDA, Marketing and Regulatory Programs, Agricultural Marketing Service, Dairy Division, Statistical Bulletin 938.

of the impact of these Class I price changes on the all-milk price and cash receipts based on the model results are available in the economic analysis statement.

Option 1B—Relative Value-Specific Differentials. Option 1B establishes a nationally coordinated system of relative value-specific Class I price differentials and adjustments that recognizes several low pricing areas. Option 1B relies on a least cost optimal solution from the USDSS Cornell model to develop a Class I price structure that is based on the most efficient assembly and shipment of milk and dairy products to meet all market demands for milk and its products.

The results of the USDSS model provide information regarding the relationship of prices between geographic locations but do not determine the level of Class I differentials. Option 1B utilizes geographic relationships as its foundation and maintains the current Class I differential of $1.20 at Minneapolis, Minnesota. A location adjusted price differential for every county is established by evaluating differences between nearby Class I differential pricing points generated by the model. The marginal values (shadow prices) are used to determine the price structure because they reflect the value of additional milk supplied to a plant at a specific location for fluid use. This price surface recognizes several low pricing areas located primarily in the Upper Midwest and Western regions.

Option 1B would move the dairy industry into a more market-oriented system. By establishing differentials on the basis of optimal milk movements, market conditions will play a greater role in determining Class I prices. To the extent that higher Class I prices are needed and negotiated to attract milk supplies, the higher prices will accrue to those producers who service the fluid market. Hence, Option 1B places more emphasis on negotiations between dairy farmers and processors to determine actual Class I prices. The location adjusted differentials established for each county are set forth in Maps 3A, 3B, and 3C and in General Provisions § 1000.52. Table 8 sets forth the location adjusted differentials at selected cities.

TABLE 8.—COMPARATIVE CLASS I DIFFERENTIALS AT SELECTED CITIES UNDER OPTION 1B-RELATIVE VALUE-SPECIFIC DIFFERENTIALS

City	Current	Option 1B	Difference
	Dollars per hundredweight		
New York City, NY	3.14	2.07	(1.07)
Charlotte, SC	3.08	1.89	(1.19)
Atlanta, GA	3.08	2.46	(0.62)
Tampa Bay, FL	3.88	3.81	(0.07)
Cleveland, OH	2.00	1.54	(0.46)
Kansas City, MO	1.92	1.45	(0.47)
Minneapolis, MN	1.20	1.20	0.00
Chicago, IL	1.40	1.65	0.25
Dallas, TX	3.16	1.68	(1.48)
Salt Lake City, UT	1.90	1.08	(0.82)
Phoenix, AZ	2.52	1.14	(1.38)
Seattle, WA	1.90	1.00	(0.90)

Because Option 1B would involve changes in both the level of Class I differentials and the method for establishing them, it is proposed that they be implemented through a transitional phase-in program. The use of a phase-in program would provide dairy farmers and processors the opportunity to adjust marketing practices to adapt to more market-determined Class I prices.

Three possible alternatives are presented for phasing in Option 1B. Each utilizes the difference between the current differentials and the Option 1B differentials as the basis of the phase-in over a 5-year period, beginning in 1999 and being completed by 2003. The first transitional option simply spreads the phase-in over the 5-year period, with 20 percent of the adjustment in 1999, 40 percent in 2000 and so forth. The base differentials resulting from this transitional phase-in are set forth in Table 9. The first alternative would be to phase-in to these differentials as shown in Table 9.

TABLE 9.—OPTION 1B BASE DIFFERENTIALS

City	Current	Option 1B—Base differentials [1]				
		1999	2000	2001	2002	2003
	Dollars per hundredweight					
New York City, NY	3.14	2.93	2.71	2.50	2.28	2.07
Charlotte, NC	3.08	2.84	2.60	2.37	2.13	1.89
Atlanta, GA	3.08	2.96	2.83	2.71	2.58	2.46
Tampa Bay, FL	3.88	3.87	3.85	3.84	3.82	3.81
Cleveland, OH	2.00	1.91	1.82	1.72	1.63	1.54
Kansas City, MO	1.92	1.83	1.73	1.64	1.54	1.45
Minneapolis, MN	1.20	1.20	1.20	1.20	1.20	1.20
Chicago, IL	1.40	1.45	1.50	1.55	1.60	1.65
Dallas, TX	3.16	2.86	2.57	2.27	1.98	1.68
Salt Lake City, UT	1.90	1.74	1.57	1.41	1.24	1.08
Phoenix, AZ	2.52	2.24	1.97	1.69	1.42	1.14

TABLE 9.—OPTION 1B BASE DIFFERENTIALS—Continued

City	Current	Option 1B—Base differentials [1]				
		1999	2000	2001	2002	2003
Seattle, WA	1.90	1.72	1.54	1.36	1.18	1.00

[1] Base differential obtained by taking the difference between the current differential and the final Option 1B differential (year 2003) and multiplying by 20 percent. This value is then subtracted from the current differential to yield the 1999 base differential. This value is then deducted from each consecutive year's value until the Option 1B differentials are achieved in 2003.

The second alternative for phasing-in Option 1B would consist of adding a decreasing ''transitional payment'' to the base differential. It would be equal to the decrease in revenue that would otherwise occur during the phase-in period of Option 1B. Over this four-year period, it is projected that $388.6 million would be removed from the Federal order system through the lowered Class I differential. To provide the industry an opportunity to prepare for the changed pricing structure under Option 1B, a transitional payment would be added to the base differential for Class I milk. The payment would be higher in the first year and gradually be reduced thereafter to result in implementation of the Option 1B differentials in 2003. The additions to the base differential would equal $0.55 per hundredweight in 1999, $0.35 per hundredweight in 2000, $0.20 per hundredweight in 2001, and $0.10 per hundredweight in 2002. This offsetting of revenue is designed to temporarily reduce the impacts of implementing Option 1B, thus allowing producers an opportunity to adjust their marketing practices to adapt to more market-determined pricing. Table 10 sets forth the location adjusted Class I differentials under this revenue-neutral phase-in alternative for selected cities.

TABLE 10.—OPTION 1B CLASS I DIFFERENTIALS WITH REVENUE NEUTRAL PHASE-IN PAYMENTS

City	Current	Class I diff. with revenue neutral				
		1999 [1]	2000 [2]	2001 [3]	2002 [4]	2003 [5]
	Dollars per hundredweight					
New York City, NY	3.14	3.48	3.06	2.70	2.38	2.07
Charlotte, NC	3.08	3.39	2.95	2.57	2.23	1.89
Atlanta, GA	3.08	3.51	3.18	2.91	2.68	2.46
Tampa Bay, FL	3.88	4.42	4.20	4.04	3.92	3.81
Cleveland, OH	2.00	2.46	2.17	1.92	1.73	1.54
Kansas City, MO	1.92	2.38	2.08	1.84	1.64	1.45
Minneapolis, MN	1.20	1.75	1.55	1.40	1.30	1.20
Chicago, IL	1.40	2.00	1.85	1.75	1.70	1.65
Dallas, TX	3.16	3.41	2.92	2.47	2.08	1.68
Salt Lake City, UT	1.90	2.29	1.92	1.61	1.34	1.08
Phoenix, AZ	2.52	2.79	2.32	1.89	1.52	1.14
Seattle, WA	1.90	2.27	1.89	1.56	1.28	1.00

[1] 1999 applicable base differential from Table 9 plus $0.55.
[2] 2000 applicable base differential from Table 9 plus $0.35.
[3] 2001 applicable base differential from Table 9 plus $0.20.
[4] 2002 applicable base differential from Table 9 plus $0.10.
[5] Final Option 1B differentials.

The third approach to phasing in Option 1B would consist of adding a decreasing ''transitional payment'' to the base differential that would enhance revenue beyond what the current Class I system would have generated during the four years of transitioning to Option 1B. During this four-year period, it is projected that $878.4 million would be added to the Federal order system through the revenue-enhanced payment. This would result in a net increase of $489.8 million added to the system once the projected decrease resulting from Option 1B phased in during this period is deducted. This additional money would not only provide producers with an opportunity to prepare and restructure their marketing practices to adapt to more market-determined pricing but would also allow them to obtain the education and resources necessary to become more effective in a more market-oriented environment. Again, the payment in the first year would be the highest with reductions occurring thereafter to result in implementation of the Option 1B differentials by 2003. The addition to the base differential would equal $1.10 per hundredweight in 1999, $0.70 per hundredweight in 2000, $0.40 per hundredweight in 2001, and $0.20 per hundredweight in 2002. Table 11 sets forth the location adjusted Class I differentials under this revenue-enhanced alternative for selected cities.

TABLE 11.—OPTION 1B CLASS I DIFFERENTIALS WITH REVENUE ENHANCED PAYMENTS

City	Current	Class I diff. with revenue enhancement				
		1999 [1]	2000 [2]	2001 [3]	2002 [4]	2003 [5]
	Dollars Per Hundredweight					
New York City, NY	3.14	4.03	3.41	2.90	2.48	2.07
Charlotte, NC	3.08	3.94	3.30	2.77	2.33	1.89
Atlanta, GA	3.08	4.06	3.53	3.11	2.78	2.46
Tampa Bay, FL	3.88	4.97	4.55	4.24	4.02	3.81
Cleveland, OH	2.00	3.01	2.52	2.12	1.83	1.54
Kansas City, MO	1.92	2.93	2.43	2.04	1.74	1.45
Minneapolis, MN	1.20	2.30	1.90	1.60	1.40	1.20
Chicago, IL	1.40	2.55	2.20	1.95	1.80	1.65
Dallas, TX	3.16	3.96	3.27	2.67	2.18	1.68
Salt Lake City, UT	1.90	2.84	2.27	1.81	1.44	1.08
Phoenix, AZ	2.52	3.34	2.67	2.09	1.62	1.14
Seattle, WA	1.90	2.82	2.24	1.76	1.38	1.00

[1] 1999 applicable base differential from Table 9 plus $1.10.
[2] 2000 applicable base differential from Table 9 plus $0.70.
[3] 2001 applicable base differential from Table 9 plus $0.40.
[4] 2002 applicable base differential from Table 9 plus $0.20.
[5] Final Option 1B differentials.

Analysis Based on Evaluation Criteria

Option 1B performs equal to or better than the current system when combined with a phase-in program option because it provides the industry time to adapt to a more market-oriented system.

Option 1B was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. Option 1B suggests lower differentials than current levels in most of the proposed markets when using a $1.20 differential at Minneapolis, Minnesota. Option 1B relies more on the use of over-order premiums in many areas to attract adequate milk supplies for fluid purposes. Over-order prices are useful tools for allowing the market to find the final value of Class I milk, and Option 1B would ensure an adequate supply of milk for fluid use by rewarding those producers who service the Class I market needs. The use of ''transitional payment'' alternatives would ensure an adequate supply of milk for fluid purposes by providing the industry time to adapt to adjust their marketing practices in adapting to more market-determined pricing.

2. Recognize quality (Grade A) value of milk. Option 1B recognizes the quality (Grade A) value of milk through the use of a differential added to the basic formula price.

3. Provide appropriate market signals. Under Option 1B, greater reliance is placed on market forces to establish prices which will allow for clearer transmission of supply and demand signals between producers and consumers than does the current system.

4. Recognize value of milk at location. Option 1B does recognize the value of milk at location. Option 1B is based on the least cost movement of milk and dairy products based on the May 1995 results of the USDSS model. Thus the resulting price structure reflects the most efficient assembly and transportation of milk and dairy products and performs better than the current system.

5. Facilitate orderly marketing with coordinated system of prices. Like Option 1A, Option 1B also establishes a coordinated system of differentials and location adjustments that sets a minimum value for Class I milk in every county. Prices will be aligned within and among orders, thereby facilitating orderly marketing of milk.

6. Recognize handler equity with regard to raw product costs. Class I differentials proposed under Option 1B reflect differences in economic costs of procuring and marketing milk depending on geographic location. This coordination and alignment of minimum prices provides an equitable foundation upon which handlers can compete for available milk supplies and sales of fluid products in a more market-oriented environment.

Option 1B was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. Option 1B would not change the regulatory burden of the Federal order program in terms of reporting, recordkeeping, compliance, and administrative costs to handlers. The role of regulation in determining minimum prices would be reduced, as more responsibility would be placed on market forces.

2. Minimize impact on small businesses. Under Option 1B, a substantial part of the Class I value needed to attract adequate milk supplies would likely come from over-order payments negotiated outside the Federal order system.

Smaller, less efficient businesses would likely have a greater responsibility under Option 1B to bargain with processors for over-order premiums that adequately cover their costs. With processors less likely to face similar raw product costs, less efficient small processors may have to negotiate and/or sustain over-order price levels necessary to attract and maintain a sufficient supply of milk, while efficient large businesses may be in a better competitive position to do this. The use of a transitional payment program would help provide less efficient small businesses make the needed investments to move to a more competitive position in the market.

3. Provide long-term viability. When Option 1B is combined with one of the transitional phase-in program options, the long-term viability of Option 1B is increased and is expected to exceed that of the current price structure. Gradually moving from a regulated system to one that is less regulated will require adaptation of all entities within the dairy industry. A transitional period will allow market participants to make necessary adjustments in marketing practices to continue in the industry for years to come.

Option 1B would establish a market-oriented approach to Class I pricing, by reducing the traditional role the Federal order program has maintained with regards to Class I pricing. Historically the Class I price established under Federal orders represented the

minimum value of Class I milk in the marketplace based on the cost of maintaining Grade A milk and additional marketing costs with the cost of alternative milk supplies placing an upper limit on this value. Option 1B provides an opportunity for free-market conditions to determine more of the value of fluid milk, but prices would still be undergirded by minimum prices based on the best available estimates of milk transportation costs. Ultimately, Option 1B should promote more market efficiencies; however, adjustments will be required by both producers and processors.

Quantitative Analysis

Using ERS multi-regional model analyses of the 11 order consolidations, four classes of utilization, and a Class I price mover as proposed, suggests that most producers would experience lower prices, when compared to the baseline, if Option 1B were phased-in with no transition assistance. The 6-year average Class I price in all current Federal order markets would decline $0.37 per hundredweight. However, producers located in the Chicago Regional, Upper Midwest, Iowa, Central Illinois, Tampa Bay and Southeastern Florida orders would benefit from Class I price increases ranging from $0.07 to $0.28 per hundredweight. Producers in all other current orders would experience losses of revenue because of Class I price decreases ranging from $0.03 to $1.07 per hundredweight. The smallest decline occurs in the Upper Florida order with the greatest declines occurring in the current Carolina ($ − 0.68), Middle Atlantic ($ − 0.72), Southwest Plains ($ − 0.76), Central Arizona ($ − 0.80), Texas ($ − 0.87) and Eastern Colorado ($ − 1.07) orders.

Both the increases and decreases are mitigated somewhat by the amount of milk used in Class I. Thus no market would see declines in the all-milk price in excess of $0.60 per hundredweight. Further details of the impact of these Class I price changes on the all-milk price and cash receipts based on the model results are available in the economic analysis statement.

Because current Federal order producers and processors have developed and designed their marketing practices based on the existing Class I price structure which has been in place for several years, moving immediately to a more market-oriented system could be disruptive for some producers and handlers. To reduce this marketplace disruption, Option 1B has been analyzed by the ERS multi-regional model in conjunction with transitional phase-in program alternatives from the current differentials.

The revenue-neutral phase-in alternative from current differentials to Option 1B differentials would minimize the impact of Option 1B during the phase-in period. Through a gradual phase-in, both producers and processors would be given time to adjust their marketing practices in preparing for the new minimum Class I price levels. Results of the model analysis indicate that almost all producers would experience increased revenue because of Class I price increases during the first revenue-neutral phase-in year when compared to the baseline. In fact, the Class I price would be higher in all but one of the current Federal order markets. The price increases range from $0.25 per hundredweight to $0.59 per hundredweight and for all 32 Federal order markets the average first year Class I price would be up $0.39 per hundredweight. In year two, producers located in 25 of the Federal order markets would continue to experience increased revenue because of Class I price increases compared with the baseline ranging from $0.01 per hundredweight to $0.48 per hundredweight. In year three, 17 orders would experience Class I price increases compared with the baseline. By year four, only the Florida, Upper Midwest, and parts of the Central areas would remain with price increases from the baseline.

Like the revenue-neutral phase-in, the revenue-enhancement phase-in would provide producers and processors a period of time to adjust their marketing practices in preparing for the new minimum price levels by initially providing payment assistance. The use of the revenue-enhancement phase-in option would provide producers with additional income to adjust their operations and obtain necessary education and resources to prepare for a more market-oriented system.

Results of the ERS multi-regional model indicate that during the first year, all current orders would experience Class I price increases over the baseline. In year two, all but one order would have increased Class I prices. By year three, 21 orders would continue to experience increases. During year four, 11 orders would maintain a Class I price increase over the baseline, while 21 orders would have price decreases of between $0.01 per hundredweight and $1.05 per hundredweight. Further details of the model results for both transitional payment program options are available in the economic analysis statement.

Comparison of Options 1A and 1B

Option 1A and Option 1B have similarities but rely on differing methods to establish a Class I price structure. First, both options recognize that milk has a location value. Secondly, both options establish a price surface that assigns a price to every county in the United States. Currently, a price at any particular location may vary depending upon the order under which the milk is pooled. Finally, both options utilized the USDSS model results to establish the price surface.

Although similar in these respects, the two pricing options differ on several issues. First, the options differ on the level at which Class I differentials are established. Option 1A is based on the premise that Class I differentials be established at a minimum price that reflects more closely the current value of the Class I milk based on local supply and demand conditions and agency judgement on the costs of obtaining alternative supplies of milk. Option 1B relies on the premise that a lower minimum price should be established strictly on the basis of the best available estimates of transportation costs to provide for a more market-oriented structure that allows dairy farmers and processors more freedom to negotiate fluid milk price levels.

Second, the two options differ in how the price surface should be established regardless of the level. Option 1A provides for a surface that is smoother and flows primarily from north to south and west to east. Option 1B establishes a price surface that is flatter throughout a majority of the United States and then increases significantly in the deficit milk production areas of the Southeast. A comparison of the price surfaces established under Options 1A and 1B from Minneapolis to Miami demonstrates this difference.

The total distance from Minneapolis to Miami is approximately 1775 miles. Since Atlanta is the first major metropolitan center located in the Southeast order, and is considered a deficit area, a review of the two price surfaces between Minneapolis and Atlanta and Atlanta and Miami highlights the differences in the price surface pattern. The distance between Minneapolis and Atlanta is about 1110 miles, or 63 percent of the total distance. The distance between Atlanta and Miami is approximately 665 miles, or 37 percent of the total distance.

Under Option 1A the differential established in Minneapolis is $1.70 per hundredweight and $1.20 per hundredweight under Option 1B. The Option 1A differential in Atlanta is

$3.10 per hundredweight and under Option 1B, the differential is $2.50 per hundredweight. The Class I differential in Miami under both options is about $4.30 per hundredweight. The difference in differentials between Minneapolis and Atlanta under Option 1A is $1.40 per hundredweight and $1.30 per hundredweight under Option 1B. The difference in differentials between Atlanta and Miami under Option 1A is $1.20 per hundredweight and $1.80 per hundredweight under Option 1B. The total difference between Minneapolis and Miami under Option 1A is $2.60 per hundredweight and $3.10 per hundredweight under Option 1B.

Under Option 1A, the change in differentials from Minneapolis to Atlanta represents 54 percent of the total $2.60 differential change with the differential changes from Atlanta to Miami representing 46 percent of the change. This helps to demonstrate that Option 1A results in a smoother, more evenly dispersed Class I price surface from north to south.

Under Option 1B, the change in differentials from Minneapolis to Atlanta represents about 42 percent of the change whereas between Atlanta and Miami, 58 percent of the differential change is reflected in only 37 percent of the total distance. As demonstrated, Option 1B results in a price surface that is flatter over a greater portion of the United States and significantly steeper in the deficit areas of the Southeast.

Third, the options differ in their reliance on the USDSS model results. Option 1A recognizes the value associated with the model results but incorporates judgement on existing specific marketing conditions and practices to make adjustments to the model results. Option 1B, on the other hand, utilizes the most recently available USDSS model results to reflect optimal values for fluid milk at different locations that will promote market efficiencies within the dairy industry.

To further compare and analyze the impacts of Options 1A and 1B on producers and processors, static Federal order pool analyses were completed. The pool analyses, although static, provide some indication on how the revenue will be distributed in the newly consolidated pools given the pricing structure. The pool analyses are based on October 1996 data. The analyses utilized all producer milk in each of the current Federal milk order pools. The classification of producer milk, including Class III–A milk, remained as it is currently classified under each order. The data were collected for all plants and prices and were adjusted for location. These data were then combined into the 11 proposed orders, and the pools were re-computed to reflect the impacts on the uniform price of consolidation only and then to reflect the impacts of consolidation combined with Option 1A and Option 1B price surfaces. Class II, Class III, and Class III–A and the basic formula price were held at the actual prices for October 1996. Table 12 sets forth the results of the analyses.

TABLE 12.—CONSOLIDATION PLUS OPTION 1A AND OPTION 1B PRICE STRUCTURE IMPACTS ON PROPOSED ORDERS' ESTIMATED UNIFORM PRICES—OCTOBER 1996

Proposed order	Estimated uniform price			Difference between pool impacts of consolidation plus options 1A & 1B and consolidation	
	Consolidation only (Col. 1)	Cons. plus option 1A (Col. 2)	Cons. plus option 1B (Col. 3)	Col. 2 – Col. 1	Col. 3 – Col. 1
	$/hundredweight				
Northeast	16.55	16.60	16.07	0.05	(0.48)
Appalachian	17.27	17.57	16.53	0.30	(0.74)
Southeast	17.12	17.12	16.69	0.00	(0.43)
Florida	18.52	18.55	18.37	0.03	(0.15)
Mideast	15.95	16.01	15.64	0.06	(0.31)
Upper Midwest	14.78	14.85	14.79	0.07	0.01
Central	15.69	15.68	15.44	(0.01)	(0.25)
Southwest	16.54	16.45	15.66	(0.09)	(0.88)
Western	15.01	14.94	14.54	(0.07)	(0.47)
AZ-Las Vegas	15.91	15.82	15.28	(0.09)	(0.63)
Pacific NW	15.35	15.34	14.98	(0.01)	(0.37)

Table 12 provides an indication of the impacts of the two Class I pricing surfaces when combined with the proposed orders. This pool analysis does not reveal the impacts of the three possible alternatives for phasing-in Option 1B.

Conclusion

As previously indicated, the Department, based on the evidence and arguments currently before it, does not believe Options 2–5 or the other ideas discussed with less detail are viable options. But this proceeding is still a proposal. Therefore, commenters may still present evidence or arguments regarding any of the Options or ideas.

All of the provisions of Federal milk marketing orders continue, in addition to a pricing surface as proposed under Options 1A or 1B. Thus, recordkeeping, prompt payment provisions, auditing plant receipts and utilization, and verification of farm weights and tests still continues. Both Option 1A and 1B also recognize that milk used for fluid purposes should be valued higher than milk used in other products. The two options differ in their approach for establishing minimum values for fluid milk. Option 1A focuses on establishing a minimum price that reflects existing marketing conditions and the current value of milk used for fluid purposes. Option 1B focuses on reducing government intervention, to provide more room for market forces to determine the actual value of Class I milk.

At this time Option 1B is preferred for several reasons. First, this option is based on model results that reflects the best available estimates of least cost assembly and shipment of milk and dairy products to meet all dairy product demands. By promoting market efficiencies, it would be expected to

result in the most preferable allocation of resources over time.

Option 1B would move the dairy industry into a more market-determined pricing system. By lowering differentials, marketing conditions will have a greater impact on actual Class I prices in the form of higher prices that are provided to those producers who service the Class I market. In this way, the revenue necessary to obtain milk for fluid use may be minimized since the Class I value is not shared marketwide with those producers that do not service the fluid market.

U.S. agriculture is transitioning to a more market-determined environment, relying less on traditional government involvement typified by price and income support programs. This transition is emphasized in the 1996 Farm Bill, which specifically provided for the gradual phase-out of traditional price and income support programs, including the dairy price support program that has existed since 1950. Because Option 1B is more market oriented and reduces the government presence in establishing minimum Class I prices, three methods of transitioning to Option 1B are offered. One variation is a gradual phase-in to lower Class I differentials with no transition assistance to offset any lower revenue to dairy farmers that may occur. This variation would reduce Class I differentials in market order areas by 20 percent each year until the final Class I differentials under Option 1B are reached in 2003.

A second variation provides transition assistance at increases Class I differentials initially to offset reduced revenue that may occur to producers due to the decline in Class I differentials. In this variation, the Class I differentials in all market order areas would be increased by $0.55 per hundredweight in the first year of the phase-in, $0.35 per hundredweight in the second year, $0.20 in the third year, and $0.10 per hundredweight in the fourth year of phase-in. This level of assistance would restore income to dairy farmers that might be lost in the transition, and if the market generates additional premiums, these assistance levels would more than make up for lower producer revenue due to lower minimum Class I prices.

A third variation offers transition assistance that initially increases the Class I differentials even more, while still phasing toward a more market-oriented price surface by 2004. Under this variation, all Class I differentials in all market order areas would be increased by $1.10 per hundredweight in the first year of phase-in, $0.70 in the second year, $0.40 in the third year, and $0.20 in the fourth year before reaching the final Class I differentials described by Option 1B. The assistance provided by this variation would enable dairy farmers to make the adjustments necessary to succeed in a more market-oriented environment.

While Option 1B is preferred at this time, Option 1A and other pricing options are still under consideration. Therefore, comments should address at least the following questions:

—Should the Class I price structure be designed to move the dairy industry towards a more market-oriented system that relies less on government regulation in establishing the pricing terms of trade between handlers and dairy farmers or should the Class I price structure be established at the estimated current value of Class I milk?

—What is the appropriate Class I differential level in surplus areas? How low can a Class I differential be established to ensure an adequate supply of fluid milk? What Class I differential level is necessary for producers to maintain sufficient revenue for ensuring an adequate supply of milk? Is that level $1.00, $1.60, or is it another value and why?

—Option 1B has been presented with three phase-in programs; which of these phase-in programs would be preferred and why? Is five years a sufficient time period for the industry to make necessary adjustments to move towards a more market-oriented, less governmentally regulated system?

—How will the California state program interact with either Option 1A or Option 1B?

—To what extent would consumers benefit from reduced differentials under Option 1B versus Option 1A?

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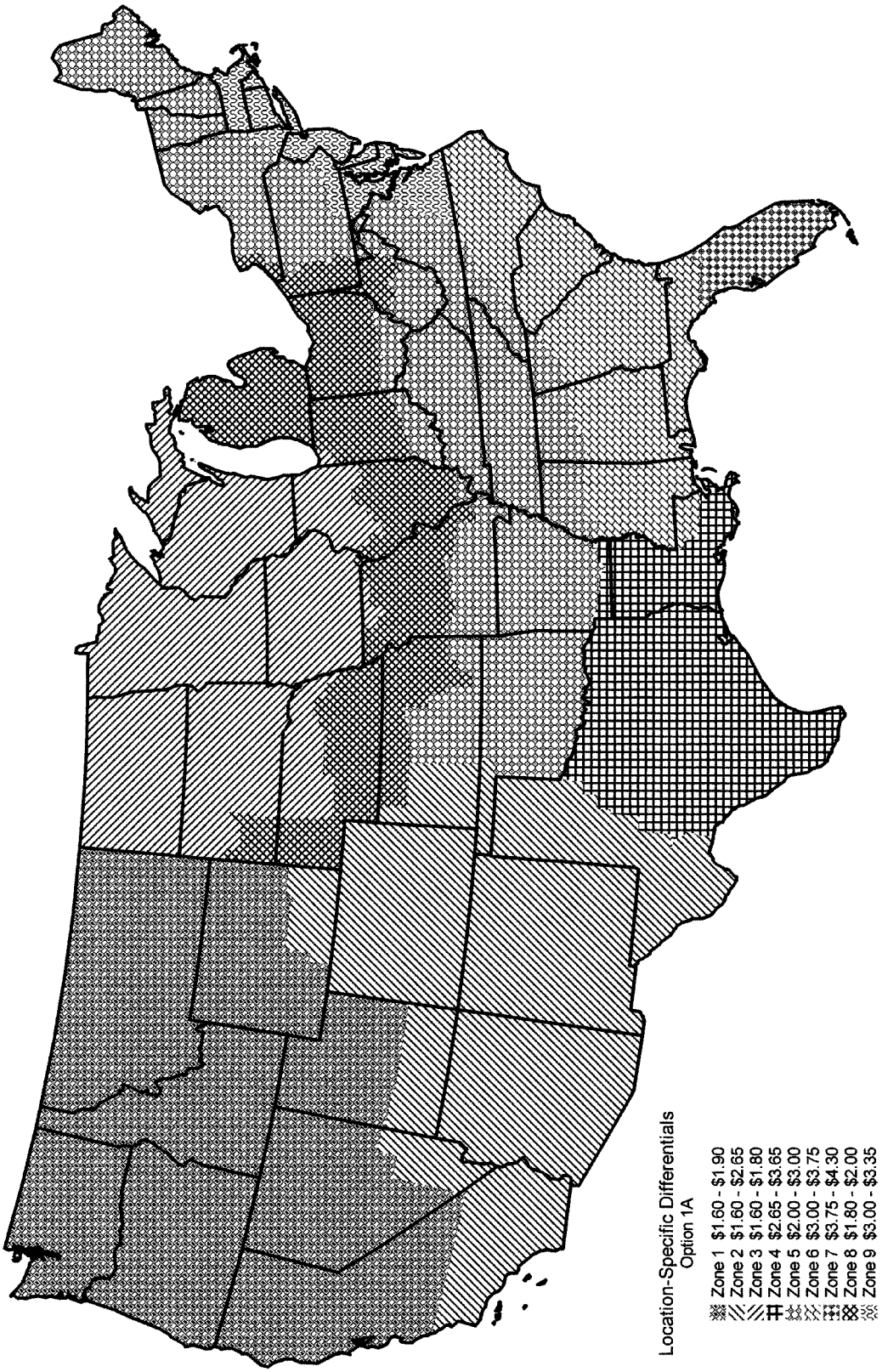
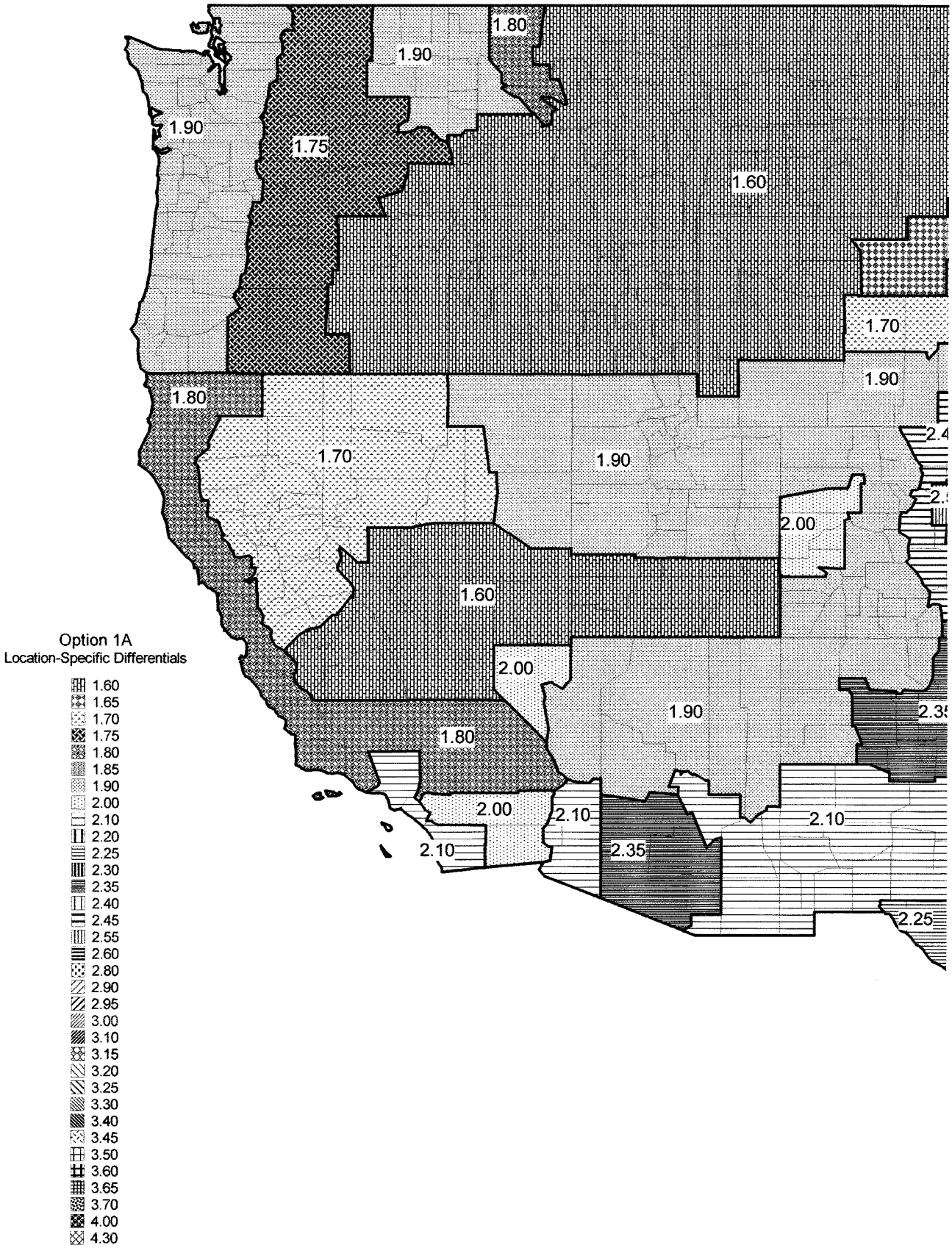
Option 1A - Location-Specific Differential Ranges Map 1

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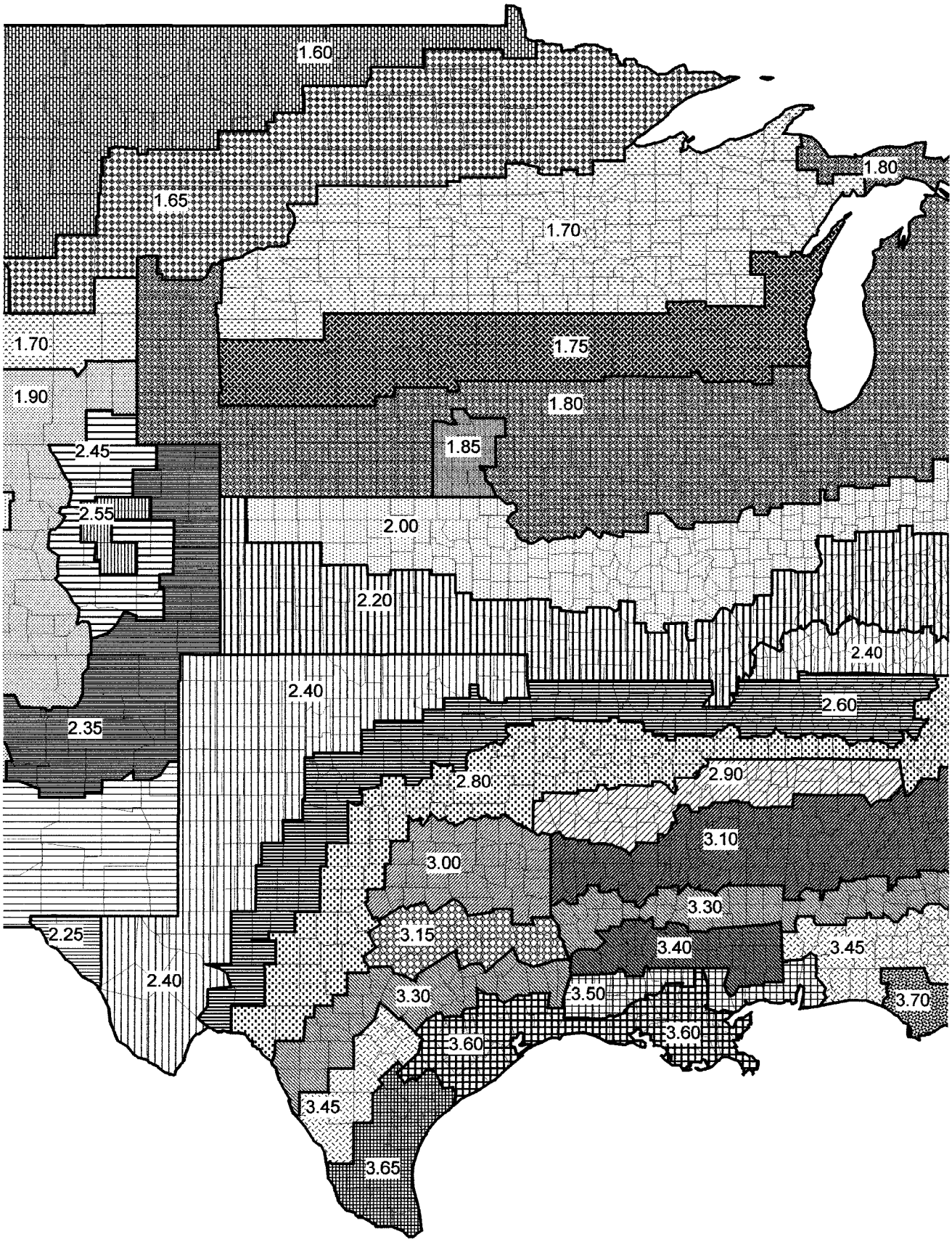
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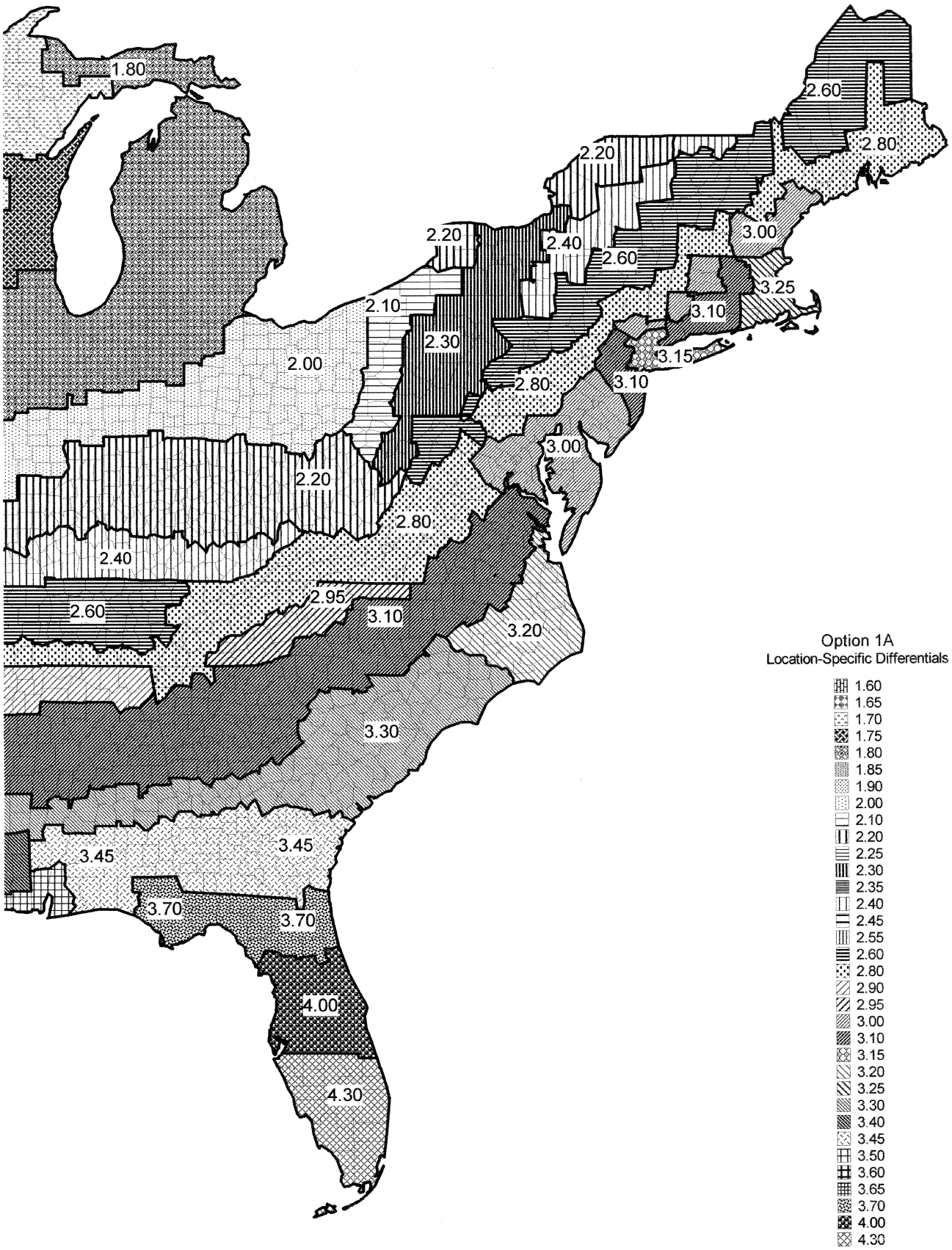
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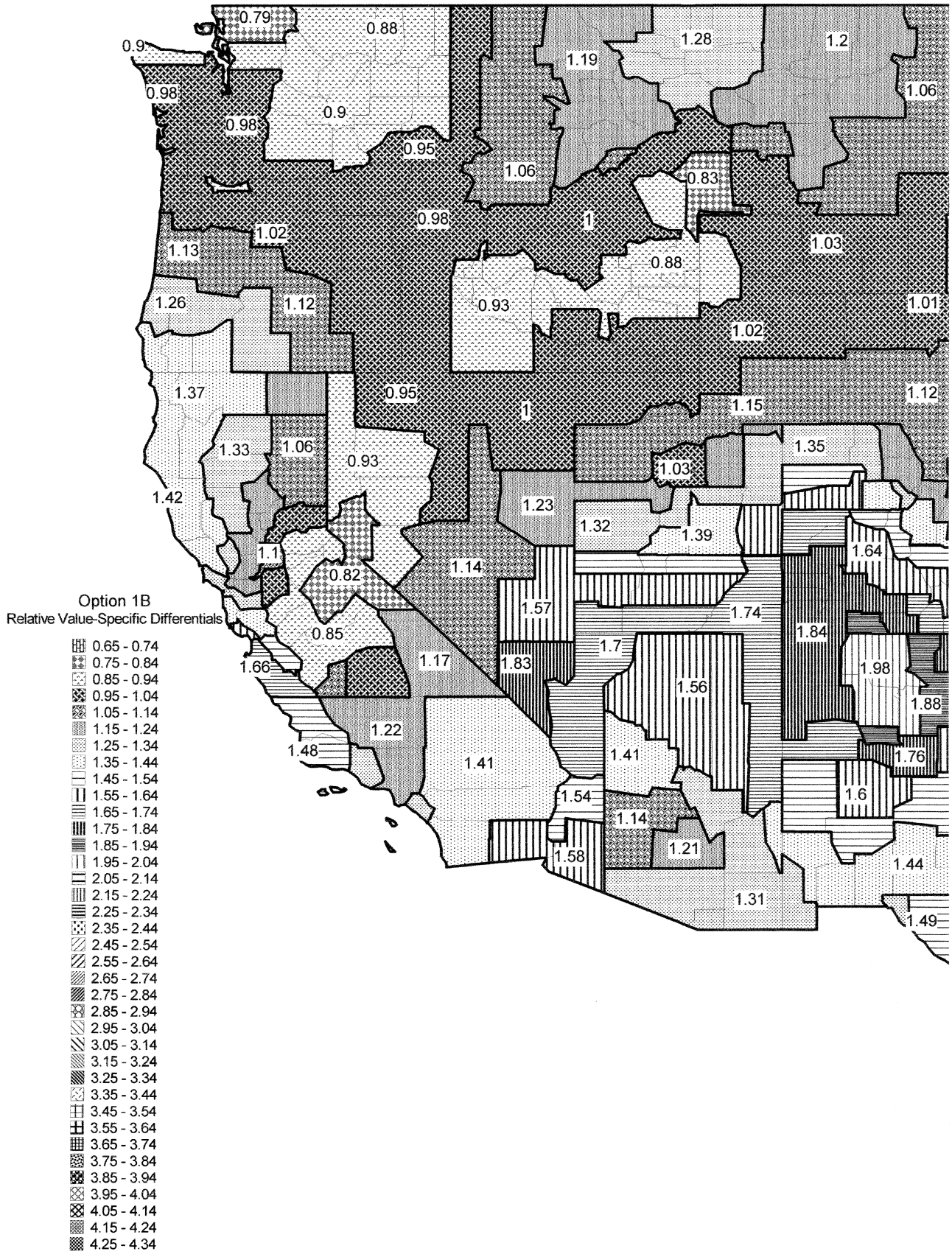
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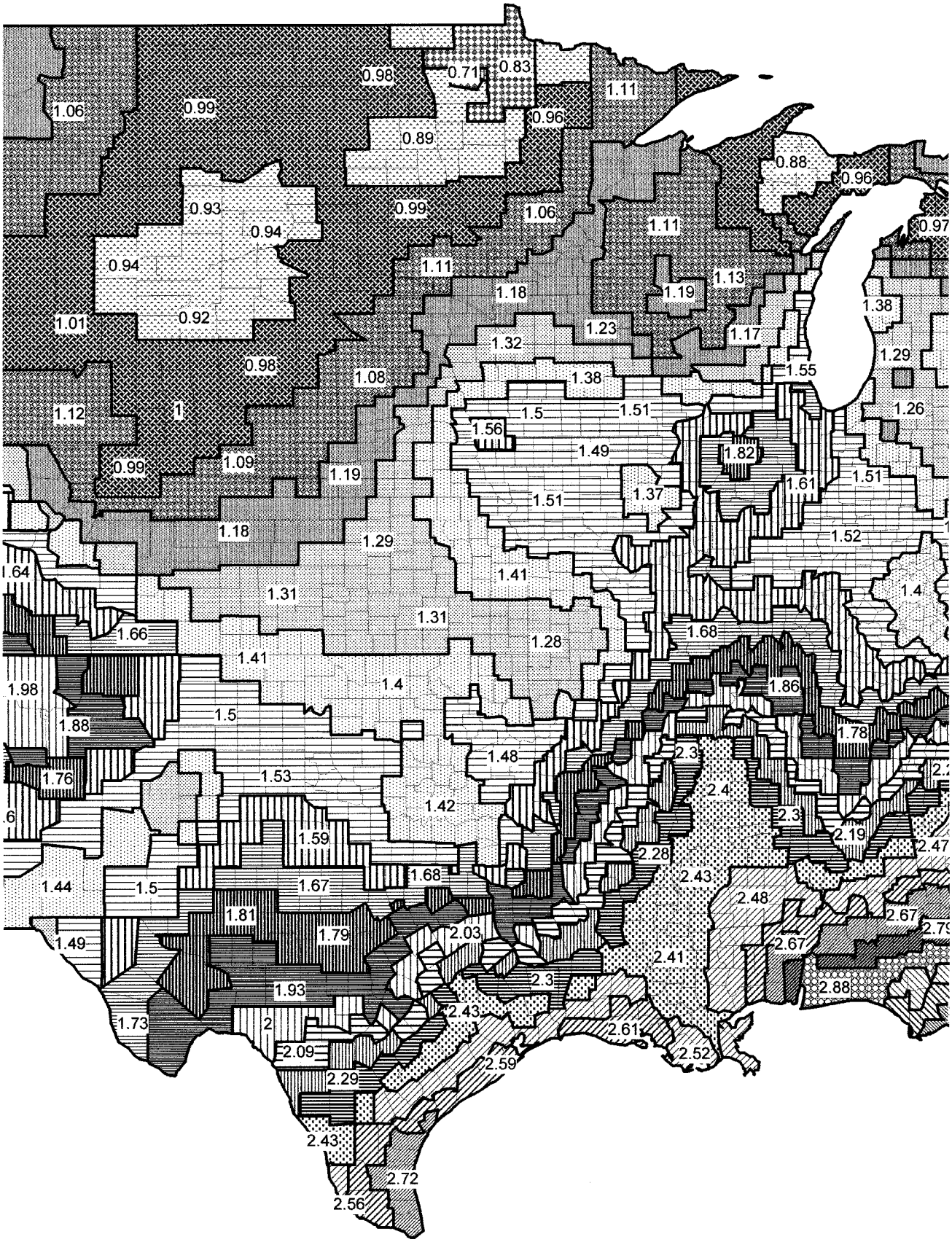
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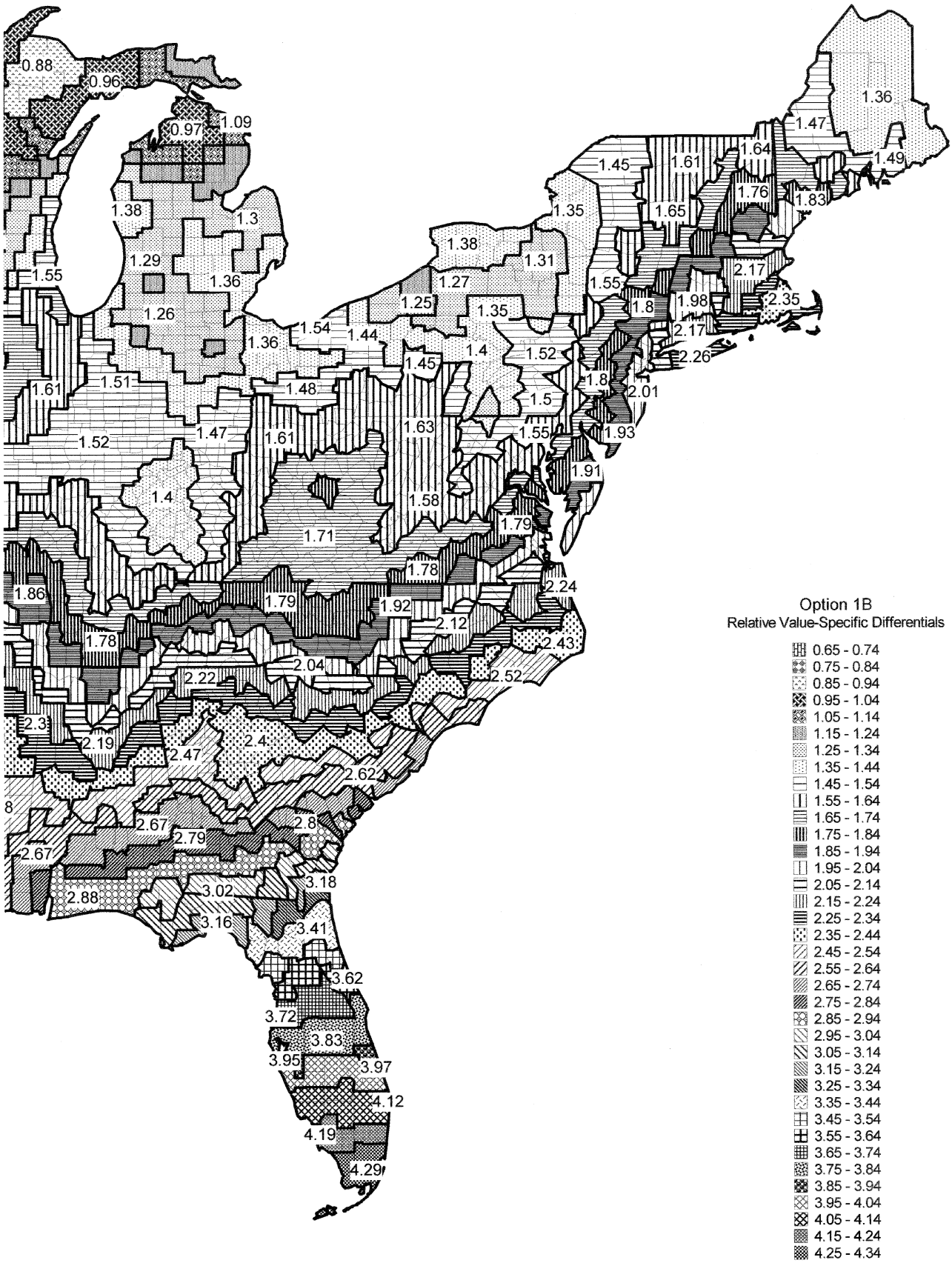

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4. Classification of Milk

Under this proposal, the Federal milk order system would continue to contain uniform classification provisions, but with some modification. The proposed modifications would be consistent with the Agricultural Marketing Agreement Act of 1937, which requires that milk must be classified ''in accordance with the form in which or the purpose for which it is used.''

The proposed uniform provisions would provide for 4 classes of use. They are similar to the uniform classification provisions contained in the current orders. The purpose and application of the current classification and classification-related provisions are contained in the Department's final decisions that were issued February 19, 1974 (39 FR 9012), July 17, 1975 (40 FR 30119), February 5, 1993 (58 FR 12634), and October 20, 1993 (58 FR 58112). The differences in this proposal from the current classification system are discussed herein and are the result of a thorough review of Federal order classification provisions since passage of the 1996 Farm Bill.

Major proposed changes from the current classification plan include the formation of a new Class IV which includes milk used to produce nonfat dry milk (currently in Class III–A) and milk used to produce butter and other dry milk powders (currently in Class III). Other classification changes include reclassifying eggnog as a fluid milk product, moving cream cheese from Class III to Class II, broadening the Class II classification for infant formulas and meal replacement to include all such formulas meeting redefined criteria for such products regardless of the type of container they come in, removing the words ''dietary use'' from the fluid milk product definition and eliminating the term ''filled milk.''

In addition to the class uses of milk, consideration has been given in this proposal to a number of modifications related to order definitions and provisions that are necessary to administer an effective classified pricing plan. Related definitions include the definitions of fluid milk, filled milk, and commercial food processing establishments. Also, modifications have been considered for administrative rules related to the classification of milk. These include rules for classifying skim milk and butterfat that is transferred or diverted between plants, general rules pertaining to the classification of producer milk (including the determination of shrinkage and overage), rules describing how to allocate a handler's receipts of skim milk and butterfat to the handler's utilization of such receipts, and provisions concerning the market administrator's reports and announcements concerning classification. The classification and classification-related provisions are proposed to be restructured and redrafted to achieve part of the goal of standardizing and simplifying the regulatory program.

In response to a Classification Committee draft report released during the developmental stage for this proposed rule, comments letters were received regarding the classification of milk. The comments ranged from suggestions that the entire classification system be revised by providing 2, 4, or 5 classes of milk to suggestions regarding the classification of individual products. Some comments supported the classification method the California state order provides and recommended a review of that method. The comments will be discussed according to each issue.

4a. Fluid Milk Product (§ 1000.15)

The new orders would include a modified *fluid milk product* definition in § 1000.15. The proposed changes to the fluid milk product definition include eliminating the term *filled milk*, including eggnog in the list of specified fluid milk products, and revising the word *buttermilk* to read *cultured buttermilk*. The revised fluid milk product definition would read ''any milk products in fluid or frozen form containing less than 9 percent butterfat and more than 6.5% nonfat milk solids that are intended to be used as beverages. Such products include, but are not limited to, milk, skim milk, lowfat milk, milk drinks, eggnog, and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50% total milk solids), or reconstituted.''

The term ''buttermilk,'' as used in the fluid milk product definition, would be changed to read ''cultured buttermilk.'' The revised term clearly distinguishes the ''beverage'' buttermilk product from the buttermilk byproduct which is produced from a continuous churning operation.

The fluid milk product definition also would be modified to exclude ''filled milk'' and to include eggnog in its list of products. Although it is apparent that eggnog is a beverage milk product and clearly meets many of the criteria for being considered a fluid milk product, it is not now included in the list of products identified as fluid milk products. The proposed addition of eggnog to the list of fluid milk products results in a change of the product's classification from a Class II product to a Class I product. The elimination of the term ''filled milk'' from the fluid milk product definition is discussed later.

Section 15(b)(1) of the fluid milk product definition would be modified to exclude any product from the fluid milk product definition if the product is a formula especially prepared for infant feeding or a meal replacement without regard to the type of container used to package the product. The reference to ''dietary use,'' which is an imprecise term, would be deleted as a standard for classifying milk products.

At present, ''formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers'' are not ''fluid milk products'' but the exact same formula packaged in a conventional container may be considered to be a fluid milk product if it otherwise meets the standards for such products. This possible difference in classification of these formulas would be eliminated.

The consolidated orders would continue to exclude from the fluid milk product definition formulas designed as ''meal replacements'' but, as noted above, any reference to ''dietary use'' should be removed as a classification standard. The words ''dietary use'' have not been helpful in distinguishing the products that are really beverages from other products that are meant to be much more than just beverages.

As intended for the consolidated orders, the words ''meal replacement'' would pertain to the type of specialty product that one might find in a hospital or nursing home for people who have a swallowing disability, some type of digestive impairment, or other health or medical problems. Such products include those that are thickened with a thickening agent, such as waxy maize starch, which make them consumable for a person with special dietary needs. Such products do not compete with fluid milk products as a beverage. They are prepared for a limited market and are not sold as milk to the general public.

The term ''meal replacement'' would not include various types of shake products that are designed for people who are trying to gain or lose weight. Neither would the term apply to products that are advertised as ''protein supplements,'' ''instant breakfasts,'' or ''high in fibre.'' These products clearly may be consumed as beverages and are sold to the general public. Therefore, like other fluid milk products, it is

proposed that they be classified[as Class I.

The meal replacement standard proposed for the consolidated orders is more stringent than the one that is currently applied. At the present time, for instance, products such as ''Sportshake,'' ''Powergetic,'' ''Carnation Instant Breakfast,'' ''Resource Dairy Thick,'' ''ReadyCare Thickened Dairy Drink,'' and ''Ultra Slim-Fast'' are classified as ''meal replacements.'' As redefined in this proposal, however, only ''Resource Dairy Thick,'' ''ReadyCare Thickened Dairy Drink,'' and similar products would fall within the meaning of ''meal replacement,'' as described above.

Fluid milk products that contain less than 6.5% nonfat milk solids are excluded from the current and proposed fluid milk product definition. Consideration was given to eliminating or lowering this standard because there are some products that resemble fluid milk products but are excluded from the fluid milk product category because their nonfat solids content falls slightly below the 6.5% standard.

Several comment letters were received opposing any adjustment of the 6.5% standard. Some interested parties pointed out that elimination of the 6.5% nonfat milk solids standard would greatly expand the fluid milk product category to include many essentially non-milk products that contain very little milk in them. This could greatly increase market administrator auditing costs in following these products and could regulate several new facilities that would not reasonably be considered to be milk plants. In addition, several dairy product manufacturers argued that their products would be detrimentally affected as other shelf-stable competitive products would gain a substantial economic advantage. The letters stated that the increase in cost associated with the Class I price would force manufacturers to reformulate their products so that no fluid milk or substantially less fluid milk would be used.

After carefully weighing these arguments, it is concluded that any competitive problems that may now exist as a result of the 6.5% standard are very minor and that no change in the standard is warranted at this time.

4b. Fluid Cream Product (§ 1000.16)

No change would be made to the *fluid cream product* definition. The current definition is uniform under all the orders and should be used in the newly merged orders. No comment letters were received which suggested changing the current *fluid cream product* definition; however, several comments were received in support of the current definition.

4c. Filled Milk

It is proposed that the definition of *filled milk* be eliminated and the term be removed from the fluid milk product definition and other provisions within the orders. Filled milk is a product that contains a combination of nonmilk fat or oil with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids). Filled milk was first produced and marketed in the 1960s. In 1968, the orders were amended to provide a definition of filled milk. Currently, there is little or no filled milk being produced under Federal orders. The term filled milk is used 18 times in a milk order. It serves little purpose today except to complicate and lengthen the regulatory language. For this reason, the definition of filled milk would be eliminated and the term removed from the fluid milk product definition and other provisions within the orders.

The form of filled milk and purpose for which it is used are the same as the form and purpose for which whole milk is used. Filled milk is marketed by handlers in the same types of packages and in the same trade channels as whole milk, and is mainly intended to be used as a beverage substitute for milk. Whether made from vegetable fat and fresh or reconstituted skim milk, or any combination thereof, the resulting product resembles whole milk in appearance. Therefore, any filled milk produced and marketed in the future would be classified as a Class I product under the revised fluid milk product definition.

One cooperative association submitted a comment supporting the suggestion to eliminate the definition of filled milk. No comments were received in opposition to this idea.

4d. Commercial Food Processing Establishment (§ 1000.19)

The definition of *commercial food processing establishment* (CFPE) is proposed to be revised by removing the filled milk reference, for the reasons previously discussed, and by removing the word ''bulk'' from the definition. The removal of the word ''bulk'' would allow a CFPE to receive fluid milk products and fluid cream products for Class II use in certain sized packages as well as in bulk.

Presently, the CFPE definition prohibits the receipt of fluid milk products for Class II use in relatively small pre-measured packages that might reduce the CFPE's production costs. Although there were no comment letters directed specifically to this point, this problem has come to the attention of market administrator personnel. While proposing that packaged fluid milk products be permitted to be transferred to a CFPE in any size, it is also proposed that only milk which is shipped in larger-than-consumer-sized packages (i.e., larger than one gallon) should be eligible for a Class II classification. If milk is received in gallon containers or smaller, the milk should be priced as Class I milk since there is no way of guaranteeing that such products will not be sold for fluid use. Permitting milk in any sized container to be sold to a CFPE for Class II use if the container had a special label, such as ''for commercial food processing use only,'' was considered, but such a provision would be impractical and it would be prohibitively expensive for a handler to prepare specially labeled products for small accounts. The current restriction barring a CFPE from having any disposition of fluid milk products other than those in consumer-sized packages (one gallon or less) should be retained under the new orders.

These two restrictions are based upon practical considerations. The integrity of the classified pricing system would be much more difficult to maintain if the market administrator were forced to audit every CFPE on a regular basis. By prohibiting the sale of fluid milk products in consumer-sized packages to a CFPE for anything but Class I use, there would be less need to regularly audit CFPE's to be sure that such products are not being sold to the public. Similarly, since packaged fluid milk products in containers larger than one gallon are rarely, if ever, found in retail outlets, it is unlikely that such products will be sold for fluid use. By restricting fluid milk product disposition by CFPE's to packaged products not larger than one gallon in size, there is reasonable assurance that milk priced as Class II will not be disposed of as fluid milk sold by the glass from a bulk dispenser.

One handler submitted a comment in support of the Committee's suggestions regarding the commercial food processing establishment definition; none were received in opposition to these suggestions.

4e. Classes of Utilization (§ 1000.40)

Historically, the fluid or beverage uses of milk have been classified in the highest-priced class (Class I), and soft or spoonable products, those from which some of the moisture has been removed, have been classified in the intermediate class of milk (Class II). The final

decision issued on February 5, 1993 (58 FR 12634) provided 3 uniform classes of milk for all orders. Classes I and II continued the traditional classification of milk, while the lowest-priced class (Class III) contained the hard, storable products. In a final decision that became effective December 1993, a fourth class—Class III–A (actually a sub-section of Class III)—was established for most orders for milk used to produce nonfat dry milk.

It is recommended that the fluid and beverage uses of milk continue to be the highest-priced class of milk, Class I. Soft or spoonable products, or those used in the manufacture of other food products or sweetened condensed milk, would be classified as Class II products. Class III would contain primarily the hard cheeses, but also such storable products as plain or sweetened evaporated or sweetened condensed milk (or skim milk) in a consumer-type package. Finally, a new Class IV would contain all skim milk and butterfat used to produce butter or any milk product in dried form.

Comments filed regarding the number of classes of utilization for the proposed merged orders varied from supporters of one class, which would eliminate all manufacturing classes, to supporters of 5 classes of milk. Comments concerning the addition of an export class were also received. Some comments urged the immediate suspension or termination of Class III–A, while others recommended a thorough review of Class III–A.

Many commenters suggested that there be one class of milk. A dairy farmer stated that dry milk powder can be used for making cheese or fluid milk and could be easily stored, and later dumped on the market again which could influence the milk price. A large cheese manufacturer maintains that multiple classes of utilization for competing manufactured product uses create market distortion and regulatory adjustments, and argues that a single, market-clearing price for all non-fluid uses would allow competitive forces to determine supply and demand.

Another commenter, also a dairy producer, stated that manufacturing Class II and Class III products is the only means of storing excess milk. According to the producer, at one time much of the country's milk was produced at Grade B standards and, consequently, at a lower cost of production. However, he contends, this is not true today. The producer asserts that the current Federal order system of milk classification is the reason why the dairy industry is not unified and unable to come to a consensus and that milk is the only commodity in the country that is priced according to its use.

A major dairy foods association suggested that there be two classes of milk (i.e., Class I and all other). However, if multiple classes of milk are maintained, the association proposed that some products be reclassified to Class III and that Class III–A be discontinued. The association also stated that no new milk classifications should be established such as an export class of milk. Another commenter suggested that more than one class of non-fluid utilization of milk is unnecessary and does little to enhance producer income.

A manufacturer of shelf-stable products also supported a two-class system for clarification and simplification reasons, and stated that such a system would also eliminate the need for future hearings to determine the classification of new products. The commenter strongly opposed the reclassification of Class II products in aseptic containers to Class I and argued that these products do not compete with current Class I products, but rather compete in the juice market.

Another handler stated that it supported 3 classes of milk, but stated that many products that are currently in Class III should be reclassified as Class II. The handler contended that classification should be based upon demand elasticity and suggested that the criteria for placing various products into classes should be expanded. Very few products are processed to utilize true surplus supplies of milk, it stated.

A major cooperative association's comment letter supported a 4-class system where Class IV would include butter and nonfat dry milk products, thus serving as the class for market-clearing products. The cooperative stated that a 3-class system would not provide enough differentiation for market clearing. It stated that a distorted market may result when pooled handlers must pay the same prices for milk used in nonfat dry milk as for milk used in cheese. Another cooperative also supported the separate classification for cheese (Class III) and butter and powder (Class IV).

Two trade associations recommended 5 classes of milk for the merged orders. One association recommended that the 5 classes be divided into Classes I, II, III, IVA, and IVB and that products be classified on the basis of product yields. The other association stated that the 5 classes of milk should consist of Classes I, IIA, IIB, IIIA, and IIIB, and that Classes IIA and IIB should be classified on the basis of protein and butterfat, whereas Classes IVA and IVB should be classified on the basis of solids not-fat and butterfat.

A few comments addressed the issue of an export class. One comment letter supported the concept of continuing to develop export markets and providing for Class III–A or Class IV to compete in the international marketplace. A Missouri dairy farmer wrote that an export class is needed so that the cost of clearing the U.S. market can be shared across Federal order and state order lines.

Another commenter, a dairy products manufacturer, recommended an export class be established for Class I products. The handler stated it is engaged in the packaging and selling of UHT (i.e., ultra high temperature) processed shelf-stable dairy products sold within the United States and abroad. According to the handler, its inability to compete with the price offered by its competitors is the principal reason it has been unable to increase its volume of business in the international market. The handler contends that changes in the Federal order system are needed to allow the American dairy industry to become competitive in the international market.

The handler suggested that the export class price be established just above the Class III level because it would allow milk to flow into either the cheese market or export markets, whichever provides the greater opportunity. The handler claims that the addition of an export-oriented, value-added, product class would yield greater returns to producers than exporting skim or whole milk powder (i.e., currently Class III-A products).

A northwest cooperative association also recommended that consideration be given to establishing an export-oriented class to facilitate the development of export markets and to promote fair trade. Products produced for the world market would be included in a class with a price that reflects ''world market'' levels. With such a class, according to the cooperative, the dairy industry would be in a better position to promote exports and contribute to the U.S. balance of trade. The commenter contends that processors with exporting potential will benefit from an export class and that producers also will benefit because expanded exports will lead to reduced dairy surpluses.

After careful consideration of the comments and arguments, 4 classes of utilization are proposed for the consolidated orders, as described below. Inclusion of an export class is not proposed because classification is based on form and use without regard to sales area. In addition, it would be difficult to support a concept of dual pricing of a

product—one price for domestic use and a lower price for export. Moreover, to adopt such dual pricing would be inconsistent with the principles of the World Trade Organization.

4f. Class I Milk

Under this proposal, Class I milk would be all skim milk and butterfat contained in milk products that are intended to be consumed in fluid form as beverages. Class I should include all the products included in Class I in the 1993 uniform classification decision plus eggnog.

The 1974 uniform classification decision classified eggnog as a Class II product. The decision recognized that eggnog was prepared to be consumed as a beverage and that it was classified in 9 of the 32 orders as a Class I product. However, the decision stated that eggnog was a highly seasonal product with limited sales. It was also estimated that approximately 40% of the sales of this product was in the form of imitation eggnog. The decision stated that a Class II classification would enhance the competitive position of the product in the marketplace.

In 1991, the recommended decision of the national hearing changed the classification of eggnog from its historical Class II classification to Class I. However, the 1993 final decision for the proceeding reversed the recommended decision classification. The primary reason for the change in the product's Class I classification back to the historical Class II classification was based on exceptions to the recommended decision. At the same time, however, the final decision left low-fat eggnog as a fluid milk product with a Class I classification, as it was prior to the 1990 national hearing.

Class I products are generally classified on the basis of their fluid form and intended use. Eggnog, a highly seasonal product, is clearly intended to be consumed as a beverage. Since this product is manufactured, packaged and distributed to the consumer as a drinkable beverage, it is proposed to be classified as a Class I product. The modest change in the ingredient cost of the finished product should have little or no effect on its sales in the marketplace. Comments received regarding the reclassification of eggnog were generally in support of its reclassification into Class I.

A western producer organization supports the recommendation to include all milk consumed in beverage form in Class I. The organization rejects a two-class system as proposed by processor groups, arguing that such a system makes no economic sense since not all non-fluid uses of milk are market-clearing in nature and thus should not be placed in the same class. A shift to a two-class system would benefit processors and manufacturers at the expense of producers, according to this commenter.

Class I Used-to-Produce. In order to simplify the accountability for milk products classified as Class I that may contain nonmilk ingredients and/or previously processed and priced skim milk and butterfat, we recommend adding a ''used-to-produce'' category to Class I. The used-to-produce accountability method would preclude the need to develop and maintain nonstandard conversion factors and non-milk credits (i.e., salt, flavoring, stabilizers) for milk product accountability. This method should improve the accuracy of handler reporting and minimize audit corrections without sacrificing any statistical information, pricing considerations, or classification criteria. No comments were received in response to the recommendation that this category be added to the proposal.

4g. Class II Milk

Most of the products included in Class II as a result of the 1993 uniform classification amendments would continue to be classified as Class II products under the new orders, with 3 exceptions. The exceptions include: (1) Cream cheese, which would be reclassified from a Class III product to a Class II product; (2) eggnog, as discussed already, which would be reclassified as a Class I product; and (3) any fluid product in a hermetically-sealed, all-metal container which would be classified as a Class II product.

The 1993 national hearing decision included cream cheese in Class III. The decision placed spreadable cheeses and cheeses that can be crumbled into separate pieces in Class III, while other more liquid ''spoonable'' products were placed in Class II. The decision stated that cream cheese is used as a substitute for butter because it functions as a spread and, thus, classified cream cheese in Class III.

The classification of cream cheese should be changed from Class III to Class II. The milk used in Class II products, generally described as ''soft'' products, is used to process or manufacture products for which handlers know a consumer demand exists. Generally, these products have some of the water removed from producer milk or contain a high enough butterfat content that they will not be used as beverages. Products included in Class II are those that are neither as perishable as fluid products nor perform a balancing function for the market. Many Class II products have longer shelf-lives than fluid milk products, while being less storable than markets' surplus uses of milk.

The primary distinction between Class II products and the products used to balance the market is existing consumer demand. Although cream cheese may be used as a substitute for butter, it is not made to be stored when no other outlets are available, as is butter. It is a consumer convenience product that is produced to meet consumer demand and not to utilize surplus supplies of milk. Handlers do not process milk into perishable or semi-perishable dairy products if they do not have a consumer market for those products. Accordingly, it is proposed that cream cheese be reclassified from its current Class III classification to Class II.

Three comment letters stated that there is no basis for reclassifying cream cheese into Class II and it should remain with other cheeses in Class III. At least 2 comment letters supported the revised classification of cream cheese. One commenter argued that cream cheese competes for consumer market share with butter, which is currently a Class III product, and should be classified according to its ''use'' which supersedes any ''form'' criterion argument. The letter stated that while the reclassification will have no appreciable effect on the blend price, it may be financially detrimental to plants that produce cream cheese.

Some comments addressed the classification of cottage cheese and ricotta cheese, in addition to cream cheese. A national manufacturer of cheese products supports the reclassification of milk used to produce cottage cheese and ricotta cheese from Class II to Class III. The handler states that due to falling demand for cottage cheese, it should be placed with other cheeses in Class III. Another cottage cheese manufacturer made the same suggestion.

These suggestions should not be incorporated in this proposal. Great care should be taken in reclassifying dairy farmers' milk to any class below Class I. Such reclassification may occur when it is necessary to dispose of surplus milk or to allow intermediate dairy products to compete with a nondairy substitute to the benefit of dairy farmers. Neither of these reasons would appear to fit the situation facing milk used in cottage cheese.

The declining market for cottage cheese is likely the result of several factors besides its price. Some of these

factors may be the substitution of newer or improved dairy products for cottage cheese, changing consumer tastes, or consumer preference for lower fat products. There is no indication that reducing the ingredient cost of this product by a fraction of a cent per container would do much to stimulate consumer preference for it.

As discussed above, the phrase in §§ 1000.15(b)(1) and 40(b)(v), ''or dietary use (meal replacement)'' would be removed and any fluid product packaged in a hermetically-sealed, all-metal container would be reclassified as a Class II product. Formulas especially prepared for infant feeding should continue to be classified as Class II products without regard to the type of container in which they are packaged.

Although no change is intended for the present classification of buttermilk for drinking purposes and buttermilk for baking purposes, some changes are needed to clarify the distinction between the 2 products. First, as noted previously, drinking buttermilk should be labeled as ''cultured buttermilk.'' In addition, some changes are needed to distinguish this product, which is a Class I product, from buttermilk biscuit mix, buttermilk for baking, or simply baking buttermilk, which is a Class II product.

Currently, the criteria used to distinguish drinking buttermilk from buttermilk for baking is that the latter product must contain food starch in excess of 2% of the total solids in the product. However, this criteria is not specified in the orders themselves, but rather in administrative guidelines that have been issued. This guideline should be formalized by stating the standard in the general provisions that will contain the classification section for the consolidated orders. As now specified in Section 1000.40(b)(2)(v), the Class II classification is limited to ''buttermilk biscuit mixes and other buttermilk for baking that contain food starch in excess of 2% of the total solids, provided that the product is labeled to indicate the food starch content.'' It should be emphasized that the proposed standard not only requires buttermilk for baking or buttermilk biscuit mix to contain the required amount of food starch but, in addition, the label must indicate the food starch content of the product.

Class II Used-to-Produce. The 1993 uniform classification amendments changed the accountability method of several products from a disposition basis to a used-to-produce basis. Except for some fluid cream products, all products were moved to the used-to-produce category. The change resulted in simplification and improved accuracy in the reporting and auditing of these products. This method should be extended to the remaining Class II products that are currently accounted for on a disposition basis, specifically creamers, light cream, milk and cream mixtures, and heavy cream.

4h. Class III and Class III–A (i.e., Class IV) Milk

The July 1993 national hearing decision provided that hard, storable products be included in Class III. Class III–A became effective in 3 Federal orders in November 1992 and was implemented in 27 Federal orders in December 1993. The amendments established a Class III–A milk class that included only nonfat dry milk. It is recommended that the products currently included in Class III continue to be classified in that class with two exceptions. As discussed under the Class II section, the classification of cream cheese should be changed from Class III to Class II. Also, butter and all milk powders that are currently in Class III should be moved to Class IV.

The 1993 Class III–A decision stated that the separate class for milk used to produce nonfat dry milk (NFDM) was needed to allow handlers to recover the cost of producing NFDM. The Class III–A price is calculated from a product price formula, which provides a make allowance, to arrive at a price for milk used to produce NFDM.

There has been a good deal of criticism of Class III–A. Some of the arguments made by critics of III–A are that:

- Class III–A has resulted in lower uniform prices under Federal milk orders;
- A significant amount of milk was not pooled when the Class III–A price exceeded the uniform price adjusted for location;
- The wide gap between the Class II price and the Class III–A price was destroying the market for bulk sweetened condensed milk; and
- The Class III–A pricing system was undermining the Class II and Class III price by allowing milk that is manufactured into NFDM at a lower price to be utilized in increasingly large quantities to make soft products and cheese.

Supporters of Class III–A argue that it should be retained for several reasons. One argument that appeared in several letters was the need to remain competitive with butter/powder plants under California's 4a pricing program.

The Pennsylvania Farm Bureau noted that as the dairy industry moves toward the elimination of support prices and more into the international market, Class III–A pricing will offer a way to capture changing price relationships between cheese, butter, and powder.

Michigan Milk Producers Association (MMPA) and Independent Cooperative Milk Producers Association (ICMPA) argued that the elimination of Class III–A will competitively disadvantage those parties who currently provide market balancing services. They note that as long as California remains outside of the Federal order program, the West Coast nonfat dry milk price, plus a transportation differential, will continue to effectively establish a price ceiling for Midwest nonfat dry milk. This product, according to MMPA and ICMPA, is still a market-clearing product for Michigan, Indiana, Kentucky, and parts of Ohio.

A major Northeast cooperative association, Agri-Mark, also opposed any suggestion to eliminate Class III–A. According to Agri-Mark, arguments that Class III–A pricing has encouraged unneeded nonfat dry milk production are false. Class III–A pricing, in Agri-Mark's view, has allowed nonfat dry milk manufacturers to resume their role of efficiently balancing Class I markets and disposing of reserve supplies. While vigorously supporting the retention of Class III–A pricing, Agri-Mark also stated that it is necessary to modify Class III–A pricing in two primary areas. The first modification involves the replacement of the Central states price with a Class III–A price calculation using a California nonfat dry milk price announced each week. The second modification involves including milk used to manufacture buttermilk powder in the Class III–A definition.

Agri-Mark contends that Class III–A should be continued in all Federal marketing areas in order to allow their nonfat dry milk manufacturing plants to remain competitive with California and therefore be available to balance Class I needs and facilitate the handling of reserve milk supplies in each market. It is also Agri-Mark's view that the current Class III–A pricing formula has worked well and has not given an advantage to nonfat dry milk manufacturers relative to cheese manufacturers.

Agri-Mark acknowledges that the problem of using nonfat dry milk to replace fresh milk in traditional dairy uses when Class III–A prices are significantly below Class II and III prices does exist; however, it argues that the elimination of Class III–A pricing will not alleviate this problem because low-priced nonfat dry milk manufactured in California will still be available to replace local fresh milk. In the absence of Class III–A, local fresh milk may be unable to find a nearby outlet, particularly on a seasonal basis,

resulting in disorderly marketing conditions.

Another commenter, the Alliance of Western Milk Producers (AWMP), stated that separate butter/powder and cheese milk pricing classes would not be detrimental to producers, but rather that a single price class would cause producers economic disaster. The AWMP supports a two-class system for manufactured products. It recommends that Class III include cheese and Class IV include butter, nonfat dry milk, and whole milk powder.

Darigold, a cooperative association based in Seattle, Washington, submitted a comment in support of separate classes for butter/powder (Class III–A) and for cheese (Class III) and offered several arguments why separate classes for butter, powder, and cheese should be adopted. Darigold states that the reconstitution of nonfat dry milk should be viewed as a means to economic efficiency rather than a pricing disruption or distortion. Darigold points out that it is inefficient to have milk transported several hundred miles if cheaper solids could be transported at a lower cost. Darigold also states that reconstitution is actually consistent with the purposes of Federal orders because it promotes the goal of making adequate supplies of milk solids available within a deficit market.

Darigold also states that reconstitution of nonfat dry milk into higher-classed dairy products is much more demand-driven than price-driven and that the increased use of nonfat dry milk in the processing of higher-valued products may be explained by the shortages of milk and continuing declines in milk production that have occurred in some regions, not by price incentives associated with Class III–A. The cooperative also states that milk movements in recent years to the Upper Midwest would have occurred even without Class III–A because milk production was decreasing in the Upper Midwest but growing in the West.

Darigold maintains that concerns about ''artificial drying'' (i.e., drying milk just to be able to obtain nonfat dry milk solids as a substitute for fresh milk in Class II products) overstate the problem and should be kept in perspective. In addition to acknowledging that such practice would be inconsistent with Federal order program goals, the cooperative points out that it would also be inconsistent with economic efficiency. Darigold states that only a limited amount of nonfat dry milk reconstitution has been driven by a price difference between Class III and III–A sufficient to offset the costs of drying and reconstitution. Furthermore, it is argued that suggestions to increase the Class III–A price to make it closer to the Class III price is unsound policy. The commenter argues that it makes no economic sense to artificially increase the lowest class price which typically clears the market.[32]

Dairylea, a cooperative association with members in the Northeast, also supports continuation of Class III–A for milk used to produce nonfat dry milk stating that the incorporation of this class allowed for a more equitable sharing of costs among all producers in balancing weekly and seasonal supplies of a market via nonfat dry milk production. While acknowledging that the substitution of nonfat dry milk for fresh milk in Class II and III products decreases producer blend prices, Dairylea contends that this would continue to occur in the absence of Class III–A pricing because lower-priced powder from California would be available.

Some commenters, while supporting Class III–A, urged the Department to broaden the class to include more products, such as dry whole milk. In addition, several comments were received urging the reclassification of sweetened condensed milk from Class II to Class III or to the same class which includes nonfat dry milk. The commenters explained that sweetened condensed milk is primarily used in commercial food processing establishments and in the confections industry and that it is interchangeable with powdered milk products and sugar in ingredient markets for processed foods and candy. They argued that manufacturers of sweetened condensed milk are currently at a competitive disadvantage with manufacturers of nonfat dry milk. Another commenter also stated that it was losing business because nonfat dry milk is substantially cheaper than fluid dairy ingredients.

A major dairy manufacturer stated that product classifications should not create price discrimination among milk products used for similar purposes. Therefore, it supports the same classification for nonfat dry milk, sweetened condensed milk, and condensed skim milk, which are largely interchangeable. According to the commenter, the current system of classification places sweetened condensed milk at a significant disadvantage and has virtually destroyed the market for sweetened condensed milk. The commenter also stated that other products that compete with nonfat dry milk, including evaporated milk, should be placed in the same class as nonfat dry.

A great deal of consideration was given to the argument that bulk sweetened condensed milk/skim milk should be reclassified to be in the same class as nonfat dry milk, i.e., Class IV in the proposed new orders. In fact, such a change was recommended in a preliminary Dairy Program Classification Committee report. With the change in class pricing formulas proposed for the new orders, however, the problems leading to this recommendation will be removed. Consequently, bulk sweetened condensed milk and skim milk should remain in Class II.

Bulk sweetened condensed milk/skim milk is used as an intermediate product in ice cream, candy, and other manufactured products. However, these manufactured products can also be made from powdered milk. When powder prices are low relative to the Class II price, there is an economic incentive for powder to be substituted for bulk sweetened condensed milk. As a result, there must be an economic relationship between the Class II price and the cost of using alternative dry or concentrated products to make Class II products. Under current pricing provisions, the Class II price can be excessive relative to using nonfat dry milk since the Class II price is a measure of the value of milk in cheese (the Class III price) plus a differential.

As proposed in this rule, the Class II price for the new orders would be based upon the Class IV price plus a differential of 70 cents. This fixed difference precludes the much wider price differences that have existed at times between Class II and Class III–A prices. Consequently, sweetened condensed milk should continue to be classified as a Class II use.

4i. Shrinkage and Overage

The shrinkage provisions of the new orders should be modified to reflect a pro rata assignment of shrinkage based on handler utilization. In other words, each handler's ''shrinkage'' or lost milk should be classified according to the handler's use of milk that was not lost in transit or processing. Adoption of such modification will simplify both order language and accounting procedures.

Shrinkage is experienced by handlers in milk processing operations and in the receipt of farm bulk tank milk at receiving stations and processing plants. Milk is unavoidably lost as it remains in pipe lines, adheres to tanker walls and/

[32] See Issue Number 3 of this proposed rule for a comprehensive discussion of Class III and IV prices.

or other plant equipment, and is washed away in the cleaning operations. In addition, unexpected losses, including spillage or leaking packages, also contribute to shrinkage.

A shift from the current shrinkage allowance provisions to a pro rata assignment of shrinkage based on utilization would improve market efficiencies, create a more equitable situation among handlers, and facilitate accounting procedures involving shrinkage and overage assignment. Over time, changing conditions within milk markets have led to the adoption of a rather complex shrinkage provision. This provision can be both modified and simplified without compromising the objectives of the Federal milk marketing program. The proposed provision should meet the goals of simplification and improvement of Federal milk marketing orders.

Arguments in support of the proposal illustrate the advantages of a shift to pro rata shrinkage assignment as opposed to either continuation of the current shrinkage class assignment and allocation system or adoption of other alternatives. Several of the major cooperative associations expressed support for the suggestion to prorate shrinkage based on plant utilization. According to one commenter, plants should account to the pool at a price that is the intended use for milk processed at that plant. The commenter added that this will encourage and assure plant efficiency.

Simplification of order language was one of the more frequent comments received in response to the preliminary reports on classification. The shrinkage provision undoubtedly falls within this category. As pointed out earlier, the shrinkage provision has become rather complex. A comment letter submitted by one industry member argues that the retainment of the shrinkage provision is unnecessary and that any milk which is not accounted for should be classified as Class I. While this suggestion seems to provide an incentive to inefficient plant operators to minimize the amount of milk loss by placing a higher value on shrinkage than presently exists in the current system, a more equitable method is to assign shrinkage pro rata based on a handler's utilization. This will prevent any handler with solely Class III utilization from being responsible to the pool for shrinkage assigned to Class I.

Other comment letters suggested that shrinkage should be eliminated, along with some other order provisions, because it reduces income to dairy farmers. Some commenters argued that the costs associated with record keeping, reporting and auditing plant loss has little value to the producer, consumer, or handler. One cooperative association expressed support for the elimination of accounting for animal feed and dumped products; no opposing comments were received.

One handler proposed that shrinkage be assigned all at the lowest classification or all Class I with a monetary credit. The monetary credit would be based on a fixed allowance depending on where the handler's loss is assumed. The handler stated that this would eliminate a substantial number of words from the order language. This handler also suggested expanding the shrinkage rules to allow for aseptic packaging because shrinkage in aseptic packaging is far greater than in a plant processing milk in containers, according to the handler. The handler suggested a 4% shrinkage allowance for aseptic packaging.

In Section 30 of each order, pool plant operators and certain other handlers are required to report their total receipts and disposition of skim milk and butterfat. In Section 40, the total reported receipts are classified according to usage. Any positive difference between receipts and utilization is referred to as *shrinkage* and any negative difference is called *overage*. The proposed orders would provide that for each pool plant and each cooperative association bulk tank handler, the market administrator would determine the shrinkage or overage by subtracting the handler's utilization of milk from its receipts of milk, and then prorate the shrinkage to the respective quantities of skim milk and butterfat in each class by using the handler's total reported utilization. In contrast to the current lengthy provision for assigning shrinkage, the new shrinkage provision would remove the necessity for computing shrinkage allowances on various sources of receipts.

Currently, the shrinkage provision maintains allowances for various sources of receipts. Milk that a handler receives at its plant on the basis of weights determined from its measurement at the farm and butterfat tests determined from bulk tank samples (farm weights and test) receives a 2 percent allowance to be classified as Class III. If the handler receives milk on other than farm weights and tests from a cooperative bulk tank handler or another pool plant, a 1.5 percent allowance is given to the receiving handler and a 0.5 percent shrinkage allowance is given to the bulk tank handler or other pool plant selling the milk. Any shrinkage assigned to pooled milk is assigned to Class III up to this allowance.

If a handler receives fluid *other source milk*, it receives a pro rata share of the total loss which is assigned to Class III without limit. Any shrinkage exceeding the total of these two assignments is assigned to Class I.

When comparing the dairy industry to other industries, there is a difference in how waste, or shrinkage, is handled. A non-dairy manufacturing plant has a certain amount of waste, and it pays the same for wasted material as that going into the product made. It does not pay less or assign a lower value for the ''shrinkage'' as is done in the dairy industry. Although some may argue that shrinkage should be assigned to the lowest class because handlers receive no return on milk losses experienced in the receiving and processing operations, a pro rata assignment should result in handlers' limiting milk loss throughout the dairy process. In a bottling plant, shrinkage would be assigned to Class I in a larger proportion than the current method. This would have the effect of creating more costs for a Class I handler. In other words, placing a higher value on shrinkage by having milk assigned pro rata to all classes, as is recommended, would encourage a handler to reduce costs associated with shrinkage, resulting in more efficient dairy operations. Also, as proposed here, shrinkage would be assigned to Class II for the first time. This would also encourage less shrinkage, hence, greater efficiency.

Pro-rata shrinkage assignment would more closely reflect the nature of the plant's operation. If milk is to be classified on the basis of form and use, it would appear logical that any loss associated with a particular use should be classified the same as the usage. If a handler has a high Class I utilization, it seems appropriate that the same utilization percentage would apply to its loss/shrinkage. A handler with a multi-class operation would have shrinkage prorated to all classes of utilization based on the percentage used in each class. If a handler has only Class III utilization, all shrinkage would be assigned to Class III.

In doing its cost accounting for Class I fluid milk, a handler would have to factor in the extra cost for shrinkage as part of its calculations. The handler would feel secure knowing that its competition is going to have the same method of prorating shrinkage applied to its operation. The benefit of greater uniformity is apparent. Class I handlers would have a greater incentive to operate more efficiently if they are to account for milk lost at the higher class

value; hence, greater consideration would be given to minimizing shrinkage to reduce costs.

The additional money paid into the pool by handlers operating pool distributing plants with high Class I utilization would not be offset by a lesser amount paid into the pool by handlers operating plants that manufacture primarily Class II and III products. Therefore, the blend price to producers would be enhanced by this change in the shrinkage rules, but it is estimated that it would be less than an average of one cent per cwt.

Historically, overage has been allocated pursuant to Section 44 (Classification of producer milk) starting with Class III. Since shrinkage would be assigned pro rata based on the utilization in each class, it would appear logical to assign overage on the same basis. Utilization would be adjusted to arrive at gross utilization. The references to overage and shrinkage would be removed from Section 44. In computing a handler's value of milk, the method of pricing overage in Section 60(b) would not change. However, the reference to Sections 44(a)(14) and 44(b) would be replaced with Section 43. Also, as explained under the discussion of ''General classification rules,'' Section 41 would be removed entirely and the remaining shrinkage provision would be incorporated in Section 43.

There would be minimal impact on the blend price by assigning overage before allocation begins rather than in the current step 14 of Section 44. The total value of milk classified plus the overage value would be the same using either method. However, if a handler had receipts from an unregulated supply plant or a plant regulated under another Federal order, the assignment of such receipts may be slightly different than the current assignment method.

Animal feed and dumped products should be removed from Class III in Section 40 and included in shrinkage. This would place less of a regulatory burden on handlers who are required to file reports regarding these types of disposition. It would also simplify market administrator auditing procedures considerably.

The suggestion to include a dollar credit at the difference between Class III and Class I prices for unaccounted milk was also considered. This alternative would result in additional time and resource allocation, and would not simplify the orders, but rather complicate them.

4j. Classification of Transfers and Diversions (§ 1000.42)

Certain changes should be made to the classification of transfers and diversions section of the orders to simplify and clarify order language. At the present time, in many orders if any milk that is diverted from one order to another for requested Class II or III use is assigned to Class I, the dairy farmer who shipped that milk is defined as a producer under the order receiving the milk with respect to that portion of the milk assigned to Class I. In other orders under similar conditions, the dairy farmer becomes a producer on the receiving order for all of the milk diverted even though only a portion of the milk was classified as Class I. When this type of adjustment is necessary, the diverting handler is informed by the market administrator's office that there is not enough Class II or III use remaining in the receiving plant to absorb all of the milk diverted. In such case, the diverting handler may pick which load or loads of diverted milk will become producer milk under the receiving order.

Since the orders are not precisely clear on how inter-order diverted milk should be handled, some modification is needed in the order language. Under most orders, and as provided in this proposed rule, milk may be diverted from one order to another for a requested use other than Class I. However, if there is not enough Class II, III, or IV utilization in the receiving plant to be assigned to the diverted milk, some milk may have to be assigned to Class I. When this happens, the practical administrative problems involve determining which milk of which dairy farmers and which loads of milk will be shifted as producer milk from one order to another.

Market administrators should be given some flexibility to handle these administrative problems on a market-by-market and case-by-case basis. As a practical matter, most milk diverted between orders is diverted by cooperative associations that reblend proceeds to their members. In most cases, it makes little difference to a cooperative association whether a dairy farmer is a producer on one order or another order; any differences in blend prices between the orders will be washed out in the reblending process. In the case of nonmember producers diverted inter-order, however, differences could arise in a producer's net proceeds for the month depending upon how much milk was pooled in each order. Therefore, these situations should be handled in such a way as to be least disruptive to individual dairy farmers.

A market administrator does not know until handlers' reports have been received that some portion of milk reported as diverted to another order cannot be absorbed by the amount of non-Class I utilization in the receiving order's plant. In such case, the diverting handler should be given the option of designating the entire load of diverted milk as producer milk at the plant physically receiving the milk. Alternatively, if the diverting handler wishes, it may designate which dairy farmers on the diverted load of milk will be designated as producers under the order physically receiving the milk. As a last resort, the market administrator would prorate the portion of diverted milk among all the dairy farmers whose milk was received from the diverting handler on the last day of the month, then the second-to-last day, and continuing in that fashion until the diverted milk that is in excess of Class II, III, and IV use has been assigned as producer milk under the receiving order.

A conforming change that should be made in each order relates to milk that is transferred or diverted for Class II or III use. Presently, milk may be transferred or diverted on a requested Class II or III basis. However, with 4 classes of utilization recommended for the new orders, milk could be diverted for requested Class IV use also. Rather than specifying ''Class II, III, or IV,'' however, the orders should simply state ''other than Class I'' to accommodate a system of more than 3 classes. This language is simpler, shorter, and accomplishes the same end.

Comments received from interested parties involving transfers and diversions suggested general simplification and clarification of order language, as well as some suggestions on how to facilitate the administration of these provisions. Generally, the comment letters suggest that the orders be amended so that inter-market transfers are allocated to Class I in the same manner as transfers within markets. These letters state that, otherwise, a barrier to the movement of milk is created. It was argued that such modification would help to assure distributing plants an adequate supply of milk for fluid use whenever and wherever it is needed. Other comments argued that if a shipment between orders is designated as Class I, it is only logical and fair that the entire shipment should be Class I, rather than be subject to current pro rata allocation procedures. Proponents of this view argued that this would lead to a more

equitable situation in the treatment of inter- and intra-order transfers, allow for greater equity among handlers, and contribute to the simplification and reduction of administrative procedure and cost.

A cooperative association and a handler filed comments endorsing a prelimary suggestion of allowing milk to be diverted inter-order for any use, but a dairy farmer association submitted one comment critical of the idea. The association which opposed the idea implied that milk received on a diverted basis from another order would get a priority Class I assignment over local producer milk. This was not the intention behind this suggesion. Any milk that was diverted from one market to another would have been assigned based upon the lower of the receiving plant's Class I utilization or the receiving market's Class I utilization. In view of the concern about the possible impact of permitting milk to be diverted for any use between orders, no change in this regard is proposed for the consolidated orders.

Inter-order transfers would continue to be allocated based on the lower of the receiving plant's or receiving market's utilization rate. Preference should not be given to such other order bulk milk in the manner suggested by various commenters. Even within markets with high Class I utilization rates, there are times when milk is used in surplus products, and classified as other than Class I. There is no reason why milk from an other order should be classified as completely Class I when local milk inevitably is classified other than Class I. Both types of receipts should share equally in the Class I and surplus utilization.

In § 1000.42(d)(2)(i), the phrase, ''excluding the milk equivalent of both nonfat milk solids and concentrated milk used in the plant during the month,'' is proposed to be added to this sub-paragraph to more directly arrive at transfer and diversion classification on the basis of the assignment of a nonpool plant's utilization to its receipts. The recommended modification will prevent unnecessary accounting steps which serve no purpose in verifying the utilization at the nonpool plant. In classifying receipts of fluid milk and cream products at nonpool plants from Federal order plants, an accounting balance function serves no purpose.

In § 1000.42(d)(2)(vi), the allocation process for bulk fluid milk transferred from pool plants to nonpool plants is proposed to be modified such that any remaining unassigned receipts of bulk fluid products be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization and then to all other utilization, in sequence beginning with the lowest class at the nonpool plant. This change returns the order language to the assignment sequence that was adopted in the Uniform Classification Decision of 1974. Receipts from pool plants should not be given preference by assigning such milk to the available Class II use before assigning receipts from dairy farmers who constitute the regular source of milk for such nonpool plant. Generally, milk transferred or diverted from pool plants to nonpool plants is surplus milk and would be used in storable manufactured products, such as nonfat dry milk and butter. By assigning transferred or diverted milk to a nonpool plant's Class II utilization first, the pool plant operator is forced to account for this milk at the Class II price, even though the nonfat dry milk or other surplus product that was made with the milk is of a lesser value. This process will prevent the assignment of receipts at a higher utilization than the actual utilization.

Receipts of bulk fluid cream products at nonpool plants from pool plants and plants regulated under other Federal orders, similarly, would be assigned to the lowest class utilization first. Generally, a plant operator will use its regular source of supply in the highest valued uses before using alternative supplies. Thus, if a nonpool plant receives cream from a pool plant or a plant regulated under another Federal order, it is likely that the regulated plants were trying to dispose of their excess cream. The nonpool plant receiving the cream will most likely use it for manufacturing purposes; therefore, it should be assigned to the lowest class first. The priority given to regular source supplies is recognized and the provision modified to reflect this.

4k. General Classification Rules (§ 1000.43)

For classification purposes, the milk of a cooperative bulk tank handler—i.e., ''a 9(c) handler''—should be treated as ''producer milk'' of a pool plant operator. This change will shorten and simplify the allocation section. Accordingly, paragraph (a) of Section 43, as revised, no longer contains a reference to the classification of producer milk with respect to a handler described in Section 9(c).

The computation and classification of shrinkage and overage have been added to this section. This will eliminate Section 41, the section previously used for this purpose. Also, the last paragraph of Section 43 should be removed because milk for Class IV use now would be classified in Section 44 of the orders.

4l. Classification of Producer Milk (§ 1000.44)

A handler may receive milk from a producer, a cooperative association acting as a handler on bulk tank milk, by transfer from another pool plant, or from ''other sources'' such as nonpool plants, partially regulated plants, and plants that are regulated under other orders. Because of this diversity in sources of receipt, it is necessary in a milk order to go through an allocation sequence to determine which source of milk gets priority to a particular class of utilization and to determine how producer milk was used. In some orders, this allocation sequence is done on a system-wide basis; in others, it is done for each plant receiving producer milk.

Section 44 is one of the most complicated and difficult-to-understand sections in a milk order. Consequently, an attempt has been made to simplify and shorten it. Part of this task was made easier by proposed changes to other sections (e.g., elimination of filled milk, elimination of individual handler pools, and modification of the treatment of inter-order transfers and diversions). Also, because shrinkage and overage are prorated to a handler's gross utilization, these items do not have to be allocated.

All orders are not now uniform in the classification of producer milk. For example, some orders (e.g., Chicago Regional) provide for system allocation while others allocate receipts on a plant-by-plant basis for a multiple plant handler.

Under the consolidated orders, milk would be allocated on a plant-by-plant basis, as modified to reflect the other changes proposed herein. The system allocation method that is found in some orders is based upon a set of marketing conditions concerning the locations of handlers' plants and the market's available milk supply in relation to those plants. These provisions were intended to stop abuses that occurred when milk was imported from one market to another. Rather than permit an inter-order transfer to be assigned at a handler's high Class I utilization plant, while the handler's producer milk was assigned to lower use value at another of its plants, the system allocation provisions assigned the transfers on the basis of the handler's utilization at all plants combined. The objective was to prevent more distant other order milk from being assigned to Class I use at the expense of producers who were located nearer to the city markets and who represented the normal source of supply for the markets' fluid milk needs.

The 11 new orders proposed here do not fit within the parameters of the classical model where a major consumption area is surrounded by production areas. The marketing areas proposed for the consolidated orders span several states and have a number of major population centers. They also have pockets of milk production that, in a number of cases, are in higher-priced areas than some of the fluid milk plants within the marketing area. This milk may not be economically available to a fluid milk plant several hundred miles away. In fact, it may be that a plant near the periphery of a multi-state market may find its closest and cheapest source of supply from outside the market rather than from within the marketing area. Accordingly, the foundation on which the system allocation rules are based does not support current marketing conditions. Therefore, all orders are proposed to be modified to allocate milk only on a plant-by-plant basis rather than on a system basis.

Another change that should be made in the allocation section concerns the ''98/2'' rule. At the present time, only 98 percent of the packaged fluid milk products transferred between orders is allocated to Class I; the remaining 2 percent is allocated to Class III. This provision, originating from the June 19, 1964, ''compensatory payment'' decision, was adopted to provide an allowance for ''route returns.'' According to that decision, ''it is reasonable to expect some route returns will be associated with inter-market transfers just as there are in connection with milk locally processed in the receiving market * * * a small allowance of 2 percent for such returns, which must fall into surplus use, should be included to avoid such over-assignment in Class I.'' (29 FR 9120).

The 2 percent Class III allowance on inter-market packaged transfers would be eliminated. As explained above in connection with the proposed changes to the shrinkage provisions, animal feed and dumped products would no longer receive an automatic Class III classification, but instead would be treated as shrinkage and prorated to the plant's utilization. Similarly, inter-order packaged transfers would no longer receive an automatic Class III classification for 2 percent of those transfers but instead should be allocated 100 percent to Class I utilization.

In § 1000.44(a)(3)(iv), some new language to most, but not all, orders is proposed to be added to make it clear that *any* fluid milk products received by a regulated handler from a producer-handler will be assigned to the receiving handler's lowest utilization available whether such products are physically received at the regulated handler's plant or whether they are ''acquired for distribution'' at some other location. The additional words, ''acquired for distribution,'' would clarify the application of this provision in those orders that do not now contain this language.

A key basis for exempting producer-handlers from regulation rests on the presumption that producer-handlers will be responsible for disposing of their surplus milk. This is why milk received from a producer-handler is down-allocated to the lowest possible utilization. If this were not done, a producer-handler could undercut the minimum order Class I price by selling its surplus milk to regulated handlers for fluid use.

In some isolated cases, producer-handlers have avoided lowest-class pricing of their surplus milk by selling their packaged fluid milk products to regulated handlers at a non-plant location, such as a warehouse, from which it is then distributed on routes by the regulated handler. Under some orders, this milk would not be considered a receipt from a producer-handler and thus would not be priced. As proposed herein, however, such fluid milk products that are acquired at the non-plant location will nevertheless be treated as if they had been received at the regulated handler's plant and will be priced accordingly.

In addition to the changes discussed above, Section 44 is proposed to be shortened and simplified by removing unnecessary references that serve to confuse the language rather than make it easier to understand. Where possible, simpler language has been used to replace lengthy section references.

4m. Conforming Changes to Other Sections (§§ _____.14, _____.41, and _____.60)

Paragraph (b) of § _____.14 should be removed to reflect the fact that all packaged fluid cream products now would be accounted for on a used-to-produce basis. Also, as previously noted, the simpler and shorter treatment for shrinkage shortens the existing provision to the point where it is no longer necessary to keep a separate section for it. Therefore, Section 41 should be eliminated and the revised contents of that section should be incorporated as a new paragraph (b) in Section 43. Finally, conforming changes should be made to Section 60 (Handler's value of milk for computing the uniform price) to reflect the elimination of filled milk from the order, and to reflect changes in references due to other modifications such as the changes in the treatment of shrinkage and overage.

4n. Organic Milk

During the development stage of the order reform process, a proposal was received from Horizon Foods to exempt organic milk from pricing and pooling under Federal milk orders.

In 1990, Congress passed, and the President signed into law, the *Organic Food Production Act of 1990* (7 U.S.C. 6501 *et seq.*), establishing the first Federal standards for organic food products. A proposed rule was issued on December 5, 1997, and published in the **Federal Register** on December 16, 1997 (62 FR 65849), to implement the National Organic Program.

Organic dairy products can now be found in many, if not most, major grocery chains in metropolitan areas. The retail price of organic dairy products is well above non-organic products. For example, in one Washington-area supermarket a half-gallon of regular 1% milk sells for $1.59, while a half-gallon of Horizon Organic 1% milk sells for $2.29. In addition to carrying organic milk, many supermarkets now also carry organic yogurt, sour cream, butter, and other organic dairy products. All of these products are priced well above their non-organic counterparts.

Processors of organic milk have asked for exemption from Federal regulation. In a May 20 letter to the Department, Horizon Foods argued that (1) organic milk is a different commodity; (2) the market for organic dairy products is a niche market; and (3) Federal order regulation of organic milk is contrary to the intent of the Organic Foods Production Act because it does not ''facilitate interstate commerce in fresh and processed food that is organically produced.'' Horizon's proposed solution is to exempt organic milk from the producer milk definition if the milk is produced on a certified organic farm and if the broker pays the producer at least 110% of the month's Class I price for such milk.

The proposal to exempt organic milk from Federal order pricing should be denied for several reasons. First, contrary to the assertions of Horizon Foods that all organic milk is priced at 110% of the Class I price, regardless of how the milk is used, there is evidence that some organic milk is pooled and priced as non-organic milk under some orders, including the Chicago Regional and Southern Michigan orders, for example. Second, if special treatment is provided for organic milk, a ''Pandora's box'' would be opened for special treatment for other kinds of milk as

well. Third, although the retail price of organic milk is well above non-organic milk, many people believe that organic milk competes with the regulated market and, therefore, also must be fully regulated. Fourth, if Congress wished to exempt organic milk from Federal milk order regulation, they could have done so either in the Organic Foods Production Act or in the 1996 Federal Agricultural Improvement and Reform Act; but they did not. Fifth, there is no indication that all processors of organic milk price their receipts the same way as Horizon Foods. Even if they did, however, the one class/one price system currently used by Horizon could be a temporary phenomenon due to the rapidly expanding market for organic products. The day may come when the organic market becomes saturated and milk in excess of fluid needs must be disposed at competitive prices. If and when this happens, it is likely that some form of classified pricing will be implemented. Finally, the Act provides for classifying and pricing milk on the basis of its form and use. As a result, different costs that may be associated with producing organic milk or other types of milk are not relevant. For these reasons, it would be inappropriate at this time to exempt organic milk from pooling or to provide any other type of special treatment for it under the guise of Federal order reform.

4o. Allocation of Location Adjustment Credits

A provision that is now common to most orders is not suggested for the proposed consolidated orders. This provision, which allocates location adjustment credits that are applied to transfers of bulk fluid milk products between pool plants, is commonly found in Section 52 of most current orders (See, for example, §§ 1001.53(h), 1007.52(b), 1030.52(c), or 1079.52(d)).

Under most orders, intra market shipments of milk between handlers are assigned to Class I use, unless both handlers agree on a lower classification. Milk that is assigned to Class I use is priced at the receiving plant subject to a location adjustment credit that may apply if it is demonstrated that such milk is actually needed for Class I use. If the credit is applied, the milk is priced at the transferring plant. This assignment of location adjustment credits is intended to prevent the use of pool proceeds to pay the hauling cost for the transfer of bulk milk between pool plants when the intended use of the milk is for other than Class I use.

To carry out this concept, the provision typically assigns a pool distributing plant's Class I use first to its milk receipts directly from producers, then to bulk milk received from a cooperative bulk tank handler, then to milk received by diversion from another pool plant, and then to packaged fluid milk products received from other pool plants. The remaining Class I use in the distributing plant is then assigned to bulk milk received by transfer from other pool plants. In some orders, this remaining Class I use is assigned pro rata to all of the pool plants from which bulk milk was obtained. In other orders, the remaining Class I milk is first assigned to pool plants with the same Class I price and then, in sequence, to pool plants with progressively lower Class I prices.

This provision has varying usage in orders today. Some orders use it; but most orders never use it. Accordingly, it is not clear whether it should be included in the consolidated orders.

This proposed rule is based on the premise that Class I milk does not have the same value at every location. For this reason, Class I differentials have been established for each order with location adjustments that result in establishing a unified Class I price structure that applies to every county and city in the contiguous 48 states. Given this approach, it may no longer be necessary to classify a bulk movement of milk as Class I milk in one section of the order and then in another section of the order depart from the principle of pricing such Class I milk at the plant where it was physically received.

Some of the proposed orders have transportation credit provisions that provide for hauling credits on bulk milk received by transfer from a plant regulated under another Federal order and assigned to Class I use at the receiving plant. To arrive at the classification of such milk, the milk is assigned to the lower of the receiving plant's or the receiving market's Class I utilization. With the long distances exhibited by milk movements today and the use of transportation credit provisions that help defray the costs for such movements, it may not be appropriate to continue location adjustment credit provisions that could discourage milk from being transferred from pool plants located closer to distributing plants needing supplemental supplies of milk.

In actual practice, a distributing plant does not receive a fixed amount of milk each day of the week. Some days are heavy bottling days when more milk is needed for Class I use. On such days, a distributing plant may not be able to obtain enough local milk to meet its Class I needs and may have to import plant milk from more distant locations. At the end of the month, however, when the allocation of location adjustment credits takes place, it may appear that there was more than enough local milk to meet the distributing plant's fluid needs, even though this was not the case when recapped on a daily basis. Nevertheless, the allocation provision allocates location adjustment credits based on monthly volumes of milk, not daily volumes, so the supply plant could be in a position where it receives no Class I location adjustment credit even though the milk was indeed shipped for Class I use.

Finally, the current application of the provision in question can result in a situation where there is more incentive to receive bulk milk transferred from a plant regulated under another Federal order than from a plant regulated under the same order, whether or not any other transportation credits are involved. Should this occur, it can result in a transfer of Class I sales to the transferring plant's Federal order market.

5. Provisions Applicable to All Orders

In addition to the terms and conditions of milk orders previously described, there are a number of other provisions that need to be contained in milk orders that describe and define those affected by the regulatory plan of the program and that provide for common descriptions of entities, persons, terms of measurement, pooling, and other administrative needs so that an order can be administered effectively. Many of these provisions can be uniform across all proposed consolidated orders. However, different marketing conditions in the consolidated areas, together with institutional factors, do not lend themselves to an entirely uniform set of provisions for all orders. Consequently, in each of the proposed consolidated orders there are provisions that are unique to each order.

As part of the reform process, an Identical Provisions Committee (IPC) was established to investigate and recommend needed order provisions that could be uniformly applied across the consolidated system of Federal milk orders. The IPC was formed with a three point purpose: to develop Federal order provisions that can or should be uniform among orders, to explain why the adoption of the recommended provisions are needed, and to simplify and streamline proposed order provisions where feasible. While the previously discussed issues such as classification, the basic formula price, and Class I milk pricing lend themselves to uniform applicability across all

orders, the IPC mission tended to focus on other aspects of milk order provisions such as uniform definitions, pooling criteria, reporting requirements and handler payment obligations.

This part of the proposed rule discusses the nature of the proposed consolidated order provisions, explains why they are needed, and details whether or not a provision can be uniformly applied in all consolidated orders. When a provision does not lend itself to uniform application, the provision is described in subsequent sections of this proposed rule where the provisions unique to each of the individual orders are discussed.

To the extent that provisions can be uniformly applicable across all of the proposed consolidated orders, they are included in Part 1000, the General Provisions of Federal Milk Marketing Orders which are, by reference, already a part of each milk order. Thus, as proposed here, the General Provisions includes the definitions of *route disposition, plant, distributing plant, supply plant, nonpool plant, handler, other source milk, fluid milk product, fluid cream product, cooperative association,* and *commercial food processing establishment.* In addition, the General Provisions include the milk classification section of the order, pricing provisions, and most of the provisions relating to payments. These additions to the General Provisions should make milk order provisions more understandable to the general public by removing the differences that now exist and by consolidating uniform provisions in one place. Thus, an interested person would only have to read one ''nonpool plant'' section, for instance, to understand how that term is applied to all orders. By contrast, at the present time, ''nonpool plant'' is defined in every order and there are slight differences in the definition from one order to the next.

Pooling Issues

How producers share in the additional revenue that is derived from classified pricing is one of the most important features of a milk marketing order. How milk is pooled sets the basis for returning a blend price to producers by accounting for the use-value, or classified value, of milk charged to handlers. Marketwide pooling is the method advocated for distributing these returns as indicated by an overwhelming majority of public participants. It is the prevailing method employed in the current system of milk orders, and should continue to be employed in the consolidated orders.

There were a number of proposals and public comments considered in determining how Federal milk orders should pool milk and which producers would be eligible to have their milk pooled in the consolidated orders. In the broadest sense, most public comments and proposals advocated a policy of liberal pooling, thereby allowing the greatest number of dairy farmers the ability to share in the economic benefits that arise from the classified pricing of milk. While there were also a number of public comments supporting identical pooling provisions in all orders, other proposals voiced comments on the need to have pooling provisions reflect the unique and prevailing supply and demand conditions in each marketing area. Fundamental to most pooling proposals and comments was the notion that the pooling of producer milk should be *performance oriented* in meeting the needs of the fluid market. The pooling provisions proposed for the consolidated orders provide a balance between reasonable and needed performance criteria and a liberal pooling policy.

The pooling provisions for the consolidated orders are overall less restrictive in the movement of milk between orders and make it easier for producers to become associated with and pooled on a market. Additionally, the provisions are more ''market oriented'' because they allow milk to become pooled and priced where the greatest needs are exhibited for satisfying fluid demands. Additionally, there is enhanced flexibility in how plants can be pooled without diminishing the ability of the regulatory plan to satisfy the fluid demands of a market. For example, this decision recognizes that in some markets, fluid milk processors handle a significant volume of milk for Class II uses. Much of the time this milk may be processed in a separate processing plant. To accommodate this, *unit pooling* is an option if at least one plant of the unit qualified as a pool distributing plant and the other plants of the pool unit are located in the marketing area and process only Class I or Class II products. The separate processing plant would also need to be located in the same or lower price zone than the qualifying pool distributing plant. For supply plants, *system pooling* offers flexibility where handlers operate more than one supply plant. Further, the consolidated orders have identical performance requirements for pooling cooperative and proprietary handlers alike, thereby making plant ownership irrelevant for pooling purposes.

Pool plant eligibility continues to be dependent upon plant operators and handlers meeting certain performance standards geared to satisfying the fluid demands of the market. Because of differences between the consolidated markets, mainly the level of Class I demand and the seasonality of milk production, a uniform standard for pool plants for the consolidated markets is not recommended. Such standards need to be specific to each of the consolidated orders. Additionally, the market administrator should be authorized to react to changing market conditions if there is a need to change performance standards and to promote the efficient movement of milk and in satisfying expected demands of the fluid market. These needs are reflected and accommodated in the definitions of the types of pool supply plants in the consolidated orders. Providing for differences between markets ensures more equitable distribution of the benefits and burdens of marketwide pooling.

Taken as a whole, the pooling provisions also are designed to properly specify which producers are associated with the marketwide pool, thereby assuring their ability to share in the economic benefits that accrue from classified pricing. Orders do require some criteria for determining when a producer has an association with a market under which their milk will be pooled and priced. In this context, a minimal ''touch-base'' requirement for producer milk is called for in most consolidated orders for pooling qualification. This provision allows a producer's milk to be received at a pool plant a minimum number of times to be eligible for diversion to nonpool plants thereby ensuring that the milk is available for fluid use if needed.

The producer and producer milk provisions for the consolidated orders also recognize that disorderly marketing conditions can arise from the actions of handlers that seek to pool milk on an order only when more favorable alternatives are not otherwise available. Reasonable measures are provided to prevent producers who are not regularly a part of a marketwide pool from deriving the benefits of the marketwide pool if certain performance criteria are not met. Similarly, it is recognized that producer milk might not be pooled because of changes in class-price relationships in any given month. Public comments and proposals offered to address these issues included ''lock-in'' or ''lock-out'' provisions that, as proposed, would have the effect of regulating producers. They are not recommended. The provisions

presented for both the producer and producer milk definitions provide reasonable measures and safeguards for determining conditions where producers and their milk should participate in a marketwide pool without causing producers to become regulated in their capacity as producers.

A suggestion for ''open pooling,'' where milk can be pooled anywhere, is not provided for in the consolidated orders. There are two reasons for this. First, open pooling is not based on performance, that is, open pooling provides no reasonable assurance that milk will be made available in satisfying the fluid demand of a market. Second, advocates of open pooling have presented this pooling option in the context of a ''package'' of other order provisions, including Class I pricing, that conflict with the method of Class I pricing recommended in this decision. For this reason open pooling is unworkable. For this reason also, proposals to create and fund ''stand-by'' pools are similarly rejected.

Where a handler's plants are regulated continues to be based primarily on the basis of where sales are made, rather than where plants are physically located, with only minor exceptions. The change in where a distributing plant will be regulated will require a reasonable measure of at least three consecutive months of more sales in another market area before the regulatory status of a plant and producer milk associated with the plant will shift to another milk order. Supply plants will be regulated under the order in which the greatest portion of its qualifying shipments have been made.

The proposed definition of an exempt plant recognizes that some handler operations are too small to have a significant impact on the competitive relationship of competing fluid processors in the market. In recognition of this, the amount of milk for an exempt plant has been liberalized without references to daily average deliveries criteria that are currently applicable in some orders.

Route Disposition

Route disposition is a measurement of sales used to determine a distributing plant's association with a marketing area. It is defined to mean the amount of milk delivered by a distributing plant to a retail or wholesale outlet (except a plant), either directly or through any distribution facility (including disposition from a plant store, vendor or vending machine), of a fluid milk product in consumer-type packages or dispenser units that is classified as Class I milk.

The recommended route disposition definition differs from the definition contained in some current orders. Presently, the route disposition definition of several orders makes reference to plant movements of packaged fluid milk products between distributing plants with respect to determining if such transfers should be considered ''route disposition'' of the transferring or receiving plant. As proposed here, however, this issue is addressed in the pool plant section, which deals with the pooling standards applicable to a distributing plant.

Plant

A plant definition is included in all orders to specify what constitutes an operating entity for pricing and regulatory purposes. As provided in § 1000.4 of the General Provisions, a *plant* is the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed, or packaged. This is meant to encompass all departments, including those where milk products are stored, such as a cooler. The plant definition does not include a physically separate facility without stationary storage tanks that is used only as a reload point for transferring bulk milk from one tank to another, or a physically separate facility that is used only as a distribution point for storing packaged fluid milk products in transit for route disposition.

To account for regional differences and practices in transporting milk, some orders provide for the use of reload points for transporting bulk milk that do not have stationary storage tanks.

Farm-Separated Milk

With the advent of new technology for on-farm separation of milk into its components, some additional regulatory language is needed to specify who is the responsible handler for the milk or milk components leaving the farm and how these components will be classified and priced. This determination will be based, in part, on whether the farm processing facility is a plant.

Ultrafiltration (UF) is a membrane process that transfers water and low-molecular weight compounds through a membrane while retaining suspended solids, colloids, and large organic molecules. It selectively fractionates some milk solids components and selectively concentrates other solids components of milk.

When a UF membrane is used, water, lactose, uncomplexed minerals and other low-molecular-weight organic compounds pass through the membrane. For example, if unaltered milk containing 3.5 percent fat, 3.1 percent protein, and 4.9 percent lactose is run through a UF membrane until half of the original volume is eliminated, the remaining product not passing through the membrane (i.e., *retentate*) will contain all of the fat and protein but only half of the lactose. The *permeate* (i.e., that part of the original milk that does pass through the membrane) will contain water, lactose, non-protein nitrogen, and about one-sixth of the minerals.

Reverse osmosis (RO) is also a membrane process, but the membranes have much smaller pores than UF membranes, allowing only the water to pass through. The end product essentially is concentrated milk.

At the present time, both reverse osmosis and ultrafiltration systems are being utilized on some farms, principally large farms in the southwestern United States. The product shipped from these farms (i.e., the *retentate*) currently is sent to processing plants for use in manufactured products but it could be used in a range of milk products.

The retentate received from a farm with a UF or RO system will be treated as producer milk at the pool plant at which the milk is physically received or, if the retentate is shipped to a nonpool plant, as producer milk diverted to a nonpool plant. In either case, the milk or milk components will be priced at the pool plant or nonpool plant where the milk is physically received.

To be considered a farm and a producer, as opposed to a plant and a handler, an RO or UF unit must be under the same ownership as the farm on which it is located and only milk from that farm or other farms under the same ownership may be processed through the unit. The producer operating the unit shall be responsible for providing records of the daily weights of the milk going through the unit. Also, the producer must provide samples for each load of milk going through the unit and must furnish the receiving plant with a manifest on each load of retentate showing the scale weight along with samples of the retentate. Finally, the producer operating the RO or UF unit must maintain records of all transactions which must be available to the Market Administrator upon request. If the producer does not meet these recordkeeping and reporting requirements, the unit will be considered to be a plant.

RO and UF retentate will be considered to be producer milk at the plant which receives it. The pounds of

RO and UF retentate received will be priced according to the skim-equivalent pounds of such milk. The skim-equivalent pounds for RO retentate will be determined by dividing the solids-not-fat pounds in the retentate by the average producer solids-not-fat in the skim portion of the producer milk used in the product. The butterfat pounds would then be added to this number to arrive at the product skim-equivalent pounds.

In computing the fluid equivalent of UF retentate, the fluid equivalent factor should be computed by dividing the true protein test in the skim milk portion of the retentate by the true protein test in the skim milk portion of the producer milk used in the product. Adding the butterfat pounds to this computation will yield the product equivalent pounds.

In addition to having UF and RO equipment, some farms today may have a separator to separate skim milk from cream before they leave the farm. Rules must also be established for this type of operation.

Skim milk and cream going through a farm separator also should be treated as producer milk if received at a pool plant or diverted to a nonpool plant. The producer will be required to obtain scale weights and tests on each load of skim and cream shipped along with samples of each. The same ownership, recordkeeping, sampling and reporting requirements that apply to RO and UF units will also be applicable.

In formulating a policy for the treatment of RO and UF retentate, it is important to recognize that the milk produced on a farm with RO or UF equipment is fully available to meet the needs of the fluid market, either before or after passing through such units. Therefore, there should be no question concerning the propriety of pooling this milk along with other producers' milk.

At this writing, the Food and Drug Administration (FDA) has not yet decided whether UF retentate can be reconstituted and sold as fluid milk. However, FDA has approved the use of UF retentate in certain cheese products on a trial basis. Therefore, before receiving UF retentate for use in any product, handlers should be certain that such use has been approved by the FDA.

Distributing Plant

A *distributing plant* is defined as a plant that is approved by a duly constituted regulatory agency to handle Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition. The time and location of route disposition are included in the distributing plant definition in some current orders. However, whether route disposition occurred during the month or, within the marketing area, are more appropriately determined to be pooling issues. Therefore, they are discussed and included in each consolidated order's pool plant definition.

Supply Plant

A *supply plant* is a regular or reserve supplier of bulk milk for the fluid market that seasonally contributes to coordinating the supply of milk with the demand for milk in a market. As defined in this decision, a supply plant is a plant other than a distributing plant that is approved by a duly constituted regulatory agency to handle Grade A milk and at which fluid milk products are received or from which fluid milk products are transferred or diverted.

Pool Plant

The *pool plant* definition of each proposed consolidated order provides standards to distinguish between those plants engaged in serving the fluid needs of the marketing area and those plants that do not. Pool plants serve the market to a degree that warrants their producers sharing in the added value that derives from the classified pricing of milk. While the pool plant definition in every consolidated order provides for a set of common principles, the definition is specific and unique to each consolidated order.

Each type of pool plant can be generically described to share certain common characteristics. However, to the extent that marketing conditions and other related factors vary across the country, the proposed consolidated orders need differing terms of applicability and performance standards in order to determine the regulatory status of a plant.

All *pool distributing plants* in the consolidated orders will base pool plant status on two performance measures: (1) the proportion of its route disposition to bulk receipts, and (2) the proportion of route disposition in the marketing area. If a pool distributing plant operates in more than one market, the plant's primary association with a marketing area generally will be determined on the basis of where the majority of fluid sales occur. In the event that a plant is not primarily associated with any marketing area, it will be regulated in the marketing area in which it is located provided the plant meets the order's pooling standards. If it is not located within any marketing area, it will be regulated wherever it has the most route disposition.

Performance standards for *pool supply plants* are designed to attract an adequate supply of milk to meet the demands for fluid milk in a market. Historically, a pool supply plant did not include any portion of a plant that was not approved for handling Grade A milk and that was physically separated from a portion of the plant that had approval. Currently, inspection agencies most commonly render only one type of approval for an operation, but provision is made to designate a physically separated portion of the plant as a ''nonpool plant.''

Types of Pool Plants and Pool Qualifications Pool Distributing Plant

Many orders presently refer to Grade A milk in defining a pool distributing plant. However, a distributing plant, by definition, can only handle Grade A milk, so this qualification is redundant and has been removed from the structure of the pool plant section. Also, as proposed here, the proportion of route disposition to receipts is derived from a divisor of receipts of bulk fluid milk products as opposed to receipts of total fluid milk products.

The recommended ratio of route disposition to total receipts of bulk fluid milk products for *pool distributing plant* qualification will vary among orders, but for most orders it will be at least 25 percent. This is the lowest ratio currently used among all orders, and will prevent depooling of plants that presently enjoy pool plant status. To the extent this percentage is found to be too low for certain milk ''deficit'' regions, higher percentages are provided in those proposed consolidated orders.

Performance standards are also needed to establish a minimum threshold of market participation, as measured by route dispositions in a marketing area, which when met or surpassed, cause a distributing plant to be fully regulated in that market. Currently, the proportion of route disposition in the marketing area is expressed in some orders as a percentage of total route disposition and in other orders as a percentage of total receipts of fluid milk products. A percentage of total route disposition is recommended for the consolidated orders.

Some current orders require a daily average minimum of route disposition in the marketing area. This standard has been removed because it is covered under the exempt distributing plant definition described below. The recommended ratio of 15–25 percent of a plant's route disposition in the marketing area provides a reasonable measure of a distributing plant's

association with a marketing area, while, at the same time, precluding a change in the regulatory status of plants that are currently partially regulated or regulated by a state regulatory program.

To facilitate proper administration and accounting, all orders currently provide that packaged fluid milk products transferred from one handler to another be treated as interhandler transfers, with each transaction properly identified and specifically reported to affected market administrators. This should continue in the consolidated orders. However, for the single purpose of qualifying a plant as a pool distributing plant, a subsection in each consolidated order is included to address the transfer of packaged fluid milk products to a distributing plant. Packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant rather than the receiving plant. In addition to transfers that occur for sales in the marketing area, this subsection is also meant to address the concern of properly pooling a plant with sales outside of the marketing area that are made through another plant. This is necessary to preclude a plant from becoming partially regulated if the plant shipped significant quantities of packaged fluid milk products to another distributing plant.

Pool Supply Plant

Currently, pool supply plants are generally defined by their association with a marketing area and their ability to move milk to pool distributing plants that service the marketing area. Pool supply plants should continue to be defined in this way. However, the pool supply plant definition does not lend itself to uniform application in all consolidated orders. Therefore, pool supply plant performance standards should be established according to regional needs. The specific standards adopted in each order are described in the pool plant section of each new order. For orders outside the southeastern United States, provisions are provided for two types of supply plants: a *pool supply plant* and *pool reserve supply plant.* Pool reserve supply plants are generally defined as plants located within the marketing area that are involved primarily in manufacturing nonfluid milk products. They nevertheless serve to balance the market by providing a ready supply of fluid milk when needed and a manufacturing alternative when milk for fluid uses is not needed. By contrast, pool supply plants are generally defined as plants involved predominately in the assembly of raw milk supplies at the farm and shipment of these supplies to distributing plants. There are proposed marketing areas where just a pool supply plant provision would be adequate, without the additional distinction of a pool reserve supply plant. For those marketing areas where it is preferable to distinguish between plants located in and out of the marketing area, different performance requirements are recommended to fit the needs of the consolidated order.

Pool Reserve Supply Plant

A pool reserve supply plant is defined as a plant capable of handling the reserve milk required for a marketing area that also stands ready to make milk available to meet the fluid needs of the market. Such a plant must be approved to handle Grade A milk, and must be located in the marketing area. In addition, the plant must provide milk in fluid use to pool distributing plants certain month of the year when milk production declines. Finally, a *reserve supply plant* must apply for, and receive, formal acknowledgment of pool status by the market administrator. Because deliveries of a pool reserve supply plant to a distributing plant will specify seasonal performance standards, they cannot be uniform across all orders. Therefore, each proposed consolidated order having a pool reserve supply plant definition will differ with respect to the level and timing of performance required.

In qualifying a supply plant's milk receipts for pooling, several current orders allow direct milk shipment from farms to distributing plants, while other current orders require all of the milk, or at least some of it, to be transferred through a plant. Transferring deliveries through a plant may often be uneconomical and inefficient when compared to the direct delivery of milk from farms. Therefore, for most of the consolidated orders, both supply plants and reserve supply plants are allowed the flexibility to meet delivery requirements by direct deliveries from farms to distributing plants if the supply plant operator deems that to be the most efficient means of moving milk.

A number of orders currently provide for special pool status for supply plants located in the marketing area but such status is generally limited to cooperatives. Several of the orders which have this provision will retain it under the consolidated orders. In other orders, however, especially those with many manufacturing plants operated by proprietary handlers, ownership distinction as a condition for pool reserve supply plant status has been removed. This should promote increased handler equity in the ability for plants to compete for milk supplies and for producers associated with such plants to have their milk priced and pooled under the order. Additionally, there are manufacturing plants located in some marketing areas that are currently designated as pool plants. This provision will ensure the retention of pool status of such plants.

Location in the marketing area should also be a requirement for pool reserve supply plant status. This is recommended because it will preclude the pooling of a plant that is outside the marketing area and not in a position to economically supply the market with supplemental milk or to efficiently handle its reserve supplies. In addition, it will preclude the pooling of milk on a market when such milk has no real association with the market at all and only serves to lower a market's Class I utilization, thereby making it more difficult to attract milk needed for fluid use. When a distributing plant needs more milk, a reserve supply plant located in the marketing area can most rapidly and economically route milk directly to where it is needed.

For those orders providing for reserve supply plants, pool plant status will be conveyed by the market administrator after notification is filed in writing by the plant operator. The notification should be filed no later than June 15 of each year. Pool status would begin on July 1 of the same year and continue for the remainder of the year unless: (1) the plant operator later requests nonpool plant status; (2) the plant subsequently fails to meet the specified performance standards, or; (3) the plant qualifies as a pool plant under another Federal order. If a plant operator requests nonpool status for any month, such nonpool status should remain in effect until the following June, when the cycle of notification for pool reserve supply plant status begins anew. Notification to the market administrator serves to demonstrate a commitment to the market and to act as a deterrent to temporary changes in pooling status to the detriment of the market.

Pooling Options

Unit pooling. Unit pooling allows two or more plants located in the marketing area and operated by the same handler to qualify for pool status as a *unit* by meeting the total and in-area route disposition standard as if they were a single pool distributing plant. To qualify as a *unit,* at least one of the plants in the *unit*—i.e., the primary plant— must qualify as a pool distributing plant on its own standing and the other plants in

the unit must process only Class I or Class II milk products.

Unit pooling serves to accommodate and provide a flexible regulatory approach in addressing the specialization of plant operations. It also minimizes unintended regulatory effects that may cause the uneconomical and inefficient movement of milk for the sole purpose of retaining pool status. However, some conditions need to be satisfied for unit pooling. The ''other'' plant(s) of the pool unit—i.e., the plants that would not qualify for pool status as a single plant—must be located in an equivalent or a lower price zone than the primary pool distributing plant. This condition is required to assure that the transportation of milk for Class II uses will not be subsidized through the marketwide pool and to assure pricing equity to all handlers processing Class II products that do not use unit pooling. Unit pooling arrangements status must be requested in writing and approved by the market administrator for its proper implementation and administration.

System pooling. As previously discussed, supply plants and reserve supply plants provide a benefit to the market because they are required to meet certain performance standards in supplying the needs of the fluid market. They also serve to balance the market. Because handlers often operate more than one supply plant within the market, they should be afforded flexibility in meeting the performance standards for pooling. *System pooling* can provide this flexibility. A system of plants can be established if the plants meet applicable performance standards in the same manner as any single plant. A system may consist of two or more supply plants, or two or more reserve supply plants, operated by the same handler or by one or more cooperative associations.

System pooling should be declared by a handler in writing to the market administrator so that pooling of the system can be properly administered. If a handler causes one of the plants to become ineligible for system pooling, that plant will not be part of the system for the duration of the calendar year. Likewise, plants, except for the proposed Upper Midwest consolidated marketing area, cannot be added to the system after the written request for system pooling is acknowledged by the market administrator.

Adjustment of Pooling Standards

The consolidated orders should provide the market administrator with authority to adjust various pooling standards, including pool plant shipping standards in most consolidated orders. Such a provision would replace the ''call'' provision that is now included in some orders. This change allows all market administrators to adjust the shipping standards for pool supply and pool reserve supply plants if they find that such revision is necessary to encourage needed shipments or to prevent uneconomic shipments of milk. For most consolidated orders, it is also recommended that the market administrator be authorized to adjust the total and in-area route disposition requirements for pool distributing plants. This flexibility could be particularly beneficial during a plant breakdown, a labor strike, the sudden loss or change in accounts, or some other conditions that would otherwise result in regulatory instability or market disruption.

A finding by the market administrator that adjustments are warranted would follow an investigation conducted on the market administrator's own initiative or at the request of interested parties. This provision allows the market administrator to respond promptly to changes in local marketing conditions. Granting the authority for the market administrator to make needed adjustments in the manner specified currently exists in some Federal orders and has proven to be responsive, efficient, effective, and commensurate with the authorities already delegated by the Secretary to the market administrator.

Nonpool Plant

A definition is provided in all orders describing plants which receive, process or package milk, but which do not satisfy the standards for being a pool plant. While providing for such a definition may appear redundant, this provision is useful to more clearly define the extent of regulation applicable to plants. *Nonpool plants* should include a plant that is fully regulated under another Federal order, a producer-handler plant, a partially regulated distributing plant, an unregulated supply plant and an exempt plant. The definitions for these nonpool plants are not materially different than those provided in the current orders with the possible exception of an ''exempt plant.''

A number of Federal orders exempt from regulation small distributing plants which, because of their size, do not significantly impact competitive relationships among handlers in the market. The level of route disposition required before an exempt plant becomes regulated varies in the current orders. As recommended, any plant with route disposition during the month of 150,000 pounds or less would be exempt in the consolidated orders. This limit reflects the maximum amount of fluid milk products allowed by an exempt plant in any current Federal milk order and ensures plants that are currently exempt from regulation will remain so.

Many current Federal orders also provide regulatory exemption for a plant operated by a state or Federal governmental agency. For example, some states have dairy farm and plant operations that provide milk for their prison populations. As recommended, regulatory exemption would be continued under the consolidated orders unless pool plant status is desired. Additionally, regulatory exemption is intended to include colleges, universities and charitable institutions because these institutions generally handle fluid milk products internally and have no impact in the mainstream commercial market. However, in the event that these entities do distribute fluid milk through commercial channels, route sales by such entities, including government agencies, will be monitored for determining if Federal regulation should apply.

The determination and verification of exempt plant status will, from time to time, necessitate the need for the market administrator to require reports and information deemed appropriate for the sole purpose of making this determination. Such authority is currently provided in orders and should continue.

Handler

Federal milk orders regulate those persons who buy milk from dairy farmers. Such persons are called *handlers* under the order. These persons have a financial responsibility for payments to dairy farmers for milk in accordance with its classified use. They must file reports with the market administrator detailing their receipts and utilization of milk. As recommended, the handler definition includes the operator of a pool plant, a cooperative association that diverts milk to nonpool plants or delivers milk to pool plants for its account, and the operator of a ''nonpool plant,'' which would encompass a producer-handler, a partially regulated distributing plant, a plant fully regulated under another Federal order, an unregulated supply plant, and an exempt plant.

In addition, ''third party'' organizations that are not otherwise regulated under provisions of an order are included in the handler definition.

This category includes any person who engages in the business of receiving milk from any plant for resale and distribution to wholesale and retail outlets, brokers or others who negotiate the purchase or sale of fluid milk products or fluid cream products from or to any plant, and persons who, by purchase or direction, cause the milk of producers to be picked up at the farm and/or moved to a plant. Such intermediaries provide a service to the dairy industry. These persons are not, however, recognized or regulated as entities required to make minimum payments to producers. The expanded marketing chain brought about by such intermediaries has made it increasingly difficult for the market administrator to track the movement of milk from farms to consumers. The recommended handler definition enables the market administrator to more readily identify those entities for the information needed to properly administer an order.

Producer-Handler

It has been a long-standing policy to exempt from full regulation many of those entities that operate as both a producer and a handler. Generally, a *producer-handler* is any person who provides satisfactory proof to the market administrator that the care and management of the dairy farm and other resources necessary for own-farm production and the management and operation of the processing plant are the personal enterprise and risk of such person. A primary basis for exempting producer-handlers from the pricing and pooling provisions of a milk order is that these entities are customarily small businesses that operate essentially in a self-sufficient manner. Also, during the history of producer-handler exemption from full regulation there has been no demonstration that such entities have an advantage as either producers or handlers so long as they are responsible for balancing their fluid milk needs and cannot transfer balancing costs, including the cost of disposing of reserve milk supplies, to other market participants.

The current orders have varying producer-handler definitions that address specific marketing conditions and circumstances. For example, they specify different limits on the amount of milk that producer-handlers may purchase and retain their exempt status. Some modifications are being made to the producer-handler provisions in the consolidated orders for standardization. However, these changes are not intended to fully regulate any producer-handler that is currently exempt from regulation.

As proposed, any handler, including a producer-handler, is exempt from the pooling and pricing provisions of an order during any month in which route disposition is less than 150,000 pounds. Thus, the producer-handler exemption only applies to producer-handlers with route disposition of 150,000 pounds or more. Since such producer-handlers are not subject to the pricing and pooling provisions of an order as are fully regulated handlers, it is appropriate to continue to require producer-handlers to rely on their own-farm production in meeting their fluid sales and to independently market their surplus milk production without participation in the marketwide pool. However, a producer-handler should be allowed some marginal flexibility on supplemental milk purchases provided they are from regulated sources. Relatively small supplemental purchases do not undermine the concepts of classified pricing and marketwide pooling. As proposed, producer-handlers are allowed to purchase some specified amount of supplemental fluid milk products each month from pool sources. As is currently the case, any supplemental requirements of fluid milk products by a producer-handler will continue to be limited to receipts from regulated sources, thus insuring that producers associated with the marketwide pool share in the economic benefit of all Class I sales over and above what a producer-handler's own production may not have satisfied.

It is appropriate to continue requiring producer-handlers to rely primarily on their own-farm production to balance their fluid sales and to find outlets for their surplus production. Producer-handlers must also rely upon their own distribution system to find outlets for their milk. A producer-handler will be allowed to distribute milk to the plant of a fully regulated handler. However, disposal of surplus milk production by a producer-handler to the plant of a fully regulated handler, whether in bulk or packaged form, will be allocated at the pool plant to the lowest class-use of the receiving plant, thereby preserving the Class I share of the market for producers who bear the burden of balancing a market's surplus disposal. Disposal of packaged fluid milk products by a producer-handler to a distribution facility operated by a fully regulated handler should not be permitted. It would allow a producer-handler to dispose of its surplus production by capturing a greater share of the Class I market thereby receiving an unearned economic benefit not accorded to producers pooled on the market. This restriction also prevents a fully regulated handler from purchasing Class I milk at less than the minimum order price that other fully regulated handlers must pay. Accordingly, a producer-handler will not be allowed to dispose of fluid milk products using the distribution system of another handler, nor through any other channel, division, or department of a pool handler and retain exemption from full regulation under an order. Since a producer-handler must control its own distribution, it will not be allowed to have disposed of milk to any independent distributor. Route disposition to retail stores (owned by any entity and not located in a regulated plant) or to a distribution facility owned by retail stores (and not by a regulated plant or independent entity) would be allowed.

Notwithstanding the exemption of producer-handlers from regulation, there may be instances where it is to the advantage of the person who is both a producer and a handler to operate such businesses as two distinct entities. The proposed new orders provide the producer-handler with the flexibility to realize this advantage. Upon request by a producer-handler to the market administrator, the plant portion of the operation would be a fully regulated distributing plant while the farm portion of the operation would be accorded producer status.

Public comments were received regarding the extent of regulation that should apply to producer-handlers. The majority of public comments supported the status-quo regarding the regulatory treatment of producer handlers, emphasizing that they should remain exempt from regulation in accordance with current order provisions and that the provisions should be regional in nature so as not to affect or change the current regulatory status of producer-handlers. One of the public comments received proposed that the exemption of producer-handlers from the regulatory plan of milk orders be eliminated. This proposal is denied. In the legislative actions taken by the Congress to amend the AMAA since 1965, the legislation has consistently and specifically exempted producer-handlers from regulation. The 1996 Farm Bill, unlike previous legislation, did not amend the AMAA and was silent on continuing to preserve the exemption of producer-handlers from regulation. However, past legislative history is replete with the specific intent of Congress to exempt producer-handlers from regulation. If it had been the intent of Congress to remove the exemption, Congress would

likely have spoken directly to the issue rather than through omission of language that had, for over 30 years, specifically addressed the regulatory treatment of producer-handlers.

Since producer-handlers are intended to be exempt from most regulation, some means must be provided to determine and to verify producer-handler status. Accordingly, the market administrator is provided with the authority to require reports and other information deemed appropriate to determine that an entity satisfies the requirements of producer-handler status. Such authority is currently provided in the orders and should continue.

Producer

Under all orders, *producers* are dairy farmers that supply the market with milk for fluid use or who are at least capable of doing so if necessary. Producers are eligible to share in the revenue that accrues from marketwide pooling of milk. The producer definitions of the individual orders are described under the regional discussions later in this document. Responding to regional needs, producer definitions will differ by order with respect to the degree of association that a dairy farmer must demonstrate with a market.

A dairy farmer may not be considered a producer under two Federal milk orders with respect to the same milk. If a dairy farmer's milk is diverted by a handler regulated under one Federal order to a plant regulated under another Federal order, and the milk is allocated at the receiving plant (by request of the diverting handler) to Class II, III or IV, the dairy farmer will maintain producer status in the original order from which milk was diverted.

Since producer-handlers and exempt plants are specifically exempt from Federal order pricing provisions, the term producer should not include a producer-handler as defined in any Federal order. Likewise, the term producer should not apply to any person whose milk is delivered to an exempt plant, excluding producer milk diverted to such exempt plant.

It would not be appropriate to share the economic benefits that arise from classified pricing through marketwide pooling with dairy farmers whose milk is not regularly associated with the market. For example, a dairy farmer may decide to deliver milk to a market's pool plants only when a more favorable unregulated market is not available, or an unregulated plant may attempt to move its surplus milk to a market's pool plant only to derive an economic benefit from the marketwide pool.

An unregulated plant operator, often a cooperative association, may receive all of a dairy farmer's milk at its plant when milk supplies are tight and, during such times, not share the higher-use value of such milk with other dairy farmers through the marketwide pool. On the other hand, during a period of flush production, the same plant may seek to dispose of surplus milk through a market's pool plants to pass the cost of balancing milk supplies to dairy farmers that regularly supply the fluid market through the mechanism of the marketwide pool. Under such circumstances, producer status should not be accorded to those dairy farmers under an order. Doing so would place producers who regularly fulfill a market's fluid milk needs with the burden of carrying the surplus costs of balancing unregulated fluid markets without the benefit of sharing in the additional revenue that is derived from those markets when circumstances are more favorable.

Another circumstance can also arise when it may be advantageous not to pool milk, a practice commonly referred to as ''depooling.'' When manufacturing class prices for a month are higher than an order's uniform, or blend price, milk at manufacturing plants is often depooled because the operators of such plants otherwise would be required to pay into the marketwide producer-settlement fund. Such payments would benefit the marketwide pool but would be disadvantageous to those having to make them. This practice is generally disruptive to the marketwide pool and is not conducive to maintaining orderly market conditions. In instances involving depooled milk, it is a handler's decision in moving milk that impacts producers and pool milk value. It is also a handler's action that determines whether a farmer retains producer status or becomes associated with another marketing area.

The proposed orders that are vulnerable to this type of abuse contain a provision to deter handlers from moving milk in a manner that is disadvantageous to the market's regular producers. Handlers who choose to regularly supply nonpool plants as their primary market, and handlers who move milk in and out of the regulated market, should not consistently enjoy the benefits of equalization payments from the marketwide pool. However, this should not apply in the event that a handler moves milk supplied by a producer under one Federal order to another Federal order, nor are these provisions intended to overlap with order provisions for the diversion of milk. Should a handler exceed specified diversion limits, only the over-diverted milk is removed from the pool; the producer should maintain ''producer'' status for other milk delivered that month.

The recommended method for determining when a dairy farmer is not properly associated with a market is commonly referred to as a ''dairy farmer for other markets'' provision, which is a component of the producer definition in some of the consolidated orders. Under this type of provision, milk deliveries to nonpool plants that are not reported by handlers as diversions from pool plants would result in the loss of producer status for a dairy farmer's milk for some fixed time period. While the receipt of, or diversion by, a pool handler of other milk from the same producer during that fixed time period is not restricted, the minimum payment obligation of the handler for that milk would not be regulated under the Federal milk marketing orders. Such milk would be treated as ''other source milk,'' and the dairy farmer's milk would not be included in the pool.

Where this provision is provided, the loss of producer status would remain in effect for the current month and for the following two months. Exception is made to accommodate the market demands for milk during the ''short'' season. If milk is depooled during the ''short'' season, the loss of producer status should remain in effect for the current month only; otherwise, it would discourage the pooling of milk during the remainder of the ''short'' season. Once the short season ends, however, the dairy farmer should not be eligible for producer status during the subsequent flush production season. Producer status will be lost until the beginning of the following ''short'' season. The relevant time periods that describe which months are applicable in defining the ''short'' season are described in each of the consolidated orders.

Producer Milk

All orders currently provide for defining and identifying the milk of producers which is eligible for inclusion in a particular marketwide pool and should continue to do so. However, this definition is specific to each consolidated order and is therefore not uniform across all orders.

In general, the definition of *producer milk* for all consolidated orders continues to include the milk of a producer which is received at a pool plant or which is received by a cooperative association in its capacity as

a handler. Most current orders consider milk to be ''received'' when it is physically unloaded at the plant and the proposed orders would continue that treatment. However, to ensure that producers are promptly paid for their milk, milk picked up from the producer's farm, but not received at a plant until the following month, will be considered as having been received by the handler during the month in which it is picked up at the producer's farm. In this situation, milk will be priced under an order at the location of the plant where it is physically received in the following month.

In order to promote the efficient movement of milk, all orders currently allow a handler to move producer milk, within certain specified limits, from a producer's farm to a plant other than the handler's own plant. This is referred to as a ''diversion'' of milk. As proposed for the consolidated orders, the definition of producer milk allows unlimited diversions to other pool plants, thereby providing maximum flexibility in efficiently supplying the fluid market.

Under some orders, unlimited diversions to nonpool plants would also be allowed once a dairy farmer has become associated with a particular order. Under other orders, however, a producer would be required to ''touch base'' at a pool plant one or more times each month and, in addition, aggregate diversion limits may be applied to a handlers' total diversions.

For pool distributing plants, route disposition as a percent of total receipts of bulk milk automatically limits diversions by those plants. With respect to pool supply plants and pool reserve supply plants, the specific shipping standards will ensure that a sufficient quantity of milk is available for the fluid market. Since some orders may allow for unlimited diversions, the maximum quantity of milk that a pool plant would be able to divert and still maintain its pool plant status would be 100% less the pool plant shipping standards for the month. This will mitigate the need for suspending order diversion limitations, an action that is quite common in some of the current orders. Unlimited diversions would also allow for maximum efficiency in balancing the market's milk supply. The market administrator's ability to adjust shipping percentages for pool supply plants and pool reserve supply plants will further ensure that an adequate supply of milk is available for the fluid market without the imposition of diversion limits.

While it is expected that a one time producer ''touch base'' standard and virtually unlimited diversions would be appropriate for most of the consolidated Federal orders, it is recognized that it may not be appropriate for certain ''deficit'' markets. In these cases, the order may provide for diversion limits to ensure an adequate supply of fluid milk for that particular market. In these cases, the alternate standards for diversion privileges specify the minimum number of days that milk of a producer must be physically received at a pool plant and the percent of total producer receipts that may be diverted by the handler. The months during which such minimums must be met are also identified in both cases.

In order to provide regulatory flexibility and marketing efficiencies, all of the proposed orders having diversion limits allow the market administrator to increase or decrease the delivery requirements for producers and the aggregate diversion limits applicable to handlers. Granting the authority for the market administrator to make needed adjustments in the manner specified currently exists in some Federal orders and has proven to be a responsive, efficient, and effective way to deal with rapidly changing marketing conditions.

Cooperative Association

All current orders provide a definition for dairy farmer cooperative associations that market milk on behalf of their dairy farmer members and should continue to do so in the consolidated orders. Providing for a uniform definition of a cooperative association facilitates the administration of the various order provisions as they apply to such producer organizations and recognizes the unique standing granted to dairy farmer cooperatives under the Capper-Volstead Act. Moreover, dairy farmer cooperatives are responsible for marketing the majority of the milk supplied to regulated handlers under the Federal order system.

As provided herein, a cooperative association means any cooperative marketing association of producers which the Secretary determines, after application for such recognition by the cooperative, is qualified as such under the provisions of the Act of Congress of February 18, 1922, as amended, known as the ''Capper-Volstead Act''. Additionally, most orders currently require that a cooperative association have full authority in the sale of the milk of its members and that it be engaged in making collective sales or marketings of milk or milk products for its dairy farmer members. This should continue. The cooperative association definition provides for universal applicability in all consolidated orders.

Several current orders also provide a definition for a federation of two or more cooperative associations. As recommended herein, all consolidated orders would recognize a federation of cooperatives as satisfying the cooperative definition for the purposes of determining milk payments and pooling. Individual cooperatives of a federation of cooperatives must also meets the criteria as set forth for individual cooperative associations and their federations as incorporated under state laws.

Handler Reports

Reports of receipts and utilization, payroll and other reports. All current orders require handlers to submit monthly reports detailing the sources and uses of milk and milk products so that market average use values, or blend prices, can be determined and administered. Payroll reports and other reports required by the market administrator are also provided for in the orders. The proposed language for the consolidated orders for handler reports is similar to that contained in current orders. The dates when reports are due in the market administrator's office differ slightly by order according to custom and industry practice.

Announcements by the Market Administrator

Public announcements by market administrators. Four sections of each consolidated order provide for requiring the market administrator to make certain announcements in the course of order administration. These include: § 100__.45, Market administrator's reports and announcements concerning classification; § 100__.53, Announcement of class prices and component prices; § 100__.54, Equivalent price; and § 100____.62, Announcement of producer prices, or in orders without component pricing, Announcement of uniform price, uniform butterfat price, and uniform skim milk price. These announcements are currently required by market administrators in all orders and should continue. As proposed, these provisions are uniform to all consolidated orders and are nearly identical to current order provisions. However, § 100____.62, is unique to each order and is described in each of the consolidated orders.

Payments for Milk

Producer-settlement fund. All of the current orders provide for minimum payment terms and obligations by regulated handlers and such provisions should continue to be part of the consolidated orders. Handlers are

charged with minimum class prices. However, producers are returned a uniform, or blend, price through the marketwide pooling of milk. The mechanism for the equalization of a handler's use value of milk is the producer-settlement fund. It is established and administered by the market administrator for each order.

The producer-settlement fund ensures that all handlers are able to return the market blend price to producers whose milk was pooled under the order. Payments into the producer-settlement fund are made each month by handlers whose total classified use-value of milk exceeds the value of such milk calculated at the uniform price or at component prices for those orders with component pricing. Similarly, payments out of the producer-settlement fund are made each month to any handler whose use-value is below the value of milk at the uniform price or component prices, as the case may be. The transfer of funds enables handlers with a use-value below the average for the market to pay their producers the same uniform price as handlers whose Class I utilization exceeds the market average. This provision is uniform for all consolidated orders.

Payments to and from the producer-settlement fund. The current orders vary with respect to dates for payments to the producer-settlement fund, due largely to industry practices and how certain orders evolved over time to reflect those practices. Each consolidated order provides for payment dates, and they are specific for each consolidated order. Also, as proposed, payment to the producer-settlement fund would be considered made upon receipt by the market administrator. In view of the need to make timely payment to handlers from the producer-settlement fund, it is essential that money due the fund be received by the due date. Additionally, payment cannot be received on a nonbusiness day. Therefore, if the due date is a Saturday, Sunday, or national holiday, payment would not be due until the next business day. This is specified in § 1000.90 of the General Provisions.

Payments from the producer-settlement fund provide for payments to those handlers whose milk use-value is below the value of milk at the uniform price. As proposed, this section is similar to those contained in current orders. As with payments to the producer-settlement fund, the payments from the fund are specific to each consolidated order. Generally, payments from the producer-settlement fund would be required one day after the required date for payments into the fund. This goal is consistent with the average time lapse between payment into the producer-settlement fund and payments from the fund in existing orders. As in the prior section, payments would be made on the next business day when the required payment date falls on a Saturday, Sunday, or national holiday.

Payments to producers and to cooperative associations. The AMAA provides that handlers must pay to all producers and producer associations the uniform price. The existing orders generally allow proper deductions authorized by the producer in writing. Proper deductions are those that are unrelated to the minimum value of milk in the transaction between the producer and handler. Producer associations are allowed by the statue to ''reblend'' their payments to their producer members. The Capper Volstead Act and the AMAA make it clear that cooperative associations have a unique role in this regard.

The payment provisions to producers and cooperatives vary greatly among the current Federal orders, particularly in regard to partial payment frequency, timing, and amount. The proposed provisions are consistent with the needs of the consolidated orders. Each order currently requires handlers to make at least one partial payment to producers in advance of the announcement of the applicable uniform prices. The partial payment varies across orders by the required payment date, rate of payment, and volume of milk for which payment is made. This provision continues to require partial payments, although they will vary by consolidated order. Full payment is required to be made so that it is received by producers no later than two days after the required pay-out date of monies from the producer-settlement fund.

Cooperatives will be paid by handlers for bulk milk and skim milk on the terms described for individual producers except that required receipt of payment will be one day earlier. Providing for an earlier payment date for cooperative associations is warranted because it will permit the cooperative association the time needed to distribute payments to individual producer-members. The cooperative payment language in each of the consolidated orders has been expanded to include bulk milk and skim sold by cooperative pool plants as well as by cooperatives acting as a handler.

All of the payment dates are receipt dates. Since payment cannot be received on a non-business day, payment dates that fall on a Saturday, Sunday, or national holiday will be delayed until the next business day. While this has the effect of delaying payment to cooperatives and producers, the delay is offset by the shift from ''date of payment'' to ''date of payment receipt.''

Minimum payments to producers. In a proceeding involving the current Carolina, Southeast, Louisville-Lexington-Evansville, and the former Tennessee Valley Federal milk orders (Orders 5, 7, 46, and 11), a proposal was made to clarify what constitutes a minimum payment to producers. The proposal was recommended by Hunter Farms (Hunter) and Milkco Inc. (Milkco), two handlers regulated under the current Carolina order. Under the proposal, a handler (except a cooperative acting in its capacity as a handler pursuant to paragraph 9(b) or 9(c)) may not reduce its obligations to producers or cooperatives by permitting producers or cooperatives to provide services which are the responsibility of the handler. According to the Hunter/Milkco proposal, such services include: (1) Preparation of producer payroll; (2) conduct of screening tests of tanker loads of milk; and (3) any services for processing or marketing of raw milk or marketing of packaged milk by the handler.

At the May 1996 hearing, representatives of Hunter and Milkco testified that both handlers receive milk from cooperative associations and Piedmont Milk Sales, a marketing agent handling the milk of non-member producers. The Hunter representative explained, due to competitive marketing conditions in the Southeast in late 1994 and early 1995, handlers were able to purchase milk supplies at Federal order minimum prices without any over-order premiums being charged. As a result of the absence of over-order premiums, the representative stated, Hunter received underpayment notices from the market administrator on milk that it had received from Piedmont Milk Sales.

Hunter contends the problem of what constitutes a minimum payment to producers should be clarified in the event that premiums again disappear in the future. If this issue is not resolved, according to Hunter, it will suffer a loss of milk sales and its producers will receive lower prices. Hunter argues that the current policy is discriminatory and unfair and that everyone would benefit from a clarification of the rules defining Federal order minimum prices.

Milkco supported Hunter's position and stated that it also received underpayment notices from the market administrator for the December 1994 through October 1995 period on milk received from independent dairy farmers, but did not receive

underpayment notices on milk received under the same or similar conditions from cooperative associations.

Carolina-Virginia Milk Producers Association offered qualified support for the Hunter/Milkco proposal. The cooperative suggested expanding handlers' responsibilities to cover tanker washing and tagging, supplying milk to handlers on an irregular delivery schedule, field work, disposing of surplus milk during months when the supply is above local needs, and importing supplemental milk for Class I use during periods of short production.

Mid-America Dairymen, Inc. (Mid-Am) testified and filed a post-hearing brief strongly objecting to the Hunter/Milkco proposal. Mid-Am argued that the issue of minimum payments to producers is national in scope and suggested that the issue be addressed on a national basis within the context of the Federal order reform as required by the 1996 Farm Bill. Furthermore, Mid-Am stated that clearly the costs for butterfat testing are borne by all producers, and the costs of testing milk in tankers for antibiotics are borne by all handlers, regardless of their source of supply. According to Mid-Am, no confusion exists as to who is responsible for these tests and, therefore, they should not be included in the proposed amendments.

Several handlers either supported the Milkco/Hunter proposal or stated the proposal should be considered by the Secretary for all Federal milk marketing orders within the context of Federal milk order reform.

Based on the testimony presented at the public hearing and comments received, the Department's recommendation issued on July 17, 1997 (62 FR 39470), was to consider this issue as part of Federal order reform. The decision stated that no changes were being recommended for the 4 southeastern orders involved in the proceeding because this issue is central to all Federal milk orders and should not be interpreted differently from one order to another. The decision also noted the conceptual differences among market participants concerning what constitutes minimum prices to producers. The record was not extensive in detailing the particular services to be assigned to each party, nor in providing guidance concerning the cost of these services which appeared to vary considerably from organization to organization.

Hunter and Milkco, Inc., filed an exception to the Department's partial recommended decision and urged adoption of their proposal. These handlers stated that their proposal would specify the responsibility of all handlers with respect to producer milk and thereby rectify any inconsistency that may currently exist in order language concerning this issue.

Hunter and Milkco also stated that any disagreement within the industry concerning which services are the responsibility of the handler is secondary to the issue under review and does not warrant the denial of their proposal. The commenters contend that the central principle surrounding this issue is uniformity in the treatment of handlers purchasing milk supplies from cooperatives or independent producers. The precise list of services is of secondary importance, they state, and industry disagreement concerning these services should not prevent the Department from embracing the central thrust of their proposal.

Regardless of the short-term outcome in the pending rulemaking, there is a long-term issue that transcends individual orders and should be uniformly applied in the interpretation and administration of all Federal milk orders if possible. Accordingly, interested parties are invited to submit comments concerning this issue.

Payments by a handler operating a partially regulated distributing plant. All current and consolidated orders provide a method for determining the payment obligations due to producers by handlers that operate plants which are not fully regulated under any Federal order. These unregulated handlers are not required under the scope of Federal milk order regulation to account to dairy farmers for their milk at classified prices or in returning a minimum uniform price to producers who have supplied the handler with milk. However, such handlers may sell fluid milk on routes in a regulated area in competition with handlers who are fully regulated.

Therefore, the regulatory plan of Federal milk orders needs to provide a minimum degree of regulation to all handlers who enjoy routes sales of fluid milk in a regulated marketing area. This is necessary so that classified pricing and pooling provisions of an order can be maintained. It is also necessary so that orderly marketing conditions can be assured with respect to handlers being charged the classified value under an order for the milk they purchase from dairy farmers. Without this provision, milk prices in an order would not be uniform among handlers competing for sales in the marketing area, a milk pricing requirement of the AMAA. There are 3 regulatory options that are available at the option of the partially regulated handler.

It is recognized under current orders that the purchase of Class I milk by a partially regulated handler of milk that is priced under a Federal order in an amount equal to, or in excess of, quantities sold by partially regulated handlers in the marketing area ensures that price equality is maintained between these entities. In these circumstances, a partially regulated handler will not be required to make payments to the producer-settlement fund so that the use-value of milk has been equalized between fully regulated and partially regulated handlers.

For those instances in which a partially regulated handler purchases no milk from fully regulated handlers, or where purchases are less than the quantity of route disposition in the marketing area by the partially regulated handler, a payment may be made by the partially regulated handler into the producer-settlement fund of the regulated market at a rate equal to the difference between the Class I price and the uniform price of the regulated market.

Many current orders also allow the operator of a partially regulated plant to demonstrate that the payment for its total supply of milk received from dairy farmers was in an amount equal to the amount which the partially regulated plant would have been required to pay if the plant were fully regulated. This amount may be paid entirely to the dairy farmers that supplied the handlers, or in part to those dairy farmers with the balance paid into the producer-settlement fund of the regulated market. This should be adopted in all orders.

All of the current orders also provide, under certain circumstances, for payment options by partially regulated handlers relating to reconstituted milk. All of the payment options available to a partially regulated handler are retained under the consolidated orders. This provision is now found in § 1000.76 of the General Provisions.

Adjustment of accounts. All current orders provide for the market administrator to adjust, based on verification of a handler's reports, books, records, or accounts, any amount due to or from the market administrator, or to a producer or a cooperative association. This provision continues to be included in the consolidated orders. The provision requires the market administrator to provide prompt notification to a handler of any amount so due and requires payment adjustment to be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

Charges on overdue accounts. All current orders provide for an additional charge to handlers who fail to make required payments to the producer-settlement fund when due. Such payments include payments to the producer-settlement fund, payments to producers and cooperative associations, payments by a partially regulated distributing plant, assessments for order administration, and marketing service and certain other payment obligations in orders with specialized provisions such as transportation credits. This should continue to be provided for in the consolidated orders.

In order to discourage late payments, it is proposed that a 1.0 percent charge per month be incorporated in the consolidated orders. This rate represents the mid-point in the range of charges by all orders presently. Overdue charges shall begin the day following the date an obligation was due. Any remaining amount due will be increased at the rate of 1.0 percent on the corresponding day of each month until the obligation is paid in full.

As proposed, all overdue charges would accrue to the administrative assessment fund. The late-payment charge is to be a penalty that is meant to induce compliance with the payment terms of the order. If late-payment charges for monies due on producer milk were to accrue to the balance owed to either producers, cooperatives or producers/cooperatives via the producer-settlement fund, it could result in such producers and cooperatives being less concerned whether they are paid on time, thus being counterproductive to the purpose of late payment provisions. Under the provision recommended, cooperatives and producers would not be placed in a position where they would prefer to be paid several days late so that they would receive the late-payment charges or increase the level of producer prices due to late payment fee accrual to the producer-settlement fund. This is of particular concern in markets with a single dominant cooperative. Additionally, by having late-payment fees accrue to the administrative fund, monies are made available to enforce late-payment provisions that would otherwise have to be generated through handlers' administrative assessments.

Assessment for Order Administration

The AMAA provides that the cost of order administration shall be financed by an assessment on handlers. All current orders provide for proportionate per hundredweight assessments of varying rates. As proposed, a maximum rate of 5 cents per hundredweight is provided. The assessment would apply to all of a handler's receipts pooled under the order.

Deduction for Marketing Services

As in most current orders, the consolidated orders should provide for the furnishing of marketing services to producers for whom cooperative associations do not perform services. Such services should include providing market information and establishing or verifying weights, samples and tests of milk received from such producers. In accordance with the Act, a marketing services provision must benefit all nonmember producers under the order. They are not uniform in the consolidated orders.

The market administrator may contract with a qualified agent including a cooperative association to provide such services. The cost of such services should be borne by the producers for whom the services are provided. Accordingly, it is proposed that each handler be required to deduct a maximum of 7 cents per hundredweight from amounts due each producer for whom a cooperative association is not providing such services. All amounts deducted should be paid to the market administrator not later than the due date for payments to the producer-settlement fund.

6a. Northeast Region

The Northeast Marketing Area

The recommended consolidated Northeast order differs significantly from other consolidated orders. In addition to merging three existing Federal milk orders, the proposed Northeast order also recommends expansion in the western and northern regions of New York state, and all currently unregulated areas of the New England states (except Maine).

While the current New England (Order 1) and Middle Atlantic (Order 4) order have similar pricing provisions for adjusting producer blend prices in a manner identical to how plant prices are charged, the current New York-New Jersey (Order 2) order employs a ''farm-point'' pricing method. This decision recommends that the pricing of milk should employ a plant-point pricing methodology in the consolidated Northeast order. This method is used in every other current marketing area and in every recommended consolidated marketing area. This represents a considerable change in how milk will be priced for those handlers and producers who currently are priced under the provisions of the New York-New Jersey order.

In addition to the different pricing provisions of the three existing orders, other important differences and related provisions need to be addressed in recommending a complete Northeast regional order that will accomplish the goals of the AMAA. These include what is commonly referred to in the New-York-New Jersey order as the ''pass through'' provision, the need for providing marketwide service payments in the form of cooperative service payments and balancing payments that currently exist in the New York-New Jersey order and do not exist in either the current New England or Middle Atlantic orders. Additionally, the three current northeast orders also provide for seasonal adjustments to the Class III and IIIA price, which may no longer be necessary in light of the replacement being recommended for the BFP.

It is fair to observe that the current order most affected by the recommended consolidation is the New York-New Jersey order. In addition to the differences already described, certain terms and provisions of the recommended Northeast order are also different in how they are described and presented but are nevertheless consistent with existing provisions that accomplish the goals of the AMAA. This is less of an issue for those entities that are accustomed to the terminology of provisions used in the New England and Middle Atlantic orders. The following presents a discussion of the recommended order provisions and issues that are unique to the consolidated Northeast order.

Plant

The plant definition for the proposed consolidated Northeast order should differ from that of the other consolidated orders by allowing stationary storage tanks to be used as reload points. This exception to the plant definition is warranted for the consolidated Northeast order due to certain unique conditions that affect the ability of producers to assemble milk in an efficient manner and subsequently transport it to a plant that actually processes milk into finished dairy products, including fluid milk products. This exception would not consider the reload point or facility as a point from which to price producer milk. Rather, milk once assembled would be shipped to a processing plant where it would be priced.

A portion of the Northeast milk supply is derived from some 200 small dairy farms located in Maine. Because much of this state is serviced by secondary and rural winding roads, the current New England order has

provided for reload points as a workable solution to the inherent hauling difficulties in transporting relatively small loads of milk from the countryside to reload points and facilities with stationary storage tanks that do not serve as a pricing point. This should continue to be provided for in the consolidated Northeast order. Not to provide this accommodation would adversely affect a substantial number of small producers and the milk haulers that service them.

Pool Plant

The *pool distributing* and *pool supply plant* definitions of the proposed consolidated Northeast order should use the standard order language format used in other orders, combined with performance standards that are adapted to marketing conditions in the Northeast.

The proposed pool distributing plant definition specifies that a pool distributing plant must have 25 percent or more of its total physical receipts of bulk fluid milk distributed as route disposition and that route disposition within the marketing area be at least 25 percent. The 25 percent level of total receipts distributed on routes is a reasonably high enough level to establish a distributing plant's association with the marketing area. The in-area route distribution performance requirement of 25 percent is recommended for two reasons. First, as one of the intents of Federal milk order reform was to adopt liberal pooling standards, a 25 percent level provides a level of association with the market that is liberal yet sufficiently high enough to assure pooling standards that are performance oriented. Second, it tends to minimize changing the regulatory status of handlers from their current regulatory status by the Federal order program through the consolidation of existing orders. This also seems a reasonable standard in light of individual state regulatory plans currently in place in Maine, Pennsylvania, and Virginia are applicable.

As already discussed, the recommended consolidated Northeast order and other nearby consolidated marketing orders do not recommend expansion to include currently unregulated areas. This includes areas in the states of Pennsylvania, Virginia, and the entire state of Maine. Some distributing plants in these areas are not currently regulated, or are only partially regulated to the extent they enjoy Class I sales in regulated areas. A 25 percent in-area route distribution level will serve to ensure or minimize any change in their current regulatory status under the Federal program that result from consolidation of the three northeast marketing areas into a single new order.

Unit pooling, wherein two or more plants operated by the same handler located in the marketing area can qualify for pooling as a unit by meeting the total and in-area route distribution requirements of a pool distributing plant, is recommended for inclusion in the consolidated Northeast order. Providing for unit pooling provides a degree of regulatory flexibility for handlers by recognizing specialization of plant operations.

Due primarily to positions offered by many of the major Northeast dairy cooperatives and their recommendations on appropriate pool supply plant performance requirements, the consolidated Northeast order supply plant performance requirements initially should be set to require that in the months of August and December, at least 10 percent of the total quantity of bulk milk that is physically received at a supply plant be shipped to distributing plant. For the months of September through November, such shipments by pool supply plants should be at least 20 percent. To the extent that a supply plant has met these performance requirements, no performance requirement is recommended for the months of January through July. However, a supply plant that has not met these performance requirements will need to meet a 10 percent performance requirement in each of the months of January through July in order to qualify as a pool supply plant.

While this decision has recommended providing for pool reserve supply plants, it is not recommended for inclusion in the provisions for the consolidated Northeast order. However, providing for a system of supply plants is recommended for the consolidated Northeast order and this provision is sufficiently self-explanatory in the proposed order language.

Producer-Handler

The producer-handler definition for the consolidated Northeast order should conform to the limitations on receipts at its plant or acquiring for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This should cause no change in the regulatory status of any known producer-handler currently in operation in the proposed consolidated Northeast order region.

Producer

The producer definition of the proposed consolidated Northeast order should be defined as described in the proposed order language for the order. This definition describes those dairy farmers who are properly associated with the Northeast marketing area and who should share in the benefits that accrue from the marketwide pooling of milk in this area.

The months specified in the producer definition for defining when a dairy farmer would not be considered a producer under the order are so indicated because they tend to accurately reflect the seasonality of supply for meeting the market demands for milk during the ''short'' season in the proposed Northeast marketing area. Accordingly, the producer definition should not include dairy farmers who's milk during any month of December through June is received as producer milk at a pool plant or by a cooperative association handler if the operator of the pool plant or the cooperative association caused the milk from such producer's farm to be delivered to any plant as other than producer milk as defined in the producer milk provision of the proposed Northeast order, or any other Federal milk order during the same month, in either of the two preceding months, or during any of the months of July through November.

Similarly a dairy farmer would not be considered a producer under the order, for any month of July through November, any dairy farmer whose milk is received as producer milk at a pool plant or by a cooperative association handler if the pool plant operator or the cooperative association caused the dairy farmer's milk to be delivered to any plant as other than producer milk, as defined in this proposed order, or in any other Federal milk order during the same month.

Producer Milk

The producer milk definition of the consolidated Northeast order should follow the general structure and format of other consolidated orders. It differs from other consolidated orders in that it requires cooperative handlers to organize reports of producer receipts that are outside of the states included in the marketing area, or that are outside of the states of Maine or West Virginia, into state units with each unit separately reporting receipts.

As previously discussed, not all consolidated orders set diversion limits for producer milk. For the proposed Northeast order, no diversion limits are established as they are, for example in

the proposed Florida order. However, diversions are limited in functional terms. The maximum quantity of milk that a pool plant would be able to divert and still maintain pool plant status would be 100 percent minus the applicable shipping standard.

Component Pricing

The consolidated Northeast order should employ a component pricing plan in the classified pricing of milk under the order as previously discussed in the BFP section of this recommended decision. This recommendation is consistent with positions taken and proposals offered by major cooperative groups in the Northeast who supply a large percentage of the milk needs of the market. This also conforms with the recommendations discussed earlier in this decision on replacing the BFP.

Farm-Point vs. Plant Point Pricing

At issue in the suggested merging of the three northeast marketing areas is the use of two distinct pricing methods. The Middle Atlantic and New England marketing area employ a system of plant-point pricing. This pricing method is also employed in every other marketing area in the Federal order system. Only the New York-New Jersey marketing area uses what is called ''farm-point'' pricing. This decision recommends the adoption of plant point pricing as the pricing method for the consolidated Northeast order.

Plant-point pricing of milk that is pooled under an order prices milk f.o.b. the plant of first receipt. The cost of hauling from the farm to the plant is the responsibility of the producer. When the receiving handler is also the hauler, orders permit the handlers in making payments to each producer to deduct hauling costs up to the full amount authorized in writing by the producer.

As originally employed in the New York-New Jersey order (Order 2), farm-point pricing establishes the price for milk by the zone (distance from market computed the nearer of the basing points) of the township in which a producer's milkhouse is located. While termed ''farm-point'' farms are grouped by their township location. However, this is the nearest practicable proxy for farm location. In functional terms, when a handler picks up milk at a producer's farm, the handler takes title of the milk at the time and point of pickup. Accordingly, there are no adjustments in payments to producers to cover any part of the cost of pickup or hauling in moving milk to the handler's plant. Farm-point pricing fundamentally shifts the cost of transporting milk from the producer to the handler. Farm-point pricing has been in effect in Order 2 since 1961. While the fundamental concept of farm-point pricing has been retained with respect to its overall structure of mileage zones, other order provisions were adopted subsequent to its establishment and modified over time so that farm-point pricing could remain viable.

In the decision that established farm-point pricing (25 FR 8610, Sept. 7, 1960), prevailing marketing conditions served to warrant this type of pricing system. At that time, the emergence of bulk-tank milk began to take on a degree of prominence in the milk supply of Order 2. Prior to the adoption of farm-point pricing (1959), about 8 percent of the producers had bulk tanks, accounting for at least 14 percent of the volume of milk associated with the market. About 92 percent of producers delivered their milk at their own expense directly to plants in 40 quart cans. Most of the milk can-delivered was from farms within a radius of not more than 15 miles from the plant. The milk of producers who had converted to bulk tanks, in some instances, had been hauled more than 200 miles from farm to city plants, but the majority of bulk tank milk was moved much shorter distances to country receiving plants. The decision cited that in October, 1959, milk was received from 49,719 producers at 691 plants.

When milk was delivered in cans to a handler's plant, the plant was the location of where milk was weighed, sampled for butterfat and quality, and where cans were washed. It was at the plant that milk was accepted or rejected. It was the place where milk was cooled and co-mingled with other individual producer's milk. More importantly, it was the place where control of the milk passed from producer to the plant operator or moved by the plant to other plants for fluid or manufacturing uses. Minimum prices required by the order to be paid by handlers were adjusted for the location of the plant at which milk was received from dairy farmers.

Bulk tank milk brought a set of new factors. When milk is transferred from a producer's bulk tank to the hauler, the point of transfer is also the point where several functions are performed. Milk in a producer's bulk tank has already been cooled, and therefore not subject to the early delivery deadlines. The weight of milk is determined at the bulk tank and is also the place where samples are taken for butterfat and quality. It is also here that the individual producer's milk is accepted or rejected and loses its identity by being co-mingled with other milk.

Numerous problems arose in regulating the handling of bulk tank milk in an order where pooling depended upon direct delivery from the farm to a pool plant and under which minimum class prices and the uniform prices to be paid to producers was reflective of the location of the plant where delivery was made:

1. Administrative problems associated with bulk tank handling arose, particularly where and when milk was regarded to have been received. Bulk tank milk provided the opportunity to deliver milk to different plants, some pool and some nonpool. Where a given tank load of milk was unloaded if it went to two or more plants of the same or different handlers on the same day was difficult to determine.

2. The incentive arose (because of the administrative difficulty of determining when and where milk was received) for handlers to behave in a way that would result in the maximum exclusion of milk from the pool for fluid use outside the marketing area.

3. The incentive arose for the maximum inclusion in the pool of milk in fluid and manufacturing uses.

4. The incentive and opportunity arose for handlers to select one of several plants for receipt of bulk tank milk, with or without manipulation of hauling charges. This distorted and impinged upon the effectiveness of the minimum price provisions of the order, especially in the case of relatively long hauls of bulk tank milk.

The 1961 decision that established farm-point pricing provided 8 scenarios that demonstrated how handlers behaved so as to minimize their pricing obligations to producers. Most of the scenarios arose from the inability to determine when milk was received at a plant. In order to mitigate such circumstances, several things were done. Foremost, was the establishment of farm-point pricing on the basis of bulk tank units and the designation of each bulk tank unit as either a pool or nonpool unit and defining the circumstances under which designations could be changed.

The pricing of milk at the farm eliminated the incentive for handlers to attempt to make it appear that the plant of receipt was other than the plant where milk is actually received and handled. It was made crystal clear that delivery and receipt of bulk milk takes place at the farm. Once acquired by the handler, the plant or plants to which the milk may be delivered depended on the decision of the handler, not the producer. Under these circumstances, where the milk is actually used is not a factor to be reflected in the minimum

producer price. The operator of the bulk tank unit was defined as the handler and the point of receipt of milk. This entity was responsible for establishing the unit, and the entity held the responsibility for reporting, accounting, pooling and paying producers. Additionally, the decision concluded that the price at which the farm bulk tank is accounted for to the pool should be the minimum class price adjusted for location of the farm, that payments by handlers directly to producers be adjusted to reflect all location differentials based on where farms are located and where bulk tank milk is received.

A proposal that would have allowed a tank truck service charge authorized by the producer but not in excess of 20 cents per hundredweight (cwt.), and payments to cooperatives which serve as handlers operating a bulk tank unit should be at the price reflecting transportation and (the then existing) direct delivery differential applicable at the handler's plant where milk is delivered by the cooperative was not incorporated into the order. At that time, it was found that plant hauling charges averaged nearly 20 cents per cwt. This was offered as rationale for a negotiable 20 cent per cwt. charge by handlers for hauling. Arguments notwithstanding, the underlying concepts embodied in farm-point pricing caused the Department to not allow for any hauling deduction by handlers.

Shortly after the implementation of farm-point pricing, the need to amend the order to keep farm-point pricing viable arose. The first occurrence was in 1963. In the 1963 decision (28 FR 11956, Oct. 31, 1963), it was noted that there had been significant changes in marketing conditions that arose from establishing farm-point pricing in 1961. These included the reduction in premiums to bulk tank producers in general; the reluctance of proprietary handlers to receive bulk tank milk from individual producers in order to avoid the hauling costs; the differences in pricing can and bulk tank milk; and a slowdown in the trend of conversion from can milk to bulk tank milk. The 1963 decision, in acknowledging changing marketing conditions, incorporated into the Order, an authorized 10-cent per cwt. charge for hauling, provided that producers authorize this maximum level in writing.

In the 1963 decision the Secretary found that allowing for a limited authorized service charge for hauling bulk tank milk at a maximum rate of 10 cents per cwt. was sufficient. This was largely based on the fact that handlers were not then charging for bulk tank pickup and hauling, but rather were paying premiums for bulk tank milk. Additionally, can milk direct delivered by producers to plants was still very much the norm. While bulk tank milk was growing, it had not yet accounted for a majority of milk pooled on the order. The 10-cent negotiable hauling charge was found to provide the needed flexibility for handlers to receive bulk tank milk from individual producers.

This decision raised, for the first time with respect to farm-point pricing, the maintenance of orderly conditions and the uniform pricing to handlers on all milk priced and pooled under the order. Because bulk tank milk is priced by township zone (the best proxy for a farm's location) all farms in any particular township have the same value assigned to their milk. However, the decision found it necessary to reflect appropriate uniform pricing of bulk tank milk because it has differing value dependent on the accessibility and relative location of individual farms within the township. With this finding, it was determined that responsibility for hauling to the township pricing point should be borne by the producer with appropriate safeguards to protect the producer. Therefore, a maximum negotiable hauling charge from handlers of 10 cents per cwt. was brought under the order.

By 1970, marketing conditions in the New York-New Jersey market had changed to the point where handlers were authorized to receive a full 10-cent hauling credit for each cwt. of bulk tank milk which was disposed of for manufacturing uses. Additionally, the negotiable 10-cent hauling charge to producers for a handler's cost offset established by the 1963 decision was retained. However, the 10-cent negotiable limit was limited to manufacturing milk. Can milk at this time represented about 25 percent of the total amount of milk pooled in Order 2, with the balance being bulk tank milk.

Proponents supporting this change to the order claimed, and the decision affirmed, that the manufacturing price for milk in Order 2 was not properly aligned with manufacturing class prices in adjacent Federal orders. In this decision (35 FR 15927, Oct. 9, 1970) the Secretary found that to the extent that Order 2 handlers had borne the transportation costs associated with the pickup and movement of bulk tank milk used in manufacturing from the farm to the plant, Order 2 handler costs exceeded the price which handlers in adjacent order markets were required to pay for milk used in manufacturing. By adopting this transportation credit for handlers, there was no need to adopt other proposals that would have lowered the manufacturing price for milk under the other northeastern orders or lower the Class I price for milk in Order 2 as had been proposed and denied.

By 1977, some 16 years since the adoption of farm-point pricing, marketing conditions had changed again and the issue of providing for more equitable competition both within the Order 2 market and between other orders took on primary importance. By this point in time, can milk was about 3 percent of the market, with the balance represented by bulk tank milk, the near inverse of the marketing conditions prevailing in 1961. The transportation credit that had been established for handlers in the 1970 decision for manufacturing milk was now extended to *all milk* received by handlers. The transportation credit was increased to 15 cents per cwt., plus an additional 15-cent maximum negotiable credit above the ''automatic'' 15 cents because total average transportation costs was found to be about 30 cents per cwt. For reasons nearly identical to the 1963 and 1970 decisions, ''formalizing'' the negotiable hauling charge was not adopted because of the need of flexibility in accounting for milk movements from the farm to the township pricing point (42 FR 41582, Aug. 17, 1977). In that decision the Secretary also raised the direct delivery differential from 5 cents to 15 cents per cwt. in the 1–70 mile zone for can milk delivered by farmers to plants within this zone, changed the transportation adjustment rate from 1.2 cents per cwt. for each 10 miles to 1.5 cents per cwt. for each 10-mile zone beyond the 201–210 zone, and 1.8 cents per cwt. for each 10-mile zone within the 201–210 mile zone.

Cooperatives were of the strong opinion that the cost of milk assembly and transportation are the marketing costs of the handler and not by producers. However, they also indicated that changes are warranted in the order because of the failure of neighboring markets to adopt farm-point pricing.

Comparative examples of handler price inequities with respect to their cost of milk was amply demonstrated for both intra and inter market situations. With respect to inappropriate price alignment between orders, the competitive relationships between Order 2 and Order 4 (then known as the Delaware Valley Order) were closely examined. On intra-order movements of milk, it was shown that Class I handlers in New York City had a significantly

lower procurement cost for direct-ship over bulk tank milk because bulk tank milk from ''distant'' supply plants had higher transfer and over-the-road hauling costs. Supply plant milk at the city represented about 80 percent of milk receipts at city plants. The inter-market situation demonstrated that handlers in Philadelphia accounted for milk at prices lower than New York handlers. Order 4 handlers were in a position to establish lower resale prices for fluid milk than their competitors in the New York market because the burden of increased hauling costs fell largely on Order 2 handlers. As in 1970, other proposals were denied in light of adopting the 15-cent hauling credit for handlers. These other proposals included lowering Class I and the manufacturing price for milk in the order by 15 cents per cwt.

By 1981, bulk tank milk accounted for nearly the entire milk supply pooled on Order 2—about 99.6 percent. As the result of a hearing held in June 1980, in the final decision (FR 46 33008, June 25, 1981) the Secretary again amended the transportation credit provisions of the order. The 15 cents per cwt credit for handlers was retained, however, the 15-cent negotiable transportation service charge was modified to allow handlers to negotiate with producers for any farm-to-first plant hauling cost in excess of the 15-cent transportation credit, plus ''the amount that the class use value of the milk at the location of the plant of first receipt was in excess of its class use value at the location where milk was received in the bulk tank unit from which the milk was transferred.'' According to the 1981 decision, this amendment would adjust hauling allowances for handlers to more closely relate the location value of milk to the costs incurred in transporting milk from farms and country plants to distributing plants in the major consuming markets of the market. Additionally, the decision indicated that this change was necessary to reflect current marketing conditions and permit a more equitable competitive situation for regulated handlers, both on an intra market and inter market basis. The decision also applied a 15-cent direct delivery differential for bulk tank milk from New York City out to the 61–70 mile price zone, on the basis that direct delivery differential is applicable to milk received in cans at a plant in the 1–70 mile zone.

In the 1981 decision the Secretary found that the majority of milk moved to distributing plants in 1979 from the 1–70 mile zone moved directly from farms, accounting for about 58 percent of plants in this zone with 48 percent being reloaded. Moreover, the decision found that Order 2 plants located in northern New Jersey received direct shipped milk as did handlers located in Order 4. Thus, inter market price alignment needed to be structured primarily on the basis of handlers obtaining direct shipped milk.

A federation of cooperative associations representing Order 4 producers proposed that Order 2 be amended to return to plant-point pricing, with the direct delivery differential being reduced to 10 cents per cwt, and that the Class I differential at the base zone of Order 2 be increased from the $2.25 level then in effect, to $2.40. This federation of cooperatives believed that this ''package'' of order modifications would provide for proper price alignment between Order 2 and Order 4. While the decision did apply different transportation rates at a rate of 1.8 cents per cwt. outside the base zone of the Order (201–210) and a rate of 2.2 cents per cwt. inside the base zone, it did not provide for a return to plant-point pricing.

While the decision did not adopt plant point pricing, the decision does acknowledge that the amendments adopted tended to establish plant pricing with respect to the classified prices to handlers. However, farm-point pricing was retained with respect to uniform prices to producers. With this being the case, the basic substantive difference between the amendments and plant pricing is the impact on the movement of milk to higher-priced zones for manufacturing use. Under plant pricing, the minimum uniform price payable to producers applies at the location of the plant of first receipt and handlers receive a credit from the producer settlement fund at such uniform price. The decision also concluded that plant-point pricing for producers would provide a greater incentive to haul direct-shipped milk to city plants for manufacturing uses, since there would be a credit from the pool for the full amount that the uniform price transportation differential at the city plant exceeds the transportation differential for the zone of the bulk tank unit. Adopting plant-point pricing for producers would have had the effect of encouraging milk to move long distances to city plants for manufacturing uses when transportation savings could be realized if such milk stayed nearer to manufacturing plants generally located in the milkshed.

Farm-point pricing has undergone many evolutionary changes from its inception in 1961. The original rationale for farm-point pricing, free hauling and the administrative difficulty of determining when milk from bulk tank units was received seems far removed from present-day marketing conditions and the rationale for continuing it. There were a number of years that hearings were necessary to first recognize that the burden of transportation costs rested with handlers. This resulted in handlers being able to successfully argue that with this burden, it becomes much more difficult for the order to establish and maintain uniform prices to handlers as required by § 608(5)(c) of the AMAA. This is evidenced by the nature of the decisions of 1963, 1970, 1977, and 1981. Much ''repair'' to other order provisions was also needed to retain farm-point pricing. Accordingly, farm-point pricing has outlived its intended purpose and the Secretary proposes that it should not be retained in a consolidated Northeast order.

The Need for a Producer-Price Mechanism

As discussed above, farm-point pricing for producers did provide some rational pricing incentives to promote efficiency within the Order 2 marketing area. This can reasonably be summed up by concluding that farm-point pricing would not provide, as plant-point pricing would, incentives to haul direct-shipped milk to city plants for manufacturing uses, since there would not be a credit from the pool for the full amount that a uniform price transportation differential at the city plant exceeds the transportation differential for the zone of the bulk tank unit. Adopting plant pricing would have had the effect of encouraging milk to move long distances to city plants for manufacturing uses when transportation savings could be realized if such milk stayed nearer to manufacturing plants generally located in the milkshed.

In an effort to address the dairy industry structures that have evolved over the past four decades in the three current northeast marketing areas, efforts were undertaken by a major group of dairy farmer cooperatives in the northeast to address what the pricing implications are to producers and handlers as the region moves to a unified plant-point pricing method. This has resulted in a proposal by the Association of Dairy Cooperatives in the Northeast (ADCNE) that include St. Albans Cooperative Creamery, Inc., Land O'Lakes, Upstate Farms Cooperative, Inc., Agri-Mark, Inc., Milk Marketing Inc., Dairylea Cooperative Inc., and Maryland & Virginia Milk Producers Cooperative Association Inc. These dairy farmer cooperatives account for well over half of the milk that would be pooled and priced under the

proposed consolidated Northeast order. Their proposal calls for establishing a producer differential structure that would ''overlay'' the Class I differential structure that would apply in the consolidated Northeast order.

The structure proposed is a county-based plant-point price structure, providing for 14 zones that accommodate the need to reflect existing and longstanding competitive price relationships among plants, while integrating the farm and plant point pricing systems currently used in Order 1, 2, and 4 and with currently state-regulated areas that fall outside of the proposed marketing area. Further, the ADCNE proposed prices at the major cities in the Northeast, including Boston, New York City, Philadelphia, Baltimore, and Washington, D.C. to have specific Class I differential levels that are somewhat different from those recommended in the Option 1A Class I price surface. For example, this decision recommends a New York City Class I differential of $3.15, while ADCNE proposes $3.20. In general, the ADCNE proposal assumes that the Class I differential structure that will be adopted is Option 1A, is the Class I pricing option they strongly support, and is also the Class I pricing option overwhelmingly supported in public comments received from interested parties from the northeast.

With respect to a producer differential surface, the ADCNE proposed that a debit of 5 cents per cwt. be made to the blend price applicable at non-distributing plants in certain zones. The need for the debit, according to the ADCNE proposal, is to make deliveries to distributing plants somewhat more attractive to producers, while decreasing the amount by which manufacturing plants draw on the marketwide pool for transportation values, offering also that such a debit is economically justified and authorized by the AMAA. According to ADCNE, it is distributing plants that provide the revenue, in the form of Class I values which form the blend price paid to producers. Deliveries to manufacturing plants do not contribute to increasing the value to the marketwide pool. The debit, according to ADCNE, is a reflection in part of the Order 2 system, which has priced some 50 percent of the milk in the northeast region, and which does not provide location-based transportation payments for movements from farms to manufacturing plants. The ADCNE proposal provides that deliveries to Class I plants are rewarded under this system with an additional 5-cent payment from the pool for the marketwide benefit conferred a distributing plant's utilization.

For the Western New York State order area of the order, ADCNE also proposed a broad area in which a producer differential of $2.40 per cwt. to producers would be payable on deliveries of producer milk at all plant locations in this area. This portion of the price surface proposed by ADCNE purports to be reflective of the major historical movements of milk from east to west in the region which returned the eastern farm point price to dairy farmers under Order 2's farm-point price system, and that the Western New York State order has not had any location differentials, thereby establishing a ''flat'' price surface in the area. If those plants, for producer pricing purposes, were zoned lower in value reflecting the westerly and northerly distance from New York City or Philadelphia, ADCNE is of the view that the ability of both distributing and supply plants of plants to attract an adequate supply of milk could be in jeopardy. Furthermore, the expectation that Class I utilization of the proposed Mideast order will be nearly 10 percent higher than the Class I utilization in the Northeast order was also offered in support of ADCNE-proposed producer differential level in this area.

The ADCNE proposal also recommends producer differential levels in areas that they believed should be included in either the consolidated Northeast order or the Mideast order through expansion that this proposed rule does include for consideration. Additionally, the ADCNE proposal also addresses producer differential levels at other locations outside of the Northeast region.

Additional supporting and amplifying comments were also provided by Dairylea. These comments supported the major themes offered in the ADCNE proposal for a producer differential overlay to Class I differential levels. Dairylea states that moving directly to a plant-point pricing method would accentuate ''existing inequities and market dysfunctions.'' Dairylea further commented that a plant-point differential schedule would maintain current inter-plant price differences in the current New England and Middle Atlantic orders, but would worsen them for New York manufacturing plants, many of which are cooperatively owned. Their view of the ADCNE pricing proposal is that it maintains economic incentives for milk to move to Class I distributing plants, would provide for more balanced procurement equity among competing manufacturing plants, maintain equitable producer pricing when milk is marketed by transporting it from a higher priced zone to a lower priced zone, and provides a structure that allows for adequate blend price levels in all areas of the Northeast milkshed.

Dairylea further comments that in addressing adopting plant-point pricing, existing ''near-in'' manufacturing plants (plants located in a relatively high differential location) would enjoy a procurement advantage relative to their competitors that are located in a lower priced location. Dairylea recommends narrowing the price difference between manufacturing plants that compete for producer milk and/or finished dairy product sales. To do this, Dairylea supports lowering producer differentials for manufacturing plants that are located in high-valued locations and increasing those differentials at manufacturing plants in areas that have lower location values. Dairylea advocates the ADCNE proposal for a producer differential that is 5-cents lower than those of Class I plants when such plants are located in the same pricing zones. Dairylea's view of this design results in maintaining, or slightly increasing, producer differentials applicable at Class I plants and reducing those applicable at ''near-in'' manufacturing plants. At the same time this would provide for increasing producer differentials at manufacturing plants in central, western, and northern New York. According to Dairylea, this producer pricing surface would present a more equitable marketing environment than strict plant-point pricing currently employed in Orders 1 and 4, while at the same time not threatening the viability of manufacturing plants in those areas of a consolidated Northeast marketing area.

A major theme of Dairylea is its view that Federal milk orders and their provisions should foster an environment under which manufacturing plants are provided equal cost and procurement ability, and not to disfavor such manufacturing plants located in high milk production areas where Class I differentials are lower. This view, as expressed, seems a departure from the intent of Class I differentials serving to attract an adequate supply of milk at locations to satisfy fluid demands. Dairylea also states that the final rule of 1991 that realigned intra-order prices in Order 2 resulted in harm to producers in northern and western New York. While it is not appropriate to specifically revisit this issue and decision here, official notice is taken of the final decision (55 FR 50934, December 11, 1990) that realigned Class

I differentials in the three existing northeast marketing areas.

Comments supporting the ADCNE proposal for a producer pricing surface were also offered by Upstate Farms Cooperative, Inc. The Upstate Farms views served to reiterate the major themes developed in the ADCNE proposal.

Agri-Mark, a part of ADCNE, filed separate and dissenting views on the ADCNE proposal. Conceptually, Agri-Mark notes that plant and farm-point pricing are different, but notes further that the differences are not always unfavorable. Agri-Mark submits that under plant-point pricing, all producers shipping to the same plant receive the same minimum order blend price regardless of where their farm is located. Under farm-point pricing, farmers shipping to the same plant receive different prices under the order depending on where their farm is located. Farms closer to New York City, Agri-Mark notes, receive a higher price than farms farther from the city, even though their milk ends up in the same place.

As to the efficiency arguments touted to be derived from farm-point pricing, Agri-Mark notes that most manufacturing plants, especially cheese plants, were built in the northeast prior to the adoption of farm-point pricing and not in response to it. Rather, says Agri-Mark, these plants were built at their present locations because of their proximity to abundant milk supplies. The procurement problems for manufacturing plants that Order 2 entities alert us to, did not arise in New England manufacturing plants under plant-point pricing even though these plants were located as far north as possible within the milkshed for New England.

Simply put, Agri-Mark believes that rather than decreasing the differential between manufacturing plants and city distributing plants, an increase is justified. They are also of the opinion that manufacturing plants located far from higher-priced zones will maintain an advantage even with the adoption of strict plant-point pricing because this milk does not need to travel long distances to reach manufacturing plants. The ADCNE proposal would cause Agri-Mark producers to receive lower prices that competitive price relationships do not warrant.

The Agri-Mark view of Federal milk marketing orders differs substantially from the views expressed by Dairylea. Agri-Mark states that the role of Federal milk marketing orders is to treat all producers equitably relative to how their milk is used and not to weaken price integrity by promoting or causing producers to compete for Class I sales. This is best accomplished, according to Agri-Mark, with appropriate pooling requirements and Class I differentials to satisfy the Class I demands of the market. Agri-Mark fears that if the regulatory pricing plan gives a distributing plant an advantage over a cooperative manufacturing/balancing plant in the same zone, that plant can use this advantage for itself instead of passing it along to farmers to offset transporting their milk to market. A 5-cent debit to the Class I differential schedule is, in the view of Agri-Mark, significant. If so set, Agri-Mark submits, pressure will come from distributing plants to see this 5-cent price difference grow.

Lastly, in their opposition to the ADCNE proposal, Agri-Mark notes that no manufacturing plant has been built in any city zone for decades, noting that the only significant plants in such areas for the northeast are older plants producing nonfat dry milk and butter and serve to balance the Class I needs of city markets, concluding that such plants are there for common sense and efficiency reasons. In support of this observation, Agri-Mark notes that existing Class I differentials have not been adjusted to more fully account for increases in hauling costs.

A recommendation on whether or not to adopt a producer pricing differential structure that differs from a Class I differential cannot be made in this proposed rule. The issue before the Department is to examine the impact of the change from farm-point to plant-point pricing on producers as part of recommending the adoption of plant-point pricing for the new consolidated order. The change to plant-point pricing will affect approximately one-half of the producers in the consolidated marketing area and is a significant departure from historical methods of distributing the revenue that accrues from classified pricing to producers. Plants will not experience significant change since plants currently regulated under Order 2 already account to the marketwide pool at the Class I location differential value. The issue then, tends to focus on how to pool and distribute the revenue as equitable as possible to producers.

There are significant differences between Option 1A and Option 1B that may result in price relationships never before experienced by either producers or handlers in the northeast. This, in and of itself, may cause both proponents for and against a producer price differential to reconsider their position in the need for and development of a producer price surface founded on the pricing structure of Option 1A. Nevertheless, under either Option 1A or Option 1B, further analysis is needed in determining the need for adjusting producer blend prices by a method that differs from that currently applied to all orders, including the development of appropriate order language.

Competitive equity between manufacturing plants is already ensured by the classified prices applicable to handlers who operate such plants. In fact, this proposed rule suggests a uniform Class III and Class IV price be applicable for all locations. The more appropriate issue this proposal seems to address is that manufacturing plants are often cooperatively owned. All entities, including cooperatives in their capacity as handlers, account to the marketwide pool at the manufacturing price for milk received at their plants. The price paid to producers is the blend price for all milk pooled on the market and that was priced according to its use. Cooperatively owned manufacturing plants located in higher priced areas will pay a higher blend price to producers who deliver milk to that location provided they meet the performance requirements for being pooled thereby demonstrating the appropriate degree of association with the market. In this regard, it is worthy to note that not all manufacturing plants in the high-valued zones in the New York marketing area are pool plants. Blend prices are adjusted everywhere according to the location value of the plant. Adjusting producer blend prices on the basis of whether or not milk was delivered to a distributing plant or to a manufacturing plant seems to create a form of producer price discrimination that classified pricing and the mechanism of marketwide pooling and its related provisions attempt to mitigate. Such pooling provisions provide a degree of equity to producers in the form of a uniform blend price adjusted only for the location value on all milk pooled on the market. Classified pricing and marketwide pooling have served well to mitigate the price competition between producers seeking preferred higher-valued outlets for their milk, while at the same time ensuring handlers uniform prices, adjusted only for location, in the prices they pay for milk. This proposal, as currently developed, seems to take a step backward in that it may be inadvertently creating a degree of price competition between producers that classified pricing and marketwide pooling sought to minimize.

As Dairylea commented, the 1991 rule that realigned prices in the three current northeast orders may not have gone far

enough is establishing a Class I differential structure and indeed may have resulted in harm to producers located in northern and western New York. Prior to the 1991 final rule, the price difference between the New York base zone and New York City was 59 cents. The 1991 final rule increased this to 72 cents, but in doing so, the differential at the base zone was lowered by 13 cents. This resulted in a lowering of blend prices to producers in the far reaches of the milkshed. This observation may provide the basis for further examination of the Class I differential structure presented under Option 1A. Specifically, a 5-cent increase in the New York Class I differential and a similar increase in the Class I differential at Philadelphia, together with appropriate location adjustments between these pricing points, may accomplish what a producer price differential schedule does not seem to accomplish at its current state of development.

A submission from New York State Dairy Foods, Inc., (NYSDF) a trade association representing dairy product manufacturers and retailers voiced the need for raising the New York City Class I differential. NYSDF proposed an 8-cent per cwt. increase to reflect the reality of higher hauling rates. If this proposal is accepted, this would raise the Class I differential in New York City from the current $3.14 to $3.22. According to NYSDF, the 8-cent increase may not be sufficient depending on the length of time needed to implement milk order reforms. NYSDF also commented on their support for retaining farm-point pricing, but offered no compelling arguments for doing so.

Marketwide Service Payments

Cooperative Service Payments. The Secretary proposes that cooperative service payments as part of a marketwide service payment provision for the consolidated Northeast order should not be included in a consolidated Northeast order. As proposed by ADCNE a 2-cent per cwt. payment would be made out of the marketwide pool to cooperatives and non-cooperative entities for funding ''information and policy services'' that would be of marketwide benefit. Cooperative service payments of this sort currently are provided for under terms of the New York-New Jersey order, but are not provided for in either the New England or Middle Atlantic orders. However, under the New York-New Jersey order, cooperative service payments are made only to qualified cooperatives that meet the conditions specified under the order and does not provide for such payments to non-cooperative entities.

Rationale offered in support for a cooperative service type payment to cooperatives and non-cooperative entities were based on recognizing that in a regulatory pool structure, private parties provide important services that are of benefit to everyone involved in the marketwide pool, including the promulgation, amendments to, and administration of the order. Not to provide a mechanism for the recovery of a portion of the expense involved in providing such services would disadvantage those incurring these expenses while everyone in the market benefits as a result of these services.

Qualification criteria presented for entities eligible to receive this payment included a demonstration to the market administrator that it provides information with respect to market order prices and marketing conditions, that it has retained legal and economic staff or consulting personnel available to participate in marketing order amendatory proceedings, to consult with the market administrator with respect to marketing order issues, and that the entity pool at least 2.5 percent of the order's total milk volume.

As presently presented there is not a compelling reason to adopt this sort of compensatory plan to reimburse those entities that incur these costs. Market administrators and their staffs make themselves available to meet with, discuss, and aid in formulating positions that are reflective of the need of the marketing area as a normal part of their duties. Additionally, there are numerous provisions in the order that require as a matter of course, the issuance of reports, prices, and other information that affect all marketing order participants and to provide service to the entities affected by the regulatory plan of the order. Finally, no other current or recommended consolidated order recommends providing for such cost compensation. Cooperative and proprietary handlers in the New England and Middle Atlantic marketing areas included in the consolidated Northeast order, as well as entities in all other marketing areas have not experienced or have demonstrated any of the harm or ''disadvantage'' that arises, or may arise, if such costs are not shared by the entire pool of producers in the marketing area. This proposed rule can only assume that industry participants that have an interest in developing the promulgation and amendments to marketing orders would be willing to do so at their own expense. The positions and arguments offered are largely issues of the self-interest of entities. As such, self-interest may or may not be of marketwide benefit.

Balancing Payments. The Secretary proposes that a marketwide service payment plan offered for inclusion in the consolidated Northeast order includes a 4-cent per cwt. marketwide service payment to qualified handlers that perform market balancing from the marketwide pool should not be included in the consolidated Northeast order.

The proposal for balancing payments from the marketwide pool is intended to reflect that there are costs that handlers incur in balancing the Class I needs of the market and in providing for clearing the market of temporary surpluses. According to the proponents, these balancing costs are not fully recoverable from Class I handlers, however the benefit that results from this service being provided is a benefit of all producers in the market.

Handlers that incur the costs would be those handlers that would receive partial cost reimbursement. Cooperatives would be eligible to form common marketing agencies or federations for purposes of qualifying for balancing payments. Such handlers would include those who: (1) demonstrate ownership or operation of a balancing plant with the capacity to process a million pounds of milk per day into storable products such as cheese, butter, and nonfat dry milk and that such handler also represent at least 2.5 percent of the total volume of milk pooled under the order; (2) have under contract and the obligation to pool on a year-round basis at least 8 percent of the market's milk volume; (3) own a balancing plant that must be made available to other handlers or cooperatives at the request of the market administrator; (4) qualify to provide pool producers with a temporary market for their milk for up to 30 days at the request of the market administrator; and (5) demonstrate to the market administrator that their utilization of milk in Class I uses is greater than the minimum shipments required for pool plant qualification under the order.

There are several reasons for not recommending balancing payments for the consolidated Northeast order. First, the proposed Northeast order consolidates two current orders, New England and the Middle Atlantic, that do not currently provide for balancing cost offsets to handlers for such purposes and that these markets have not experienced any undue harm or disadvantage by not providing for this sort of cost offset. Secondly, and in addition to expressed opposition to

compensate handlers for balancing the market, an appropriate class price has been provided for market clearing purposes—the Class III—A price. It is a price that is applicable in all current Northeast orders, and is continued in this proposed rule as the Class IV price. While these two class prices are not the same (as explained in the BFP section of this decision), they are conceptually similar in that handlers have been provided with a market clearing price and further compensation beyond this is not warranted. Lastly, the proposed 4-cent per cwt. level is unexplained with respect to how adequately it tends to offset balancing costs.

The ''Pass-Through'' Provision

Currently, the New York order provides for what is commonly referred to as the ''pass-through'' provision. The intent of this provision is to provide for a degree of competitive equity for handlers that pay the order's Class I price for milk so that they can compete with handlers in unregulated areas that do not. This provision has been in place in the New York order since 1957 and is a part of how the order allocates and classifies milk. In functional terms, the pass-through provision removes the amount of milk distributed outside of the marketing area from the full Class I allocation provisions of the order, thereby providing a degree of price relief to handlers who compete with other handlers who are not held to the pricing provisions of the order in unregulated areas. Regulated New York handlers currently compete with unregulated handlers in the unregulated areas of Pennsylvania and other areas in the Northeast region.

The current provisions of the New England and Middle Atlantic orders do not have this provision although they too adjoin similar non-federally regulated areas. Handlers regulated by these two orders also compete with these same handlers for Class I sales. The merging and expansion of these three Northeast orders continue to result in areas that adjoin the recommended Northeast order that would not be regulated.

While there were proposals both for and against retaining a pass-through provision in the consolidated order, the need for it was expresses on the basis of the extent the Northeast consolidated order would be expanded to include currently unregulated areas. Generally, handlers support continuing to provide for a pass-through provision, and this position can only be considered reinforced given the limited degree of expansion of the consolidated Northeast order. If the entire Northeast region would fall under Federal milk order regulation, the need for the pass-through would be moot.

The Secretary proposes that a pass through provision, even in light of the limited expansion suggested for the consolidated Northeast order, should not be included. Class I prices charged to handlers that compete within the marketing area for fluid sales are determined by the location value of their plants. The Class I differential structure recommended by either Option 1A or Option 1B both recognize the location value of milk for Class I uses and are both designed to establish Class I differential values to cause milk to be delivered to bottling plant to satisfy fluid demands. Accordingly, any handler located in high-valued pricing areas will be charged for the location value of Class I milk at their plant location regardless of whether or not they compete with other handlers for fluid sales in areas where the location value of Class I milk at these plant locations are lower. This location value pricing principle should be extended to address handlers competing for sales with handlers who do not pay the same price for Class I milk in unregulated areas.

Seasonal Adjustments to the Class III and Class IV Prices

The three northeast orders to be consolidated into a single Northeast order currently provide for a seasonal adjustor on Class III and Class IIIA milk prices. These provisions have been a part of these three orders for more than 30 years. Prior to the adoption of the Minnesota-Wisconsin (M–W) price series in the mid-1970's, these markets established the equivalent of the modern Class III price on the basis of what was known as the U.S. Average Manufacturing Grade Milk-Price Series (U.S. average price).

The U.S. average price series was a competitive pay price series, but differed from the M–W in that it recorded price averages consistently below the M–W that was rapidly being adopted elsewhere in the country as the appropriate price for surplus uses of milk and used as a price mover for higher-valued class prices. Given the national marketplace in which surplus diary products compete for sales, a mechanism was needed to align these two differing price series. Accordingly, seasonal adjustments to the Class III price were developed and made a part of these orders. These seasonal adjustors were found not only to be warranted for better price coordination between these two price series, but also served to encourage handlers to dispose of the maximum amount of milk in Class I uses.

By the mid-1970's, the M–W was adopted to replace the US. average price series and the seasonal adjustors were retained. The reason for retaining these adjustments were indicated to encourage handlers to make more milk readily available for fluid use in the short production months and to facilitate the orderly disposition of excess reserve milk supplies in flush production months. Although some regional price disparity was acknowledged to result from retaining these adjustments, they were nevertheless retained because there was no evidence that providing for such adjustment had led to any interregional problems in the marketing of the reserve milk supply.

Agri-Mark, a major cooperative in the northeast, has proposed that seasonal adjustments continue in the consolidated Northeast order. The main thrust of their proposal is that markets with relatively high Class I use create a burden on the manufacturing sector in their areas. They view seasonal adjustments as also assisting in sending the proper economic signal to manufacturers. This is important, according to Agri-Mark because the seasonal adjustment provides an economic ''disincentive'' for Class III and Class IV manufacturers to use milk in the fall when less producer milk is available and additional supplies are needed for Class I uses.

The Secretary proposes that as presently formulated, seasonal adjustors to the Class III and Class IV prices should not be incorporated into the provisions of the consolidated Northeast order. This proposed rule proposes a much more permanent replacement for the current BFP. If the suggested BFP is adopted in all new consolidated orders, there is no compelling reason offered at this time to contemplate continuing seasonal adjustments to Class III and Class IV prices in light of how these prices would be derived. They are also not proposed for orders that are expected to have Class I utilizations similar to those anticipated in the consolidated Northeast order and who similarly have important manufacturing activity in such markets.

6b. Southeast Regional Issues

The 3 proposed orders for the Southeastern United States—Florida, Southeast, and Appalachian—are faced with a different set of marketing conditions than other orders. The Southeastern United States is one of the fastest growing areas of the country but the most deficit area in terms of milk

production per capita. From 1988 to 1995, the population of the 12 Southeastern states rose from 57.9 million to 63.5 million. By the year 2000, the population is expected to reach 66.8 million people.

While population increases in the Southeast, milk production in the 12 Southeast states (i.e., Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia) has been decreasing—from 15.4 billion pounds in 1988 to 13.7 billion pounds in 1996. The net result of these opposite trends is a widening gap between the local supply of milk for fluid use and the demand for such milk.

Unlike other parts of the country, the Southeast has few facilities for handling surplus milk. Consequently, surplus production during the months of January through June must, in some cases, be shipped hundreds of miles for processing at manufacturing plants generally to the north. For this reason, the provisions in these orders must be aimed at the twin goals of encouraging supplemental milk to move to these markets during the short production months—generally July through December—but they must also discourage supplemental milk to move to these markets when it is not needed in the flush production months—generally January through June—because such milk would simply displace local milk and increase cooperative organizations' costs to dispose of the milk.

Transportation Credits

As a result of the need to import milk to the Southeast from many areas outside the Southeast during certain months of the year, transportation credit provisions were incorporated in the Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville orders in August 1996. These provisions provide credits to handlers that import supplemental milk for fluid use to the market during the short production months of July through December. The provisions restrict credits to producers and plants outside of the marketing areas. The credits are also restricted to producers who supply the markets during the short season and are not applicable to producers who are on the market throughout the year.

Following the initial implementation of transportation credits in August 1996, the provisions were modified in a final decision issued on May 12, 1997. The amendments became effective on August 1, 1997, in 3 of the 4 orders.[33]

The Secretary proposes that transportation credit provisions should be retained in the new Southeast and Appalachian orders but should not be included in the Florida order. Written comments received in response to the advance notice of proposed rulemaking indicate that producers in the Southeast favor retention of these provisions for these two orders. The Secretary proposes that the provisions should not be included in the Florida order, however, because that market is largely supplied by 2 cooperative associations which are able to recoup their costs of supplying the market with supplemental milk.

With the consolidation of orders, the Secretary proposes that some conforming changes should be made to the transportation credit provisions of the Southeast and Appalachian orders. Section 82(c)(1) of the present orders limits transportation credits on transferred bulk milk to plants that are regulated under orders other than the southeast orders that currently have the provisions, and section 82(c)(2)(ii) limits the area where farms may be located to be eligible for transportation credits on milk shipped directly from producers' farms. In §§ 1005.82(c)(1), 1007.82(c)(1), 1005.82(c)(2)(ii), and 1007.82(c)(2)(ii), the references to ''1011 and 1046'' should be removed.

The addition of northwest Arkansas and southern Missouri to the Southeast marketing area will make those 2 areas ineligible for transportation credits. This change in the application of the credits would naturally follow from the logic for incorporating these 2 areas in the Southeast marketing area. Specifically, northwest Arkansas and southern Missouri are regular sources of supply for handlers in the Southeast marketing area and, in addition, include plants that compete for sales with handlers regulated under the Southeast order. Accordingly, the producers in these 2 areas should, and will, regularly share in the pool proceeds of the Southeast market. Of course, since transportation credits are designed to attract supplemental milk to the market for fluid use from producers who are not regularly associated with the market, transportation credits should not, and will not, apply to a farm or a plant in northwest Arkansas or that portion of southern Missouri that is to be included in the Southeast marketing area.

[33] The Tennessee Valley order, as amended, was not approved by producers. The order was terminated effective October 1, 1997.

Pooling Standards

A number of comments were submitted regarding the issue of pooling standards in the southeast region. The Southeast Dairy Farmers Association (SDFA) recommended that pooling standards be maintained at levels that are as strict or stricter than current regulations and that southeastern milk marketing orders contain pooling requirements that reflect the deficit nature of these markets. SDFA argued that such provisions would discourage the movement of milk into and out of a Federal marketing area that does not normally serve the area unless the milk was actually needed. The association stated that performance requirements for plants are an important element in ensuring that southeastern fluid markets are adequately supplied on a year-round basis and in ensuring that only those plants that have as their principle purpose the supplying of the markets' fluid milk requirements receive the benefits of higher uniform prices. Currently, pooling standards vary between markets and regions, and the association believes that these varying standards should be maintained. SDFA supports a 50% route disposition requirement for pool distributing plants and recommends that the in-area route disposition requirement be standardized at 15% and the 1500-pound daily average exemption be changed to 150,000 pounds per month.

The National Farmers Organization (NFO), recommends that pooling standards for all of the orders recognize and accommodate the pooling on a year-round basis of milk supplies which are actually required for that market's Class I needs on a seasonal basis. NFO suggests that each order should be viewed separately in determining the standards and urges the Department to carefully evaluate pooling provisions to assure equity throughout the system. Another commentor, Middlefield Cheese of Ohio (Middlefield), recommends that all orders have the same pooling requirements. Middlefield states that varying pooling standards between orders create great difficulty in procuring milk for small businesses. It argues that uniformity would allow milk to be economically and efficiently marketed to where it is needed as opposed to a ''large co-op dictating control over the milk market.''

One of the major cooperatives operating within the Southeast, Mid-America Dairymen, Inc. (Mid-Am), recommends that the pooling standard for distributing plants in high utilization markets should be 50% Class I. Mid-Am also recommends that market

administrators be given the authority to adjust shipping requirements in all orders.

A number of comments addressed the issue of where a plant should be regulated and whether there should be a ''lock-in'' provision which would keep a distributing plant regulated under the order where it is located rather than where it may have the most sales. SDFA supports the adoption of lock-in provisions in the consolidated southeast orders. Prairie Farms Dairy, Inc. states that pool distributing plants should be regulated where located rather than where route disposition occurs. Another cooperative association, Milk Marketing Inc. (MMI), states that competition for local milk supply and a competitive pay price with neighboring plants is much more important to both producers and processors than a price that is competitive with other plants that compete for sales in a given area. Therefore, MMI recommends regulating a distributing plant in the market where it is located rather than on the location of its sales. MMI contends that the Federal milk order program should be concerned with attracting milk to a plant, not the retail location. The cooperative states that plants in unregulated areas should continue to be regulated based on sales areas.

Some comments received addressed supply plant requirements. SDFA recommends that for the southeastern orders the supply plant shipping requirement be 60% of a plant's receipts during July through November and 40% during December through June. However, SDFA also acknowledges that specific exceptions to this principle may be necessary to accommodate specific needs and should be considered on a case by case basis.

SDFA states that supply plant performance requirements should not be changed in an effort to allow all Grade A milk to be included in a marketwide pool. Such a change, it contends, would result in disorderly marketing and jeopardize the viability of local supplies. SDFA requested year-round shipping requirements for supply plants under Orders 5, 6, and 7.

SDFA also states that automatic pooling should be provided for manufacturing or receiving plants located in the marketing area if the plant is operated by a cooperative association, but only if the cooperative has a substantial association with the market.

MMI maintains that southeastern orders would be well-served by provisions which allow reserve supply plants in the North and West to participate in higher blend prices throughout the year, in exchange for greater assurance of a milk supply in the short production months when additional milk is needed. Land O'Lakes (LOL) recommended the elimination of shipping requirements for supply plants, but suggested that supply plant operators make a commitment to supply the market when additional milk is needed. LOL also supports the adoption of a ''call'' provision in each order that would allow the market administrator to require supply plant shipments on an as-needed basis.

Another cooperative operating in the Southeast wrote that reserve supply plant qualification should be based on total cooperative performance but that such plants should not be required to be located in the marketing area. This cooperative contends that if a cooperative is performing a balancing function for the market, it should not be discriminated against just because its plant is not located in the marketing area.

Suggestions were also received concerning certain specialty plants that are located in the Southeast. SDFA recommended amending the *route disposition* definition to accommodate a specialty fluid milk plant in Jacksonville that disposes of long shelf life dairy products. SDFA states that although a large portion of its fluid supply is disposed for Class I use, because of the nature of its business, it is likely that the plant would not meet the 50% route disposition requirement for pool status.

Proposal: The Secretary proposes that the pool plant provisions for the Appalachian, Florida, and Southeast orders under consideration should closely follow the provisions now contained in the southeast orders. The performance standards proposed are appropriate for the needs of these seasonally-deficit markets.

Section 7(a) of each Federal milk order describes the pooling standards for a distributing plant. To qualify for pooling under each of the 3 orders, a distributing plant must dispose of 50 percent of the total fluid milk products received at the plant as route disposition. In addition, at least 10 percent of the plant's receipts must be disposed of as route disposition in the marketing area. These standards would indicate that a distributing plant is closely associated with the fluid market and, therefore, should be part of the marketwide pool.

Paragraph (b) of Section 7 would accommodate the pooling of plants that specialize in aseptically-packaged products. There are at least two such plants in the southeast markets: the Ryan Foods Company plants in Jacksonville, Florida and Murray, Kentucky.

Unlike a typical distributing plant, a plant specializing in aseptically packaged products may have a more erratic processing schedule, reflecting the longer shelf life of the products packaged at the plant. Consequently, a plant's Class I utilization may vary considerably from month to month. In the past, such variability has resulted in shifting pool status for some of these plants from one order to another. In some months, the plant may have been partially regulated, even though all of the milk received at the plant was priced under the order. This type of regulatory instability is not conducive to orderly marketing. To guarantee greater regulatory stability for these plants, they should be fully regulated pool plants if they are located in the marketing area and have route disposition in the marketing area. However, if the plant has no route disposition in the marketing area during the month, the plant operator may request nonpool status for the plant.

The Secretary proposes that each of the three orders also should specify pooling standards for a supply plant. For the Appalachian and Southeast orders, a supply plant must ship at least 50 percent of the milk physically received during the month from dairy farmers and cooperative bulk tank handlers. In the case of the Florida order, the shipping percentage should be slightly higher at 60 percent.

Unlike supply plant provisions in other orders, the supply plant provisions in the three southeast orders should not recognize shipments directly from producers' farms as qualifying shipments for a supply plant. At the present time, there are no plants qualifying as ''pool supply plants'' under any of the southeast orders.

Almost all of the plants that balance the fluid needs of the Southeast are operated by cooperative associations. These ''balancing plants'' qualify for pooling based upon the performance of the cooperative association and not based upon shipments from the plant alone. The Secretary proposes that balancing plant provisions should be maintained for the three southeast orders.

A balancing plant may qualify based upon shipments directly from producers' farms as well as shipments from the plant. To qualify as a balancing plant, the plant must be located within the order's marketing area. This requirement ensures that milk pooled through the balancing plant is economically available to processors of fluid milk if needed. However, in the

case of the Appalachian order only, a balancing plant also may be located in the State of Virginia. This provision has been in the Carolina order and should be continued in the Appalachian order. The performance standards for a balancing plant should be 60 percent of producer receipts under each of the orders every month of the year.

There is no necessity to seasonally adjust the supply plant and balancing plant shipping requirements for the three southeast orders because the standards proposed are flexible enough to accommodate the disposal of surplus milk during the flush production season. In addition, the Secretary proposes that each of the three orders should contain a provision to allow the market administrator to increase or decrease shipping requirements and other pooling standards by up to 10 percentage points. This provision also should be included in the producer milk section of all three orders with respect to the percentage of milk that may be diverted and the number of days in which a producer's milk must be received at a pool plant.

In addition to the provisions described above, the Secretary proposes that each of the southeast orders should contain a provision to allow unit pooling of distributing plants operated by the same handler. The proposed rule is based upon the provision that has been in the Southeast order since 1995.

Some distributing plants may meet the pooling standards of more than one order. Consequently, the Secretary proposes that it is necessary to specify the rules for determining where a plant will be regulated. Under the southeast orders, if a plant meets the pooling standards of the order and is located in the order's respective marketing area, the plant should be regulated under that order even if it has greater sales in some other order's marketing area. This provision has evolved as a result of several price alignment problems in the Southeast involving a plant located in one marketing area but regulated under another order. In every such case, a plant's supply of milk was put in jeopardy as a result of a lower blend price under the order in which it became regulated based on its sales. Notwithstanding the merging of several of the smaller markets in the Southeast, the Secretary proposes that this provision should be retained for the southeast orders to preclude a repetition of this problem. There was widespread support in comment letters for retention of this provision.

In the case of a distributing plant that is not located within any order's marketing area, the Secretary proposes that a different standard should apply. Since, in this case, it cannot be presumed with certainty that a plant is most closely associated with the market in which it is located, its association with a market should be determined based upon where it has the most sales.

Producer-Handler

The Secretary proposes that the producer-handler provisions for the three southeast orders should be very similar to the current provisions. To qualify as a producer-handler, a dairy farmer would have to have route disposition in excess of 150,000 pounds per month; otherwise, the producer's plant would be exempt from regulation pursuant to a provision that has been uniformly adopted for all orders.

To qualify as a producer-handler, a dairy farmer may receive no fluid milk products from sources other than his or her farm and may dispose of no fluid milk products using the distribution system of another handler. Finally, the dairy farmer must provide proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing, packaging, and distribution operations, are his/her own enterprise and are operated at his/her own risk.

At the present time, there are three or four producer-handlers operating in the southeast markets. None of these operations would lose their status as producer-handlers under the provision recommended for new southeast orders.

Producer/Producer Milk

The Secretary proposes that the producer and producer milk definitions recommended for the three southeast orders should be nearly identical to the provisions now in the individual orders. These provisions define which dairy farmers are eligible to share in the proceeds of the marketwide pool.

A *producer* should be defined as a dairy farmer whose milk is received at a pool plant, diverted to a nonpool plant, or received by a cooperative association acting as a bulk tank handler. It excludes a producer-handler, a dairy farmer whose milk is delivered to an exempt plant, or a dairy farmer whose milk is reported as diverted milk under the provisions of another Federal order.

The proposed diversion limits that are specified in the producer milk section should be slightly different among the three southeast orders. To qualify for diversion to a nonpool plant, a minimum amount of a producer's milk should be received at a pool plant during the month (i.e., this is called a ''touch-base'' requirement). Under the Appalachian order, six days' production should be received at a pool plant during each of the months of July through December, and two days' production should be received at a pool plant during each of the other months of the year. Under the Southeast order, ten days' production should be required to be delivered to a pool plant during each of the months of July through December to qualify a producer's milk for diversion to a nonpool plant. During the months of January through June, 4 days' production should be required to be delivered to a pool plant.

Under the proposed Florida order, which will have a higher Class I utilization and less need to divert milk, a producer should be required to deliver at least ten days' production to a pool plant during every month of the year in order to be eligible for diversion to a nonpool plant. These proposed standards are comparable to those required under the separate Florida orders.

The total quantity of milk which may be diverted by a pool plant operator or cooperative association during the month also should vary by market as well as by month. Under the Appalachian order, a pool plant operator or cooperative association should be permitted to divert 25 percent of their producer milk during the months of July through November, January and February. During the months of December and March through June, the total diversion limit should increase to 40 percent of producer milk receipts. The Secretary proposes that the Southeast order should provide a total diversion limit of 33 percent during the months of July through December, and 50 percent during the other months. The proposed diversion limits under the Florida order should be 20 percent during the months of July through November, 25 percent during the months of December through February, and 40 percent during all other months.

The proposed ''touch base'' requirements and gross diversion limits described above should be adjustable by the market administrator to assure orderly marketing and/or efficient handling of milk in the marketing area. This procedure is described in §§ 1005.13(d)(7), 1006.13(d)(6), and 1007.13(d)(7).

Although a ''dairy farmer for other markets'' provision was requested for the new orders by some producer organizations, it was opposed by others. The Secretary does not propose inclusion of this provision in the three southeast orders at this time. Such a

provision would restrict the free movement of milk as needed between market. The proposed diversion limits and touch-base requirements in the southeast orders should preclude the association of milk with these markets when such milk is not needed at pool plants.

Report of Receipts and Utilization

The Secretary proposes that to accommodate the payment schedule desired for the three southeast orders, the handler's report of receipts and utilization must be in the market administrator's office no later than the 7th day of the month. The producer payroll report will be required by the 20th day of the month. The information to be included in these proposed reports is essentially identical to the current order provisions.

Payments for Milk

The Secretary proposes that the southeast orders should provide uniform payment schedules for payments to and from the producer-settlement fund and to producers and cooperative associations. Payment to the producer-settlement fund should be made by the 12th day of the month and payment from the producer-settlement fund should be made one day later.

In the case of payments to producers and cooperative associations, the Secretary proposes that the merged Florida order should maintain the longstanding three-payment schedule that has been part of the present Florida orders for many years. The partial payments to producers under the new Florida order should be made on the 20th day of the month for milk received during the first 15 days of the month and on the 5th day of the following month for milk received during the remainder of the month. The rate of payment should be at not less than 85 percent of the preceding month's uniform price, adjusted for plant location and for proper deductions authorized in writing by the producer. The final payment for milk received during the previous month should be made on or before the 15th day of the month.

The Secretary proposes that the Appalachian and Southeast orders should have identical payment schedules. The partial payment for milk received during the first 15 days of the month should be made on the 26th day of the month. The rate of payment should be 90 percent of the preceding month's uniform price. The final payment should be required to be received by the producer on or before the 15th day of the following month. The rate of final payment for all 3 orders should be the preceding month's uniform price adjusted for butterfat, plant location, partial payments, marketing services, and proper deductions authorized in writing by the producer.

Each order now requires payment to a cooperative association to be made one day earlier than the payment to an individual producer. The Secretary proposes that this practice should continue under the new orders.

6c. Midwest Region

Upper Midwest Order

Pool Plant

The Secretary proposes that the pool distributing and pool supply plant definitions of the proposed consolidated Upper Midwest order should use the standard order language used in other orders, adapted to marketing conditions in the Upper Midwest.

The proposed *pool distributing plant* definition specifies that for a plant to be a pool distributing plant, it must have 15 percent or more of its total receipts of bulk fluid milk distributed as route disposition. This percentage is considerably lower than the percentage used in the Chicago Regional order, which varies from 30 percent to 45 percent depending on the month. However, the current Upper Midwest order uses a percentage based on the marketwide Class I percentage for the same month of the previous year. During ''normal'' months this percentage is approximately 15 percent. When some milk is held off the pool for economic reasons (primarily unusual price differences between classes), the percentage may vary considerably, ranging from the ''normal'' 15 percent to over 50 percent. Use of a constant percentage at approximately the market Class I percentage will reduce the current opportunities available to distributing plants to become partially regulated by manipulating their reported receipts and diversions of milk. In addition, the proposed language should eliminate month-to-month uncertainty caused by basing handlers' regulatory status on the market's fluctuating utilization percentage.

In addition to specifying the route disposition percentage at 15 percent, the proposed percentage would be calculated on the basis of the total receipts of bulk fluid milk products physically received at the distributing plant. Currently both the Chicago Regional and Upper Midwest orders include milk diverted from the distributing plant in the total bulk receipts used to compute the route disposition percentage.

The Identical Provisions Committee recommended that the in-area distribution criteria for pool distributing plants be 15 percent of total route disposition. The Committee explained that use of total route disposition rather than bulk receipts as the denominator would reduce opportunities for handlers to manipulate the manner in which they may report their operations to avoid regulation. Currently in the Chicago Regional and Upper Midwest orders the in-area route disposition standard is computed using the same basis (bulk receipts, including diversions) as is used to determine whether a plant meets the definition of a pool distributing plant.

The Secretary proposes that provision be made for a single handler to form a unit of distributing plants and manufacturing plants, all of which must be located within the marketing area. The unit would have to meet the requirements for a pool distributing plant and at least one of the plants in the unit would be required to meet the pool distributing plant requirements as a separate plant. Plants not meeting the pool distributing plant definition would be required to have disposition of packaged fluid milk products, packaged fluid cream products, or cottage cheese and other soft manufactured products of at least half of their receipts of Grade A bulk fluid milk products, including milk diverted by the plant operator.

Manufacturing plants traditionally have been included in units with distributing plants because the manufacturing plants produced products such as packaged fluid cream, sour cream, and cottage cheese that are marketed in conjunction with bottled fluid milk products. In addition, some of these plants produce a limited quantity of fluid milk products. Handlers have argued that the operator of a free-standing manufacturing plant that manufactures these complementary products should be able to pool its milk supply for both (or for several) plants as if all of the products were made in the bottling plant.

Both the Chicago Regional and Upper Midwest orders contain a provision for a distributing plant unit. Although the current Chicago Regional order does not specify the types of products that may be manufactured at plants in the unit, the Upper Midwest order does. The Secretary proposes that it is reasonable to place restrictions on the types of products that are disposed of from the manufacturing plants in the unit, since these plants would receive the benefits reserved for pool distributing plants and

shipments from supply plants to the plants in the unit would be considered in determining pool supply plant qualifications.

A *pool supply plant* operator should ship as qualifying shipments at least 10 percent of the plant's receipts of milk from producers, including milk diverted by the handler, each month. As in the current Chicago Regional order, it is proposed that such shipments may be made to pool distributing plants, pool distributing plant units, plants of producer-handlers, partially regulated distributing plants, or distributing plants fully regulated by other Federal milk orders. The extent of shipments to partially regulated distributing plants to be used for qualification would be limited to the quantity classified as Class I. Qualifying shipments to distributing plants regulated by other Federal milk orders should be limited to the quantity shipped to pool distributing plants, and may not be agreed-upon Class II, Class III or Class IV utilization. Shipments directly from farms to pool distributing plants and to plants contained in pool distributing plant units should be included as shipments that help to meet the percentage qualification standard.

The proposed 10 percent shipping requirement is approximately 5 percentage points less than the anticipated Class I percentage for the proposed consolidated Upper Midwest order. The 10 percent shipping standard is greater than the current individual supply plant shipping standard and equal to the maximum shipping percentage required of pool units during the qualifying period in the current Chicago Regional order. The standard under the current Upper Midwest order, which uses the Class I use percentage of the same month in the previous year as the supply plant shipping percentage, would exceed the proposed percentage. Also under the current Upper Midwest order, a reserve supply plant must ship 10 percent of its receipts to pool distributing plants during January through June, and the marketwide Class I percentage for the same months of the preceding year for the months of July through December.

Although the proposed shipping percentage is below the estimated Class I percentage for the proposed Upper Midwest order, the 10 percent shipping standard should be appropriate, in view of the fact that many distributing plants have a supply of milk from their own producers. In September 1997, approximately 27 percent of the milk pooled or received at distributing plants in the Chicago Regional order was pooled as producer milk with the distributing plant operators as the handlers, rather than as producer milk pooled by cooperatives and other handlers. The milk pooled by distributing plant handlers accounted for approximately 12 percent of the total milk pooled in September 1997 (or approximately 5 percent of the total milk that would have been pooled if all of the milk eligible to be pooled in September 1997 had been pooled). Approximately 7 percent of the Class I producer milk, or approximately 2 percent of the total producer milk, pooled under the Upper Midwest order is pooled by distributing plant operators. The combination of the supply plant shipping percentage and the percentage of milk pooled directly by distributing plant handlers would appear sufficient to meet anticipated Class I needs in the proposed Upper Midwest order. The proposed 10 percent supply plant shipping percentage also should be appropriate to avoid unnecessary and uneconomic shipments.

The proposed rule would allow the market administrator to increase or decrease the required shipping percentage on a marketwide or selected area basis if deemed necessary to assure an adequate supply of milk to pool distributing plants or to prevent uneconomic shipments of milk. If the shipping percentage is increased by the market administrator, shipments made for the purpose of meeting the increased percentage may be made only to pool distributing plants or plants contained in pool distributing plant units.

Groups of two or more supply plants should be allowed to form *systems of supply plants* for the purpose of meeting the shipping requirements, by shipping the same percentage as that required for individual pool supply plants that are not part of such a system. These pool supply plant systems may consist of plants of the same handler, more than one handler, and may contain both proprietary and cooperative handlers. The only requirement affecting an individual plant within the unit is that the plant must be physically located within the marketing area. This restriction is necessary to prevent distant plants from receiving the benefits of participating in the marketwide pool without having an actual association with the market.

Several plants located outside the boundaries of the proposed marketing area currently are included in supply plant units by a ''grandfather clause'' in the Upper Midwest order. The proposed order provides that these plants may continue to be included in a supply plant unit if they so desire as long as they maintain continuous pool plant status.

The Secretary proposes that handlers may form supply plant systems by filing a written request by July 15, listing the plants to be in the system. The system would remain in effect from August 1 through July 31 of the following year. These dates deviate from those proposed for other orders because of the difference in seasonal production variations between this and other orders. The handler or handlers establishing the system may also delete a plant from the system or dissolve the system by submitting a written request to the market administrator. Any plant deleted from a system, or plants that were part of a system that was discontinued, may not be part of a system until the following August.

Provisions that allow handlers to add plants to a system under certain circumstances and to allow systems to reorganize in the event a plant changes ownership or in the event of a business failure by a handler are also incorporated in the proposed order.

A system failing to meet pooling standards would be allowed to drop plants from the system until the system does qualify. The handler responsible for assuring that the system qualifies should notify the market administrator of which plants are to be deleted from the system. If the handler does not notify the market administrator, the market administrator would exclude plants from the system beginning with the plant at the bottom of the list of plants submitted by the handler responsible for qualifying the system, and continuing up the list until the system qualifies.

The provisions for supply plant systems are very similar to the provisions currently contained in both the Chicago Regional and Upper Midwest orders. Unlike the Chicago Regional and the Upper Midwest orders, however, the proposed order does not contain a specific shipping requirement for individual plants within a supply plant system. In the current Chicago Regional order, pool supply plant systems have twice the percentage shipping standard of individual supply plants, with individual plants within the systems required to ship 47,000 pounds or three percent of their producer receipts, whichever is less, in five of the six months of August through January. The current Upper Midwest order requires handlers with supply plants in a supply plant system to ship five percent of each handler's Grade A receipts, including milk diverted by the handler to nonpool plants, during one of

the months of August through December.

This proposed rule does not propose providing for the category of supply plants referred to as reserve supply plants. Reserve supply plants ceased to be included in the Chicago Regional order in 1987, while the Upper Midwest continues to provide for them. With year-round shipping requirements, the unlimited ability of the market administrator to change shipping percentages both in level and in area, and the ability of supply plants to form systems, it is proposed that there is no compelling reason to have two categories of supply plants.

A provision to allow plants to remain qualified for up to two consecutive months due to unavoidable circumstances, such as a natural disaster, fire, breakdown of equipment, or work stoppage is included in this proposed order. The provision is contained in the Chicago Regional order and has worked quite well in giving handlers some administrative relief in the face of certain unavoidable circumstances.

Producer Milk

The definition of producer milk determines which milk will be eligible to participate in the Federal order pool. The proposed order provides that milk received at a pool plant directly from producers or from a cooperative association acting as a handler should be eligible to be producer milk. Milk for which the operator of a pool plant is the handler that is delivered directly from the farm to another pool plant should also be considered producer milk. Under certain circumstances, milk delivered to a nonpool plant may also be considered producer milk. Milk delivered directly from a farm to a nonpool plant may be considered producer milk if at least one day's production is received at a pool plant during the dairy farmer's first month as a producer.

In order to qualify as producer milk the milk pooled by a cooperative association acting as a handler described in § 1030.9(c), the cooperative must deliver at least 10 percent of the milk for which it is the handler pursuant to § 1030.9(c) to pool distributing plants, units of pool distributing plants, plants of producer-handlers, partially regulated distributing plants, or distributing plants fully regulated by other Federal milk orders. The shipments to partially regulated distributing plants are limited to the quantity classified as Class I. Qualifying shipments to distributing plants regulated by other Federal milk orders are limited to the same quantity shipped to pool distributing plants and may not be shipped as agreed-upon Class II, Class III or Class IV utilization. These are the same performance requirements that would apply to supply plants. Likewise, the same performance requirements that apply to supply plants would apply to cooperative associations acting as handlers if the market administrator adjusts the shipping percentages.

The Secretary proposes that there would be no significant differences in the treatment of milk received at pool plants under the proposed order and under the Chicago Regional or Upper Midwest orders. There are, however, several differences relating to diverted milk. The proposed order would allow the operator of a pool plant to divert, or ship milk directly from the farm to another pool plant, the milk of producers for which it is the handler, and account for the milk as producer milk at the shipping plant. Allowing either a proprietary pool plant or a cooperative pool plant to divert milk to another pool plant is consistent with the Chicago Regional order. In the Upper Midwest order, milk that is received at a pool plant and for which a cooperative association is the handler is considered producer milk at the receiving plant. The Upper Midwest order specifies that a proprietary handler may divert milk to another pool plant and that such milk will be considered producer milk of the diverting proprietary handler. The proposed language leaves to the discretion of the cooperative association the option of diverting milk to another pool plant from its own pool plant or delivering the milk to the pool plant in its capacity as a handler of producer milk pursuant to § 1030.9(c).

The proposed Upper Midwest order would require that a new producer or a producer who has broken association with the market have at least one day's production received at a pool plant during the first month in which the producer's milk is reported as producer milk. Currently the Chicago Regional order requires a new producer on the market or a producer who has broken association with the market to have at least one day's production received at the pool plant at which the milk is reported during the first month in which the producer's milk is considered to be producer milk eligible for diversion to a nonpool plant. In addition, at least one day's production of a producer's milk must be received at a pool plant in each of the months of August through January to be eligible for diversion to a nonpool plant. The current Upper Midwest order requires that a new producer or a producer who has broken association with the market be received at a pool plant prior to the milk being diverted to a nonpool plant.

There is little or no justification for forcing producer milk to be received at a pool plant to maintain or prove association with the market. Supply plants and cooperatives would be required to ship a fixed percentage of their total milk supply, not just that portion received at their plants, to the fluid market. Since both cooperatives and proprietary handlers can move milk directly from the farm to the fluid market there is little reason to force milk into a pool plant for regulatory purposes only. Certainly the extra cost to the handler of moving milk for regulatory purposes does not enhance economic efficiency or milk quality and in fact decreases economic efficiency and milk quality to the detriment of the entire market.

The proposed order provides that producer milk be priced in the month in which it is picked up at the farm and at the location of the plant at which the milk is physically unloaded into processing facilities or a storage tank. In the current Chicago Regional order milk is priced where milk is pumped within the confines of a plant. The proposed order would eliminate the pricing of milk where it is pumped from truck to truck and price the milk where it is eventually unloaded into processing facilities or a storage tank.

Location Adjustments and Transportation Credits

To help move milk to the fluid market a transportation credit and a procurement credit to be applied to Class I milk are contained in the proposed Upper Midwest order. The *transportation credit* would be computed by multiplying the hundredweight of Class I milk contained in transfers of bulk fluid milk from pool plants to pool distributing plants by the value obtained by multiplying .0028 times the number of miles between the shipping plant and the receiving plant. The transportation credit should be paid to the shipping handler, since the milk would be priced at the location at which it is first received.

The proposed transportation credit is similar to the transportation credit currently contained in the Chicago Regional order. Both the proposed transportation credit and the current credit, which use the same .0028 rate, are applied to Class I milk only. However, in the current Chicago Regional order the credit is based on 110 percent of the Class I milk received

at the pool distributing plant, rather than on the Class I milk delivered by the shipping handler, as proposed. Since the transportation credit is computed on the basis of milk classified as Class I at the shipping plant, the credit would be paid to the shipping handler.

Unlike the transportation credit, which is based on mileage and paid only on transfers of bulk milk to pool distributing plants, the *procurement credit* would be paid at the rate of 8 cents per hundredweight of Class I milk transferred or diverted by a pool plant to a pool distributing plant. A procurement credit also will be applied to milk received from producers and from cooperative associations acting as handlers pursuant to § 1030.9(c) based on the pro rata share of producer milk delivered to a pool distributing plant and allocated to Class I.

A transportation credit and procurement credit would be incorporated in the proposed order to assist handlers in supplying the Class I market. These transportation and procurement credits, to be paid on Class I milk only in combination with the Class I price surface discussed elsewhere in this proposed rule, will help handlers move milk to the fluid market by distributing the cost of supplying the fluid market to all market participants who share in the marketwide pool. Handlers and producers who supply the Class I market on a regular basis should not be expected to bear the entire cost of supplying the Class I market while handlers and producers who meet only the minimum requirements derive the benefits of marketwide pooling. Incorporation of a transportation credit and procurement credit on Class I milk in the marketwide pool will assure that at least some of the cost of supplying the Class I market is shared among all market participants.

Mideast Order

Many of the provisions of the proposed Mideast order are explained in the ''Identical Provisions'' portion of this proposed rule, and need not be addressed here. The provisions that deviate somewhat from those proposed for other order areas are the provisions dealing with standards for determining the pool status of producers and handlers, and those describing the pricing of milk under a component pricing plan that differs slightly from that common to the other orders with proposed multiple component pricing provisions. For the most part, pooling provisions have less effect on the current Michigan Upper Peninsula market than on the 4 other markets included in this consolidated order because Michigan Upper Peninsula is the only remaining individual handler pool in the current Federal order system. Therefore, pooling provisions are discussed in relation to the 4 principal markets included in the proposed Mideast order.

Pool Plant

The proposed Mideast *pool distributing plant* definition would differ from that contained in most of the other proposed orders to make less likely the full Federal regulation of three State-regulated plants, two in Pennsylvania and one in Virginia, that currently are partially regulated under one or more of these orders. These State-regulated handlers must pay a minimum Class I price for milk used in fluid products, often a higher price than would be applied under Federal order regulation. At the same time, Federal regulation of the Pennsylvania and Virginia-regulated handlers under the consolidated order would reduce producer returns while having little effect on handlers' costs of Class I milk.

Specifically, the percentage of a handler's total route dispositions distributed within the marketing area that would result in the handler being fully regulated under the Mideast order should be 30 percent under this order rather than the 15-percent standard proposed for all but one of the other 10 orders. This level of sales in the marketing area can be compared to the current pooling standards for distributing plants in the Eastern Ohio-Western Pennsylvania and Indiana orders. These orders currently have variable (30–50 percent) pooling standards for the percentage of a distributing plant's receipts distributed on routes, combined with a 10–15 percent standard for receipts distributed within the marketing area. Plants that meet the total dispositions standard at the lower end of the range (35 or 40 percent) and distribute only 10 or 15 percent of their receipts on routes in the marketing area would actually distribute approximately 30 percent of their route dispositions on routes in the marketing area. At the same time, it would be difficult to justify establishing a pooling standard so high that the significant role played in a market by a handler having more than 30 percent of its route disposition in the marketing area would fail to be recognized by inclusion in the marketwide pool.

In addition to specifying the in-area route disposition percentage at 30 percent of total routes, the total and in-area route disposition percentages would be calculated on the basis of the total receipts of bulk fluid milk products physically received at the distributing plant. Currently all four of the larger orders to be included in the consolidated Mideast order include milk diverted from the distributing plant in the total bulk receipts used to compute the route disposition percentages.

To assure continued pool qualification for all of the handlers who currently are associated with the Mideast markets, the *pool supply plant* definition of the consolidated Mideast order would provide for all of the types of supply plants that currently qualify for pooling under the 4 principal orders. The Eastern Ohio-Western Pennsylvania pool plant provision includes a plant operated by a cooperative if the cooperative association delivers to distributing plants at least 35 percent of the milk for which it is the handler during the current month or over the preceding 12 months. The Southern Michigan order includes as pool supply plants: (a) a plant that has been a pool plant for 12 consecutive months and has a marketing agreement with a cooperative association, and (b) a system of supply plants operated by one or more handlers. Order 40 also includes some shipments to other Federal order plants and partially regulated distributing plants, in addition to pool distributing plants, as qualifying shipments by supply plants.

The percentage of receipts as qualifying shipments to distributing plants currently ranges from 30 to 40 percent for these orders, with direct deliveries from farms rather than plant transfers limited to half of the required deliveries under three of the orders. All four of the orders require performance of pooling standards by supply plants for the months of September through February, followed by a ''free ride'' period during which shipping percentages need not be met by supply plants that met the shipping standards during the required period. The Indiana order contains a provision allowing the continued pooling of a plant that fails to meet pooling standards because of circumstances beyond the handler's control.

The proposed shipping standards for pool supply plants are 35 percent for all months, with plants meeting the standard for the months of September through February being allowed to retain their pool status for the immediately following months of March through August. For the purpose of making the 35 percent level of shipping standard less burdensome, up to 90 percent of required shipments should be allowed to be made directly from farms

to distributing plants. The cooperative association plant provided for in the Eastern Ohio-Western Pennsylvania order would be retained, as would the supply plant provisions peculiar to the Southern Michigan order.

Producer Milk

The *producer* and *producer milk* provisions of the orders to be consolidated in the Mideast order are quite similar and differ little from those to be incorporated in the other consolidated orders. The principal difference between some of the individual orders and the consolidated order would be the limit on the percentage of a handler's pooled producer milk that may be diverted to nonpool plants. The Ohio Valley, Indiana and Eastern Ohio-Western Pennsylvania orders all contain 50 percent diversion limits for the months of September through November, January and February and a 60 percent limit for the month of December, with no diversion limit for the months of March through August. The Southern Michigan order contains a 60-percent diversion limit for the months of September through February, with no limit for the months of March through August. In order to assure that all of the milk that has been pooled under these orders continues to qualify for pooling, the diversion limit proposed for the Mideast order is 60 percent for the months of September through February, with no limit for the March through August period. At the same time, the market administrator would be authorized to increase or reduce the diversion limit as needed to maintain orderly marketing and efficient handling of milk in the marketing area.

Multiple Component Pricing

The reporting and payment provisions of the proposed consolidated Mideast order differ somewhat from those of the other consolidated orders that provide for multiple component pricing (MCP) by retaining the current Southern Michigan component pricing plan. The Southern Michigan multiple component pricing plan is very similar to that proposed for the other MCP orders, but prices ''fluid carrier'' instead of ''other solids.'' The Mideast order language is changed accordingly. This difference appears to be favored by market participants in the Mideast, and would result in very little difference in total payments, either by handlers or to producers whose milk is pooled under the differing provisions.

Central Order

Many of the provisions of the proposed Central order are explained in the ''Identical Provisions'' portion of this proposed rule, and need not be addressed here. The provisions that deviate somewhat from those proposed for other order areas are the provisions dealing with standards for determining the pool status of producers and handlers. An effort is made to explain significant differences between the pooling provisions of the 8 individual orders included in this consolidation and those of the consolidated order.

Pool Plant

The proposed Central *pool distributing plant* definition should follow closely the provisions contained in most of the other proposed orders. The proposed provisions would make no difference in the pool status of distributing plants currently pooled under the individual orders.

Specifically, the percentage of a handler's total route disposition distributed within the marketing area that would result in the handler being fully regulated under the Central order should be the 15-percent standard proposed for most of the other 10 orders. The minimum percentage of a pool distributing plant's actual physical receipts of bulk fluid milk products that would have to be distributed on route is proposed to be 25. Currently most of the orders to be included in the consolidated Central order include milk diverted from the distributing plant in the total bulk receipts used to compute the route disposition percentages.

The proposed order would provide that a single handler be allowed to form a unit of distributing plants and Class II manufacturing plants, all of which must be located within the marketing area. The unit would have to meet the requirements for a pool distributing plant, and at least one of the plants in the unit would be required to meet the pool distributing plant requirements as a separate plant. Plants in the unit that do not meet the pool distributing plant definition would be required to have disposition of packaged fluid milk products, packaged fluid cream products, or cottage cheese and other Class II products of at least half of their receipts of Grade A bulk fluid milk products, including milk diverted by the plant operator.

The proposed inclusion of Class II manufacturing plants in units with distributing plants is supported because the manufacturing plants produce products such as packaged fluid cream, sour cream, and cottage cheese that are marketed in conjunction with bottled fluid milk products. In addition, some of these plants produce a limited quantity of fluid milk products. Handlers have argued that the operator of a free-standing manufacturing plant that manufactures these complementary products should be able to pool its milk supply for both (or for several) plants as if all of the products were made in the bottling plant.

The *pool supply plant* definition of the consolidated Central order would contain provisions that assure continued pool qualification for any handlers or milk currently associated with the markets consolidated into the proposed Central market. The Iowa order contains no limit on the amount of direct-shipped milk that can be used to qualify a supply plant, and several of the other orders allow such deliveries to make up a portion of qualifying shipments. The proposed order allows direct-shipped milk to be counted as pool qualifying shipments without limit.

The Greater Kansas City, Nebraska-Western Iowa, Southern Illinois-Eastern Missouri, and Southwest Plains orders contain cooperative balancing plant provisions, allowing cooperative-operated plants to be pooled if the cooperative delivers a given percentage of the milk for which it is the handler to pool distributing plants. The proposed Central order also contains such a provision, including in the pool plant definition a cooperative association plant that supplies at least 35 percent of the milk for which it is the handler to pool distributing plants, either during the current month or for the immediately preceding 12-month period. The deliveries to pool distributing plants may include deliveries directly from the farms of producers for whom the co-op is the handler, as well as transfers from the cooperative's plant.

Cooperative association ''balancing plants'' serve the market as the outlet of last resort. When surplus milk has no other place to go on weekends, holidays, or during months of surplus production, it moves to cooperative association ''balancing plants'' where it is manufactured into storable products. When production decreases, these plants operate at minimal capacity or may be shut down completely. Cooperative members assume the burden and cost of processing surplus milk through such plants.

Most of the Central orders allow a period during which supply plants do not have to meet shipping percentages if they have done so for the months during which milk production levels are

low and demand for fluid milk is high. The Iowa order has reduced shipping standards for such months. The proposed order should include a period during which supply plants that have served the needs of the market when milk supplies are tight are not required to meet shipping standards, but it is reduced from the 5–7 month period existing in the current orders to a 3-month period from May through July.

The percentage of receipts as qualifying shipments to distributing plants currently ranges from 30 to 50 percent for these orders, the Iowa percentage reduced to 20 for the months of December through August.

The proposed shipping standards for pool supply plants under the proposed consolidated order are 35 percent for the months of September through November and January and 25 percent for all other months, with plants meeting the percentage standard for the months of August through April being allowed to retain their pool status for the immediately following months of May through July.

Groups of two or more supply plants should be allowed to form systems of supply plants for the purpose of meeting the shipping requirements, by shipping the same percentage as that required for individual pool supply plants that are not part of such a system. These pool supply plant systems may consist of plants of the same handler or more than one handler, and may contain both proprietary and cooperative handlers. The only requirement affecting each plant within the system is that the plant must be physically located within the marketing area. This restriction is necessary to prevent distant plants from receiving the benefits of participating in the marketwide pool without having an actual association with the market.

As in the other proposed consolidated orders, the market administrator would have the authority to increase or reduce the order's pooling provisions as marketing conditions change for the purpose of assuring that an adequate supply of milk will be available for fluid use, or to assure that the order does not require handlers to undertake uneconomic movements of milk to maintain the pool status of their plants.

Producer Milk

The *producer* and *producer milk* provisions of the orders to be consolidated in the Central order are quite similar to each other and differ little from those to be incorporated in the other consolidated orders. The principal difference between some of the individual orders and the consolidated order would be the limit on the percentage of a handler's pooled producer milk that may be diverted to nonpool plants. The percentage of a handler's milk that may be diverted to nonpool plants varies under the individual orders from 20 percent of milk received at pool plants during some months under the Eastern Colorado order to 70 percent for some months under the Nebraska-Western Iowa and Iowa orders. Most of the orders require each producer's milk to be received at a pool plant at least once each month.

In order to assure that all of the milk that has been pooled under these orders continues to qualify for pooling, the diversion limit proposed for the Central order is 65 percent for the months of September through November and January, and 75 percent for the months of February through April and December. Allowable diversions for the months of May through July would be unlimited. There would be no requirement that each producer's milk be received at pool plants for a minimum number of days per month. At the same time, the market administrator would be authorized to increase or reduce the diversion limit as needed to maintain orderly marketing and efficient handling of milk in the marketing area.

Multiple Component Pricing

The reporting and payment provisions of the proposed consolidated Central order would include those common to other orders with multiple component pricing. These markets have a significant amount of milk used in manufactured products, and component pricing will enable producers to be paid according to the valuable components of their milk.

6d. Western Region

Southwest Order

The proposed consolidated Southwest marketing area is comprised principally of the current Texas and New Mexico-West Texas marketing areas. With regard to milk production and population (consumption), these areas are both in the process of change, but in different ways. Texas has one of the fastest-growing populations in the U.S., and until recently has been able to maintain milk production on a per capita basis. After a significant increase in milk production during the 1988–1994 period, Texas milk production has been declining somewhat, accompanied by the exit of approximately 29 percent of the State's Grade A dairy farmers. If the current trend continues, the Texas market could come to resemble more closely those of the Southeast portion of the U.S., relying significantly on more distant milk supplies to meet the market's Class I and II needs. This scenario currently is true for the southern parts of Texas.

The State of New Mexico has experienced relatively slow population growth, but dramatic increases in milk production—from 1.099 billion pounds in 1988 to an estimated 4.020 billion pounds in 1997. With the declining production in Texas, the New Mexico milkshed will be drawn upon more often to supply Class I and II needs in the Texas demand centers, 500–600 miles distant. Procurement costs would be expected to increase dramatically. In light of these circumstances, proposed provisions in the proposed Southwest order would provide flexibility to handlers supplying the market to prevent inefficient movements of milk and unnecessary costs of operation incurred for the purpose of participating in the marketwide pool.

Prior to enactment of the 1996 Farm Bill, cooperatives operating in the Southwestern Markets had determined that the two milk orders in the region were being operated as one and should be merged. Much discussion took place and proposed order provisions were developed by the principal cooperatives involved. These comments, with numerous others, were considered in the development of this proposed rule for the Southwest marketing area.

Pooling Standards

Most of the pooling standards in the Texas and New Mexico-West Texas orders have been suspended for some time. The rapid expansion of milk production in the region during the late 1980's created a situation in which handlers operating in the region could no longer meet the provisions of the orders while pooling all of their milk supplies.

Pool Distributing Plant. The identical provisions committee recommended that a pool distributing plant distribute as route disposition at least 25% of its bulk fluid milk receipts at the plant, and distribute at least 15% of its total route disposition within the marketing area. One partially regulated plant located in the Texas marketing area would become fully regulated under this provision. The plant has been partially regulated under the Texas order and, periodically, fully regulated under the Chicago Regional order. The proposed percentages for pool distributing plants will cause this plant to become fully regulated under the Southwest order and alleviate the disorderly conditions caused by its shifts between orders. There should be no change in the

plant's costs, since their supply of milk comes from Southwest pool sources.

Pool Supply Plant. The Texas and New Mexico-West Texas orders currently contain a 50% pool supply plant shipping percentage during the Fall months, with a lower percentage or an automatic pooling provision for the remaining months. Currently there are no pool supply plants regulated under either of the Southwest orders, but provision is made for such an operation if it should meet the proposed order's definition. A provision defining cooperative plants located in the marketing area would base pool qualification on total cooperative performance in delivering at least 30 percent of the cooperative's milk supply pooled under this order to pool distributing plants.

Although neither the Texas nor New Mexico-West Texas orders currently have provisions for split-plant operations (plants that have both pool and nonpool portions) or the authority for the Market Administrator to adjust shipping requirements, these provisions are included in the proposed order, as recommended by the identical provisions committee.

Producer Milk

The current Texas and New Mexico-West Texas orders have provisions that require a producer's milk to be received at a pool plant, or touch base, before milk of the producer is eligible to be diverted. Based on comments received, the order would limit diversions of producer milk on the basis of a portion of a handler's total milk supply. At least fifty percent of the milk pooled by a handler should be received at pool plants for the handler's entire milk supply to be pooled. Milk produced by producers located in the marketing area should be eligible for pooling without a particular percentage or number of days' production being required to be received at a pool plant. For producers located outside the marketing area, however, the currently-suspended ''touch-base'' provision of 15% delivered to pool plants during the month (rather than before diversions are allowed), is continued in this proposed rule.

Diversion limits are suggested to be 50% of a handler's total milk supply. The current Texas order allows an amount equal to one-third of the milk delivered to pool plants to be diverted (this provision is currently suspended), while the (currently suspended) New Mexico-West Texas provision allows 50% of a handler's total milk supply to be diverted. The current Texas order provisions base allowable diversions on deliveries to individual pool plants, greatly exacerbating the time and effort required to keep track of milk movements. The total performance standard will allow handlers to meet diversion limits more easily with more efficient movements of milk. In addition, the increased percentage of allowable diversions will assure that all of the producers whose milk would qualify for pooling under either of the two orders being consolidated would continue to meet pooling qualifications.

Transportation Credits for Surplus Milk

The Texas order currently has a market-wide service payment provision that gives credits for hauling surplus milk located in certain zones in Texas to nonpool plants outside the State for use in manufactured products. The provision has not been included in the proposed Southwest order language because of declining production and increasing balancing plant capacity in the affected areas of Texas.

Payment Provision

The Texas order is one of only a few marketing orders that require handlers to submit the full classified value during the month to the market Administration. In turn, the Market Administrator acts as a clearing house and forwards these proceeds on to the respective organizations. Interested persons have expressed an interest in retaining these provisions, not only for the proposed Southwest order, but for all other orders.

The current Texas payment provision was found necessary because of problems encountered in assuring timely payments by pooled handlers. The provision has been in the Texas order since 1979, and the earlier payment problems have been remedied. Such a provision involves a rather large degree of regulatory intervention between milk processors and their suppliers that should be shown to be necessary to correct existing problems. There is no indication that such problems currently exist, or would exist in the absence of the provision. Nearly all of the milk that will be pooled under the consolidated Southwest order is produced by cooperative members and pooled by the cooperatives. These large, business-oriented organizations should be able to assure that they receive full payment for their members' milk in a timely manner.

Arizona-Las Vegas Order

Many of the provisions of the proposed Arizona-Las Vegas order are explained in the ''Identical Provisions'' portion of this proposed rule and need not be addressed here. Those provisions that deviate to some extent from the ''Identical Provisions'' are addressed in this discussion.

Pool Plant

The proposed *pool distributing plant* definition is similar to that contained in most of the other proposed orders. The minimum percentage of a pool distributing plant's physical receipts of bulk fluid milk products that are disposed of as route disposition is proposed to be 25%. The percentage of a handler's total route disposition into the marketing area that would result in a distributing plant becoming fully regulated under the Arizona-Las Vegas order is proposed to be 15%. While this definition differs slightly from the current order language, it provides uniformity with other proposed orders and should result in no additional distributing plants being pooled under the proposed order or any change in the pool status of distributing plants currently pooled.

The proposed *pool supply plant* definition would require a supply plant to ship 50% of its physical receipts of milk from dairy farmers to pool distributing plants during the month in order to be a pool supply plant. This definition would provide for easy, effective order administration and would result in no additional handlers being regulated under the order. There are currently no pool supply plants in the proposed marketing area.

The current Central Arizona order permits a manufacturing plant located in the marketing area that is operated by a cooperative association to be a pool plant, provided that the cooperative ships at least 50% of its member milk to pool plants of other handlers during the current month or the previous 12-month period ending with the current month. This percentage requirement is currently suspended. The proposed order would reduce this percentage to 35%. In conjunction with the market administrator being authorized to increase or reduce the percentage in response to market conditions, the reduced performance standard should enable the continued pooling of producer milk that currently is pooled without resulting in uneconomic handling or disorderly marketing.

The proposed Arizona-Las Vegas order should provide that a single handler be allowed to form a unit of distributing plants and Class II manufacturing plants provided each plant is located within the marketing area. The unit in total would be required to meet the requirements for a pool distributing plant and at least one of the

plants in the unit would be required to meet the pool distributing plant definition individually. This provision would provide uniformity with other federal orders and would not change the status of any plants currently pooled. Class II manufacturing plants are included for unit pooling with distributing plants operated by the same handler because such plants produce products that are marketed in conjunction with fluid milk products.

A provision permitting the market administrator to adjust the percentages specified in the pool plant definition will provide the flexibility to respond in a timely manner to changing marketing conditions without the need for a formal hearing process.

Producer

The proposed order contains a *dairy farmer for other markets* definition. A producer could not be pooled under the proposed Arizona-Las Vegas order unless all of the milk from the same farm was pooled under this or some other federal order or unless such nonpooled milk went to a plant with only Class III or Class IV utilization. This differs slightly from the current definition in the Central Arizona Order. Such a provision is needed in the proposed order to prevent dairy farmers whose milk is regularly used for fluid disposition in other markets from pooling the surplus portion of their production under the proposed order.

Producer Milk

The percentage of a handler's pooled milk that may be diverted to nonpool plants is proposed to be 20% in any month. Currently, diversions under the Central Arizona order are limited to eight days' production of a producer during four months of the year, with unlimited diversions the remainder of the year. The 20% diversion limit would result in the amount of milk eligible for diversion being approximately equivalent to eight days' production and would be easier to administer. The 20% limit year round will assure that pooled milk will have a close association with the market's fluid processing plants.

Component Pricing

The proposed Arizona-Las Vegas order does not provide for multiple component pricing. There are six plants that are expected to be regulated under the proposed order: five proprietary distributing plants, and one manufacturing plant operated by a cooperative association. The Class I utilization for the proposed order is expected to be less than 50 percent, a level that would, in some other orders, be an indication that component pricing would be appropriate. However, the Class I utilization at the five distributing plants is more than 80 percent. With the exception of the one cooperative balancing plant, the handlers to be regulated constitute predominantly a Class I market. They have expressed no interest in component pricing, and the fluid nature of much of the market would not seem to warrant multiple component pricing at this time.

Western Order

Many of the provisions of the proposed Western order are explained in the ''Identical Provisions'' portion of this proposed rule and need not be addressed here. Those provisions that differ from those explained in the ''Identical Provisions,'' or those currently contained in the orders to be consolidated, are discussed below.

Pool Plant

The proposed *pool distributing plant* definition is similar to that contained in most of the other proposed orders. The minimum percentage of a pool distributing plant's physical receipts of bulk fluid milk products that are disposed of as route disposition is proposed to be 25%. The percentage of a handler's total route disposition distributed into the marketing area that would result in a distributing plant becoming fully regulated under the Western order is proposed to be 15%. While this definition differs slightly from the current language of the orders involved in this proposed consolidation, it provides uniformity with other proposed orders and should result in no additional distributing plants being pooled under the proposed order or any change in the pool status of distributing plants currently pooled.

The proposed *pool supply plant* definition would require a supply plant operator to ship 35% of the milk pooled at the supply plant, either by transfer or diversion, to pool distributing plants during the month in order to qualify for pooling. This definition would provide for more efficient order administration and would result in no additional handlers being regulated under the order. The proposed percentage is slightly higher than that contained in the current Southwest Idaho-Eastern Oregon order and slightly lower than that contained in the current Great Basin and Western Colorado orders. This change should result in no milk that is currently associated with any of the three orders losing such association.

The proposed pool supply plant definition includes provision for a March through August period during which a supply plant that has met the order's shipping percentages for the preceding months of September through February to be able to continue to be a pool plant without meeting the shipping standards. As with other proposed orders, the market administrator would have the authority to increase or decrease the order's supply plant pooling standards as marketing conditions change.

The proposed order contains a provision that would permit a manufacturing plant operated by a cooperative association and located in the marketing area to be a pool plant if 35% of the milk for which the cooperative is the handler is received at pool distributing plants during the month or during the immediately preceding 12-month period. This provision is similar to one currently contained in the Great Basin order and in some of the other proposed orders. The proposed order retains the ''bulk tank handler'' provision that is currently in the Southwestern Idaho-Eastern Oregon order, permitting a handler other than a cooperative association to divert milk to nonpool plants for the handler's account based on shipments of milk to pool plants of other handlers.

Although the three current orders proposed to be consolidated do not contain such a provision, the proposed Western order would provide that a single handler be allowed to form a unit of distributing plants and Class II manufacturing plants provided each plant is located within the marketing area, as suggested by the Identical Provisions committee. The unit in total would be required to meet the requirements for a pool distributing plant and at least one of the plants in the unit would be required to meet the pool distributing plant definition individually. This provision would provide uniformity with other federal orders and would not change the status of any plants currently pooled. Class II manufacturing plants are proposed to be included for unit pooling with distributing plants operated by the same handler because such plants produce products that are marketed in conjunction with fluid milk products.

Producer

The proposed order contains a *dairy farmer for other markets* definition. A producer would not qualify for pooling under the proposed Western order unless all of the milk from the same farm was pooled under this or some other federal order or unless such nonpooled milk went to a plant with only Class III or Class IV utilization.

This differs slightly from the current definition in the Great Basin order. Such a provision is proposed for the consolidated order to prevent dairy farmers whose milk is regularly used for fluid disposition in other markets from pooling the surplus portion of their production on the proposed order.

Producer Milk

The percentage of a handler's pooled milk that may be diverted to nonpool plants is proposed to be 80% in any month. This is identical to the percentage currently included in the Southwestern Idaho-Eastern Oregon order and is only slightly higher than that for the present Great Basin order, which is 75% for cooperatives and 70% for proprietary handlers. The 80% limit on movements of pooled milk to nonpool plants should permit all milk associated with the market that is not needed at pool plants during the month to be pooled and priced under the order. These percentages are higher than those contained in the Western Colorado order, but should not have the effect of encouraging additional amounts of unneeded milk to be pooled in that area.

Reports of Receipts and Utilization and Payroll Reports

The proposed order requires pool handlers to file a ''report of receipts and utilization'' on or before the seventh day after the end of the month. This is identical to the current reporting date in the Western Colorado and Great Basin orders but two days earlier than the same provision in the Southwestern Idaho-Eastern Oregon order. Almost all handlers currently file reports by FAX or some other form of electronic data transfer, which eliminates delays due to mail handling. A seven-day reporting period should allow adequate time for handlers to prepare reports and will allow the computation and release of producer price information to occur on or before the 12th day after the end of the month.

The date on which the report of payments to producers is proposed to be due to the market administrator under the Western order is on or before the 21st day after the end of the month. This is the same date as that under the Great Basin order, but one day earlier than under the Southwestern Idaho-Eastern Oregon order and two days earlier than the Western Colorado order. The earlier reporting date and announcement of producer prices should assure that an earlier payroll reporting date would not be burdensome.

Multiple Component Pricing

Both the Great Basin order and the Southwestern Idaho-Eastern Oregon order currently have multiple component pricing based on protein; the Western Colorado order does not. The multiple component pricing provisions of the proposed Western order should be the same as those for other proposed orders that provide for multiple component pricing based on protein. The proposed Western order has a significant amount of milk used in manufactured products, especially cheese, and component pricing will enable producers to be paid according to the value of the components of their milk. However, the somatic cell adjustment included in most of the rest of the orders for which component pricing is proposed is not warranted by marketing conditions under the Western order, and such an adjustment is not included.

Payments to and From the Producer Settlement Fund

Payments to the producer settlement fund under the proposed order are due on or before the 14th day after the end of the month. This is two days after the announcement of uniform producer prices, which is an identical time period to that which exists in the three current orders proposed to be consolidated.

Payments from the producer settlement fund under the proposed order would be due on or before the 15th day after the end of the month. This is the same date as under the current Great Basin order, three days earlier than under the Southwestern Idaho-Eastern Oregon order, and one day later than the Western Colorado order. This payment date should be practicable given the use of current banking and transmission techniques.

Payments to Producers and Cooperative Associations

Under the proposed order, partial payments would be due from handlers to producers who are not members of cooperative associations on or before the 25th day of the month in an amount not less than 1.2 times the lowest class price for the preceding month multiplied by the hundredweight of milk received from such producers during the first 15 days of the month. Final payments would be due on or before the 17th day after the end of the month.

Partial payments to cooperative associations would be due on or before the 24th day of the month at the same rate as above, with final payments due on or before the 16th day after the end of the month. These final payment dates represent very little or no change from the orders' present payment dates. The proposed partial payment dates are earlier than those required under the current orders, but are very close to those suggested by the Identical Provisions committee, and compliance should present no hardship to handlers who would already have had the use of the producers' milk for 9 to 23 days.

Pacific Northwest Order

Many of the provisions of the proposed Pacific Northwest order are explained in the ''Identical Provisions'' portion of this proposed rule, and need not be addressed here. The provisions that deviate somewhat from those proposed for other order areas are the provisions dealing with standards for determining the pool status of producers and handlers, the definition of producer-handlers, the factors upon which payments to producers are calculated, and reporting and payment dates. Because this order is not proposed to be consolidated with any other orders, there is little reason for changing the substance of many of the provisions that are not included in the General Provisions.

Pool Distributing Plant

The pool distributing plant provisions of the proposed Pacific Northwest Order would be changed from the current definition to one that more closely resembles the definition suggested in the identical provisions report. Rather than basing the identification of a pool distributing plant on only 10 percent of the plant's receipts as in-area route dispositions, the order should specify that such a plant have at least 25 percent of its physical receipts distributed as route disposition, and at least 15 percent of its route disposition distributed within the marketing area.

It is not expected that the proposed pooling standard will affect the pool status of any plant that currently does or does not meet the pooling standard of the Pacific Northwest order. In addition, it would remedy a provision that could result in fully regulating a plant that has minimal association with the marketing area.

Pool Supply Plant

For the most part, the current pool supply plant definition of the Pacific Northwest order is appropriate to the marketing conditions in the area. However, the provision that currently *requires* a handler to include producer milk moved directly to pool distributing plants in the shipments on which pool plant performance is calculated would be changed to *allow* the handler to

include such movements if the handler wants to qualify its plant for pooling. A plant operator who receives milk at a plant only for manufacturing use also would be able to supply producer milk directly to distributing plants without a requirement that the manufacturing plant be a supply plant.

The Pacific Northwest order's current pool supply plant performance standard of 20 percent of milk receipts shipped to distributing plants should continue to be appropriate for this market. The current March through August period during which supply plants do not have to ship the minimum percentage to distributing plants if they have done so during the previous September through February period would continue to be included in the pool supply plant definition.

As in the other proposed consolidated orders, the market administrator is proposed to have the authority to increase or decrease the order's pooling provisions as marketing conditions change for the purpose of assuring that an adequate supply of milk will be available for fluid use, or to assure that the order does not require handlers to undertake uneconomic movements of milk to maintain: (1) the pool status of their plants, or (2) the pooling of producers who have historically been associated with the market and who help serve Class I needs.

Nonpool Plant

The current definition and exemption for milk produced and processed by state institutions, as contained in the present order's producer-handler definition, would be expanded and moved to be included in the ''Nonpool plant'' definition contained in the General Provisions. Such entities, along with colleges and universities and charitable organizations, would not be subject to the orders' pricing and pooling provisions as long as they have no sales in commercial channels.

The present Pacific Northwest order provisions allow a state institution to avoid any regulation on the portion of its milk that is used only within the institution, and apply some pricing regulation to that portion that is distributed in commercial channels. In some respects, this arrangement is similar to the situation of partially regulated distributing plants. However, partially regulated distributing plant operators, to avoid obligations under Federal orders, must show that they pay the dairy farmers who ship milk to them at a rate at least commensurate with that paid to producers whose milk is pooled under the order. In any case, they must procure a milk supply in the competitive market. State institutions may have any number of cost advantages over regulated handlers in the production and processing of milk, such as not having to pay a minimum wage and not having to pay property taxes. It would be unjust to allow such institutions to compete with fully regulated handlers in regular commercial channels as if the playing field were level. Therefore, state and other institutions that compete with regulated handlers in regular commercial channels, such as bids for school milk programs, would also be fully regulated.

Producer-Handler

The current Pacific Northwest producer-handler provisions should remain essentially untouched. Some of the ''Identical Provisions'' features of the producer-handler definition, such as the 150,000-pound thresholds for route dispositions, own farm production, and receipts from pool plants; and the ability to request to operate as both a pool plant and a producer, would be adopted. The rest of the current producer-handler provisions would remain in effect for administrative purposes.

Producer-handlers represent a much larger portion of the Class I dispositions in the Pacific Northwest marketing area than in most other Federal order areas. In many marketing areas, producer-handlers supply 1 percent or less of the Class I sales. In the Pacific Northwest area, however, they furnish almost 10 percent of the market's Class I dispositions. The larger average size of the dairy farmers in the western United States makes more likely the existence of a producer-handler that is a significant factor in the market.

The current order's producer-handler provisions are based on the history of producer-handler operations in this marketing area, reflecting difficulties encountered in order administration, attempts to circumvent order provisions, and court challenges.

In addition to the current order provisions, the producer-handler definition would also contain language clarifying that milk received by the producer-handler at a location other than the producer-handler's processing plant for distribution on routes will be included as a receipt from another handler.

Reserve Supply Unit

The Pacific Northwest order would continue to provide for a cooperative reserve supply unit. The existing provision has many similarities to a reserve supply plant, which is not provided in this order but which is included in several of the proposed consolidated orders.

Under the terms of the present provision, the cooperative members of the reserve supply unit must be located near a pool distributing plant, as a reserve supply plant must be located in the marketing area. Both the reserve supply unit and the reserve supply plant provisions require that the plant or unit operator request prior approval of the market administrator to initiate and cancel their status, both require long-term association with the market, and both provide substantial penalties for failing to meet all required conditions. Although the cooperative unit does not have monthly qualification requirements, it is subject to a call by the market administrator after the market administrator's investigation of the need for supplemental supplies of milk. Because of the current existence of this provision, based on the need shown at a public hearing, and its similarities to a pooling mechanism suggested for other orders, provision for the cooperative reserve supply unit would continue to be included in the proposed Pacific Northwest order.

Producer and Producer Milk

The proposed Pacific Northwest order would contain a ''dairy farmer for other markets'' provision for each month of the year. The large volume of milk production in California and California's quota system give dairy farmers an incentive to pool production in a volume equal to their quota pounds on the California order, and then attempt to share in the Pacific Northwest Class I market with their over-quota production, for which returns under the California order are much less. At the same time, none of the California Class I returns would be shared with Pacific Northwest producers. Similarly, the reserve supplies for the State-regulated markets of Western Nevada and Montana should not be allowed to share in returns from the Pacific Northwest order's higher classes of utilization while enjoying the benefits of the State orders' Class I returns.

The current provisions of the Pacific Northwest order do not require that a producer's milk be received at pool plants for the producer's first pooled delivery on the market or for any specified period. If a handler meets its overall performance requirements for supplying milk to the market, it should make no difference which individual producer's milk is actually delivered to pool plants as long as the milk of each

producer participating in the pool is Grade A and available to the market if and when needed. It is expensive, inefficient, and unnecessary to move milk from areas close to nonpool manufacturing plants to bottling plants in the city markets when that milk is not needed for bottling. For the above reasons and the physical fact that there are often great distances and mountainous terrain between plants and farms in the more sparsely populated West, no ''touch base'' requirements should be included.

This order and other western orders have allowed producers to pool milk on more than one order during the same month. Because of the locations of a number of dairy farmers, their milk may be used by pool plants regulated under more than one order in a single month. These producers also represent a reserve supply for more than one market. Large, multi-market handlers should be given the flexibility to market and transport their milk to fulfill the needs of their customers in the most efficient way possible.

The small degree of change from the current provisions necessary in the pooling provisions of the proposed Pacific Northwest results in very little change proposed for the order's diversion limits. The limit of 80% of the handler's supply of producer milk should remain unchanged, with the months during which the percentage is effective changed from September through April to September through February. These months will correspond to the months during which supply plants must ship 20 percent of their receipts to pool distributing plants. There would be no limit on diversions of producer milk for the months of March through August. These delivery standards have not been overly restrictive nor associated unneeded supplies with the market and should be allowed to continue without change.

Payments to Producers and Cooperative Associations

Although the current Pacific Northwest order contains a multiple component pricing plan very like that proposed to be standard for the consolidated orders, it does not now and would not under this reform process contain a somatic cell adjustment provision. The level of somatic cells in the western U.S. is generally lower than in the east, with an overall average of approximately 250,000 instead of 350,000. This lower somatic cell count would seem to reduce the need for such a provision. Historically, the principal argument for a somatic cell adjuster has been the negative effect of somatic cells on the cheese yields. Although cheese manufacturing in the Northwest is increasing, most cheese manufacturing is done by cooperative associations who have expressed the opinion that an adjustment for somatic cells is a quality issue best dealt with internally. The somatic cell adjustments in the proposed consolidated orders are not incorporated in the proposed Pacific Northwest order.

Announcement of Producer Prices

The dates on which handler reports, market administrator's announcement of producer prices, and payment to producers would remain unchanged from those of the current order.

8. Miscellaneous and Administrative

(a) Consolidation of the Marketing Service, Administrative Expense, and Producer-Settlement Funds

To complete the proposed consolidation of the present 31 Federal orders effectively and equitably, the reserve balances in the marketing service, administrative expense, and producer-settlement funds that have resulted under the individual orders would be combined.

The balances in these three funds should be combined on the same basis that the marketing areas are consolidated into regional orders herein. For instance, the Texas and New Mexico-West Texas marketing areas are merged into a new regional Southwest order. Accordingly, the reserve balances in the marketing service, administrative expense and producer-settlement funds of the two individual orders likewise should be combined into three separate funds established under the consolidated Southwest order.

The marketing areas of the proposed 11 consolidated orders essentially represent the territory covered by the 31 individual orders plus the territory included in the former Tennessee Valley marketing area. Because of this, the handlers and producers servicing the milk needs of the individual markets will continue to furnish the milk needs of the applicable regional market for the most part.

In that regard, the reserve balances in the funds that have resulted under the 31 individual orders should be combined on a marketing area basis into the appropriate separate fund established for each of the 11 regional orders. Any liabilities of such funds under the individual orders would be paid from the appropriate newly established fund of the applicable regional order. Similarly, obligations that are due the separate funds under the individual orders would be paid to the appropriate combined fund of the applicable consolidated order.

In most cases, the entire marketing area of an order or orders is included in the proposed consolidated marketing area of one of the 11 regional orders. Three present marketing areas would be split between two consolidated orders. One county of the present Louisville-Lexington-Evansville (Order 46) marketing area would be included in the Southeast order, and the rest of the territory in the Order 46 marketing area would be included under the Appalachian order. Even though one Order 46 county is included in the proposed Southeast order, all of the present Order 46 producers and handlers are expected to be covered under the proposed consolidated Appalachian order. Accordingly, the balances in the Order 46 marketing service, administrative expense, and producer settlement funds should be consolidated into the three separate funds established for the consolidated Appalachian market.

Different regulatory situations, however, will occur in the other two instances where a current marketing area is divided between two proposed consolidated orders. One county of the current Great Basin (Order 139) marketing area would be included in the consolidated Arizona-Las Vegas order and the rest of the Order 139 marketing area would be included in the consolidated marketing area for the West. Some of the present Order 139 producers and handlers would become regulated under the Arizona-Las Vegas consolidated order and others would become regulated under the regional order for the West. Similarly, two zones of the Michigan Upper Peninsula (Order 44) marketing area would be included in the consolidated Upper Midwest marketing area and the other zone of the Order 44 marketing area would be included in the marketing area for the Mideast regional order. Accordingly, any reserve balances in the marketing service, administrative expense and producer-settlement funds of these two individual orders should be divided equitably among the applicable consolidated orders.

The money accumulated in the marketing service funds of the individual orders is that which has been paid by producers for whom the market administrators are performing such services. Since the marketing areas of the proposed 11 regional orders encompass the territory covered by the individual orders, for the most part, the producers who have contributed to the

marketing service funds of the individual orders are expected to continue supplying milk for the consolidated orders. Since marketing service programs will be continued for these producers under the regional orders, it would be appropriate to combine the reserve balances in the marketing service funds of the order or orders that are represented in the consolidation of each of the proposed 11 regional orders.

When the proposed consolidated marketing area includes the marketing area of one or more individual orders, any remaining balance in the marketing service fund of the individual order or orders should be combined in the marketing service fund established for the applicable consolidated order. If a current marketing area is split between two consolidated markets and the regulatory status of producers and handlers is divided between the two regional orders, as is the case with the Michigan Upper Peninsula and Great Basin orders, any balance in the marketing service fund of the individual order should be prorated between the two consolidated orders on the basis of the amount of milk subject to the marketing service deduction that will be covered by each respective regional order (using producer deliveries in the last month the individual orders are in effect but assuming that the marketing areas had been consolidated).

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. For the most part, handlers currently regulated under the individual orders will continue to be regulated under the proposed consolidated orders. In view of this, it would be an unnecessary administrative and financial burden to allocate the reserve funds of the individual orders back to handlers and then accumulate an adequate reserve for each of the consolidated orders. It would be as equitable and more efficient to combine the remaining administrative monies accumulated under the individual orders in the same manner as the marketing areas are proposed to be combined.

For the orders where the proposed consolidated marketing area includes the regulated territory of one or more of the individual orders, any remaining balance in the administrative expense fund of the individual order or orders would be combined into the administrative expense fund established for the applicable consolidated order. In the situations where the current individual marketing area is split and the regulatory status of producers and handlers is divided (as in the case of the Michigan Upper Peninsula and Great Basin orders) between two consolidated marketing areas, the remaining balance in the administrative expense fund should be prorated between the two regional orders on the basis of the amount of milk that would be pooled and priced under each respective consolidated order (using producer milk deliveries during the last month the individual orders are in effect but assuming that the orders had been consolidated).

Likewise, the producer-settlement fund balances of the individual orders should be combined. They should be combined on the same basis as the marketing areas are consolidated herein. This will enable the producer-settlement funds of the consolidated orders to continue without interruption.

The producers currently supplying the individual markets are expected to supply milk for the proposed consolidated markets. Thus, monetary balances in the producer-settlement funds of the individual orders now would be reflected in the pay prices of the producers who will benefit from the applicable consolidated orders. The combined fund for each proposed consolidated order also would serve as a contingency fund from which money would be available to meet obligations (resulting from audit adjustments and otherwise) occurring under the individual orders.

The same procedure used in combining the remaining balances in the marketing service and administrative expense funds of the individual orders should be followed in combining the producer-settlement fund balances when the individual orders are consolidated. For orders where the consolidated marketing area includes the marketing area of one or more orders, any remaining balance in the producer-settlement fund of the individual order or orders would be combined into the producer-settlement fund established for the applicable consolidated order. In the two situations (Michigan Upper Peninsula and Great Basin) where the marketing area of a current order is split between two proposed consolidated orders and some of the individual market's producers and handlers would be regulated under one consolidated order and others would be regulated under another consolidated order, the balance in the producer-settlement fund should be divided equitably between the two consolidated orders. Since the Michigan Upper Peninsula order is an individual-handler pool market, no producer-settlement fund is provided. The remaining balance in the producer-settlement fund of the Great Basin order should be prorated between the consolidated Arizona-Las Vegas order and the regional order for the West on the basis of the amount of milk that will be pooled and priced under each respective proposed consolidated order (using producer milk deliveries during the last month the individual orders are in effect but assuming that the orders had been consolidated).

(b) Consolidation of the Transportation Credit Balancing Funds

To complete the consolidation process, the reserve balances in the transportation credit balancing funds that are in effect now under three Southeast orders (Carolina, Order 5; Southeast, Order 7; and Louisville-Lexington-Evansville, Order 46) should be consolidated also. These funds should be combined on a marketing area basis. In that regard, the reserve balances in the transportation credit balancing funds of the Carolina and Louisville-Lexington-Evansville orders should be consolidated into a newly established transportation credit balancing fund for the Appalachian order, which also includes the current marketing areas of these two orders with the exception of one county. Similarly, the reserve balance in the transportation credit balancing fund of the present Southeast order should be transferred to the consolidated Southeast order, which includes all of the marketing area of the present Southeast order. These procedures will enable the transportation credits to continue without interruption under these two proposed consolidated orders.

(c) Proposed General Findings

The proposed findings and determinations hereinafter set forth supplement those that were made when the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(1) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in each of the aforesaid marketing areas, and the minimum

prices specified in the tentative marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in the marketing agreements;

(4) All milk and milk products handled by handlers, as defined in the tentative marketing agreements and the orders as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1000.85 of the General Provisions.

Proposed Marketing Agreements and Order Amending the Orders

The proposed marketing agreements are not included in this proposed rule because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders regulating the handling of milk in the respective marketing areas of these orders is proposed as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Chapter X

Milk marketing orders.

For the reasons set forth in the preamble and under the authority of 7 U.S.C. 601–674, Title 7, chapter X, CFR parts 1002, 1004, 1012, 1013, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1135, 1137, 1138, and 1139 are proposed to be removed, and Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, 1131, and 1134 are proposed to be revised as follows:

PART 1000—GENERAL PROVISIONS OF FEDERAL MILK MARKETING ORDERS

Subpart A—Scope and Purpose

Sec.
1000.1 Scope and purpose of Part 1000.

Subpart B—Definitions

1000.2 General definitions.
1000.3 Route disposition.
1000.4 Plant.
1000.5 Distributing plant.
1000.6 Supply plant.
1000.8 Nonpool plant.
1000.9 Handler.
1000.14 Other source milk.
1000.15 Fluid milk product.
1000.16 Fluid cream product.
1000.17 [Reserved]
1000.18 Cooperative association.
1000.19 Commercial food processing establishment.

Subpart C—Rules of Practice and Procedure Governing Market Administrators

1000.25 Market administrator.

Subpart D—Rules Governing Order Provisions

1000.26 Continuity and separability of provisions.

Subpart E—Rules of Practice and Procedure Governing Handlers

1000.27 Handler responsibility for records and facilities.
1000.28 Termination of obligations.

Subpart F—Classification of Milk

1000.40 Classes of utilization.
1000.41 [Reserved]
1000.42 Classification of transfers and diversions.
1000.43 General classification rules.
1000.44 Classification of producer milk.
1000.45 Market administrator's reports and announcements concerning classification.

Subpart G—Class Prices

1000.50 Class prices and component prices.
1000.51 [Reserved]
1000.52 Adjusted Class I differentials.
1000.53 Announcement of class prices and component prices.
1000.54 Equivalent price.

Subpart H—Payments for Milk

1000.70 Producer-settlement fund.
1000.71 Payments to the producer-settlement fund.
1000.72 Payments from the producer-settlement fund.
1000.76 Payments by a handler operating a partially regulated distributing plant.
1000.77 Adjustment of accounts.
1000.78 Charges on overdue accounts.

Subpart I—Administrative Assessment and Marketing Service Deduction

1000.85 Assessment for order administration.
1000.86 Deduction for marketing services.

Subpart J—Miscellaneous Regulations

1000.90 Dates.
1000.91–1000.92 [Reserved]
1000.93 OMB control number assigned pursuant to the Paperwork Reduction Act.

Authority: 7 U.S.C. 601–674.

Subpart A—Scope and Purpose

§ 1000.1 Scope and purpose of Part 1000.

This part sets forth certain terms, definitions, and provisions which shall be common to and part of each Federal milk marketing order in 7 CFR, chapter X except as specifically defined otherwise, or modified, or otherwise provided, in an individual order in 7 CFR, chapter X.

Subpart B—Definitions

§ 1000.2 General definitions.

(a) *Act* means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

(b) *Order* means the applicable part of Title 7 of the Code of Federal Regulations issued pursuant to Section 8c of the Act as a Federal milk marketing order (as amended).

(c) *Department* means the U.S. Department of Agriculture.

(d) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Person* means any individual, partnership, corporation, association, or other business unit.

§ 1000.3 Route disposition.

Route disposition means a delivery to a retail or wholesale outlet (except a plant), either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine) of a fluid milk product in consumer-type packages or dispenser units classified as Class I milk.

§ 1000.4 Plant.

(a) Except as provided in paragraph (b) of this section, *plant* means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed, or packaged, including a facility described in paragraph (b)(2) of this section if the facility receives the milk of more than one dairy farmer.

(b) Plant shall not include:

(1) A separate building without stationary storage tanks that is used only

as a reload point for transferring bulk milk from one tank truck to another or a separate building used only as a distribution point for storing packaged fluid milk products in transit for route disposition; or

(2) An on-farm facility operated as part of a single dairy farm entity for the separation of cream and skim or the removal of water from milk.

§ 1000.5 Distributing plant.

Distributing plant means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition.

§ 1000.6 Supply plant.

Supply plant means a plant, other than a distributing plant, that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are received or from which fluid milk products are transferred or diverted.

§ 1000.8 Nonpool plant.

Nonpool plant means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) *A plant fully regulated under another Federal order* means a plant that is fully subject to the pricing and pooling provisions of another Federal order.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined under any Federal order.

(c) *Partially regulated distributing plant* means a nonpool plant that is not a plant fully regulated under another Federal order, a producer-handler plant, or an exempt plant, from which there is route disposition in the marketing area during the month.

(d) *Unregulated supply plant* means a supply plant that does not qualify as a pool supply plant and is not a plant fully regulated under another Federal order, a producer-handler plant, or an exempt plant.

(e) *An exempt plant* means a plant described in this paragraph that is exempt from the pricing and pooling provisions of any order provided that the operator of the plant files reports as prescribed by the market administrator to enable determination of the handler's exempt status:

(1) A plant that is operated by a governmental agency that has no route disposition in commercial channels;

(2) A plant that is operated by a duly accredited college or university disposing of fluid milk products only through the operation of its own campus with no route disposition in commercial channels;

(3) A plant from which the total route disposition is for individuals or institutions for charitable purposes without remuneration; or

(4) A plant that has route disposition of 150,000 pounds or less during the month.

§ 1000.9 Handler.

Handler means:

(a) Any person who operates a pool plant or a nonpool plant.

(b) Any person who receives packaged fluid milk products from a plant for resale and distribution to retail or wholesale outlets, any person who as a broker negotiates a purchase or sale of fluid milk products or fluid cream products from or to any pool or nonpool plant, and any person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a plant. Persons who qualify as handlers only under this paragraph under any Federal milk order in 7 CFR, chapter X are not subject to the payment provisions of §§ ____.70, ____.71, ____.72, ____.73, ____.76, and ____.85 of that order.

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer and delivers to pool plants or diverts to nonpool plants pursuant to § __.13 of the order. The operator of a pool plant receiving milk from a cooperative association may be the handler for such milk if both parties notify the market administrator of this agreement prior to the time that the milk is delivered to the pool plant and the plant operator purchases the milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples.

§ 1000.14 Other source milk.

Other source milk means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk fluid cream products from any source other than producers, handlers described in § 1000.9(c), or pool plants;

(b) Products (other than fluid milk products, fluid cream products, and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Receipts of any milk product (other than a fluid milk product or a fluid cream product) for which the handler fails to establish a disposition.

§ 1000.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat that are intended to be used as beverages. Such products include, but are not limited to: Milk, fat-free milk, lowfat milk, light milk, reduced fat milk, milk drinks, eggnog and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term fluid milk product shall not include:

(1) Plain or sweetened evaporated milk/skim milk, sweetened condensed milk/skim milk, formulas especially prepared for infant feeding or meal replacement, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk equivalent in any modified product specified in paragraph (a) of this section that is greater than an equal volume of an unmodified product of the same nature and butterfat content.

§ 1000.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1000.17 [Reserved]

§ 1000.18 Cooperative association.

Cooperative association means any cooperative marketing association of producers which the Secretary determines is qualified under the provisions of the Capper-Volstead Act, has full authority in the sale of milk of its members, and is engaged in marketing milk or milk products for its members. A federation of two or more cooperatives incorporated under the laws of any state will be considered a cooperative association under any Federal milk order if all member cooperatives meet the requirements of this section.

§ 1000.19 Commercial food processing establishment.

Commercial food processing establishment means any facility, other than a milk plant, to which fluid milk products and fluid cream products are

disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no other disposition of fluid milk products other than those received in consumer-type packages (1 gallon or less). Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including, but not limited to, §§ ____.13 and ____.52 of each Federal milk order in 7 CFR, chapter X.

Subpart C—Rules of Practice and Procedure Governing Market Administrators

§ 1000.25 Market administrator.

(a) *Designation*. The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the Secretary.

(b) *Powers*. The market administrator shall have the following powers with respect to each order under his/her administration:

(1) Administer the order in accordance with its terms and provisions;

(2) Maintain funds outside of the United States Department of the Treasury for the purpose of administering the order;

(3) Make rules and regulations to effectuate the terms and provisions of the order;

(4) Receive, investigate, and report complaints of violations to the Secretary; and

(5) Recommend amendments to the Secretary.

(c) *Duties*. The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under his/her administration, including, but not limited to, the following:

(1) Employ and fix the compensation of persons necessary to enable him/her to exercise the powers and perform the duties of the office;

(2) Pay out of funds provided by the administrative assessment, except expenses associated with functions for which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of the office and in the performance of the duties of the office, including the market administrator's compensation;

(3) Keep records which will clearly reflect the transactions provided for in the order, and upon request by the Secretary, surrender the records to a successor or such other person as the Secretary may designate;

(4) Furnish information and reports requested by the Secretary and submit office records for examination by the Secretary;

(5) Announce publicly at his/her discretion, unless otherwise directed by the Secretary, by such means as he/she deems appropriate, the name of any handler who, after the date upon which the handler is required to perform such act, has not:

(i) Made reports required by the order;

(ii) Made payments required by the order; or

(iii) Made available records and facilities as required pursuant to § 1000.27;

(6) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities, and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect;

(7) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and

(8) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information.

Subpart D—Rules Governing Order Provisions

§ 1000.26 Continuity and separability of provisions.

(a) *Effective time*. The provisions of the order or any amendment to the order shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination*. The Secretary shall suspend or terminate any or all of the provisions of the order whenever he/she finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) *Continuing obligations*. If upon the suspension or termination of any or all of the provisions of the order there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) *Liquidation*. (1) Upon the suspension or termination of any or all provisions of the order, the market administrator, or such other liquidating agent designated by the Secretary, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his/her possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) *Separability of provisions*. If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

Subpart E—Rules of Practice and Procedure Governing Handlers

§ 1000.27 Handler responsibility for records and facilities.

Each handler shall maintain and retain records of its operations and make such records and its facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any

skim milk and butterfat required to be reported by such handler for which adequate records are not available shall be considered as used in the highest-priced class.

(a) *Records to be maintained.* (1) Each handler shall maintain records of its operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order, and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month, according to form, time, and source of each receipt;

(ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and

(iii) Payments to producers, dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) *Availability of records and facilities.* Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary or other obligation under the order. Each handler shall permit the market administrator to weigh, sample, and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his/her duties.

(c) *Retention of records.* All records required under the order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such records, or specified records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1000.28 Termination of obligations.

The provisions of this section shall apply to any obligation under the order for the payment of money:

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such written notice shall be complete upon mailing to the handler's last known address and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) on which such obligation is based; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer(s) or such cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such records pertaining to such obligation are made available to the market administrator.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under the order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR 900.50 *et seq.*) within the applicable 2-year period indicated below, the obligation of the market administrator:

(1) To pay a handler any money which such handler claims is due under the terms of the order shall terminate 2 years after the end of the month during which the skim milk and butterfat involved in the claim were received; or

(2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.

Subpart F—Classification of Milk

§ 1000.40 Classes of utilization.

Except as provided in § 1000.42, all skim milk and butterfat required to be reported pursuant to § ____.30 of each Federal milk order in 7 CFR, chapter X shall be classified as follows:

(a) *Class I milk* shall be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products, except as otherwise provided in this section;

(2) Used to produce fluid milk products modifed in volume by the addition of nonmilk ingredients and/or previously processed and priced skim milk and butterfat, including milkshake and milkshake drinks sold in containers less than one half-gallon;

(3) In packaged fluid milk products in inventory at the end of the month, exclusive of skim milk and butterfat accounted for in paragraph (a)(2) of this section; and

(4) In shrinkage assigned pursuant to § 1000.43(b).

(b) *Class II milk* shall be all skim milk and butterfat:

(1) In fluid milk products in containers larger than 1 gallon and fluid cream products disposed of or diverted to a commercial food processing establishment if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(2) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, cream cheese and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in half-gallon containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream, sour half-and-half, sour cream

mixtures containing nonmilk items, yogurt, and any other semi-solid product resembling a Class II product;

(iv) Custards, puddings, pancake mixes, coatings, batter, and similar products;

(v) Buttermilk biscuit mixes and other buttermilk for baking that contain food starch in excess of 2% of the total solids, provided that the product is labeled to indicate the food starch content;

(vi) Formulas especially prepared for infant feeding or meal replacement;

(vii) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products;

(viii) A fluid cream product or any product containing artificial fat or fat substitutes that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(ix) Any product not otherwise specified in this section; and

(3) In shrinkage assigned pursuant to § 1000.43(b).

(c) *Class III milk* shall be all skim milk and butterfat:

(1) Used to produce:

(i) Spreadable cheeses (other than cream cheese) and hard cheese of types that may be shredded, grated, or crumbled and that are not included in paragraph (b)(2)(i) of this section;

(ii) Plastic cream, anhydrous milkfat, and butteroil; and

(iii) Evaporated or sweetened condensed milk/skim milk in a consumer-type package;

(2) In inventory at the end of the month of fluid milk products and fluid cream products in bulk form;

(3) In any products classified pursuant to paragraphs (a) or (b) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(4) In the skim milk equivalent of nonfat milk solids used to modify a fluid milk product that has not been accounted for in Class I; and

(5) In shrinkage assigned pursuant to § 1000.43(b).

(d) *Class IV milk* shall be all skim milk and butterfat:

(1) Used to produce:

(i) Butter; and

(ii) Any milk product in dried form; and

(2) In shrinkage assigned pursuant to § 1000.43(b).

§ 1000.41 [Reserved]

§ 1000.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification shall be subject to the following conditions:

(1) The skim milk and butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the receiving plant after the computations pursuant to § 1000.44(a)(9) and the corresponding step of § 1000.44(b);

(2) If the transferring plant received during the month other source milk to be allocated pursuant to § 1000.44(a)(3) or the corresponding step of § 1000.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferring handler received during the month other source milk to be allocated pursuant to § 1000.44(a)(8) or (9) or the corresponding steps of § 1000.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the receiving plant.

(b) *Transfers and diversions to a plant regulated under another Federal order.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to a plant regulated under another Federal order shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from a plant regulated under another Federal order of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1) or (2) of this section:

(1) As Class I milk, if transferred as packaged fluid milk products;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated under the other order:

(i) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as other than Class I to the extent that such utilization is available for such classification pursuant to the allocation provisions of the other order;

(ii) If diverted, the diverting handler must request a classification other than Class I. If the plant receiving the diverted milk does not have sufficient utilization available for the requested classification and some of the diverted milk is consequently assigned to Class I use, the diverting handler shall be given the option of designating the entire load of diverted milk as producer milk at the plant physically receiving the milk. Alternatively, if the diverting handler so chooses, it may designate which dairy farmers whose milk was diverted during the month will be designated as producers under the order physically receiving the milk. If the diverting handler declines to accept either of these options, the market administrator will prorate the portion of diverted milk in excess of Class II, III, and IV use among all the dairy farmers whose milk was received from the diverting handler on the last day of the month, then the second-to-last day, and continuing in that fashion until the excess diverted milk has been assigned as producer milk under the receiving order; and

(iii) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be Class I, subject to adjustment when such information is available.

(c) *Transfers and diversions to producer-handlers and to exempt plants.* Skim milk or butterfat that is transferred or diverted from a pool plant to a producer-handler under any Federal order in 7 CFR, chapter X or to an exempt plant shall be classified:

(1) As Class I milk if transferred or diverted to a producer-handler;

(2) As Class I milk if transferred to an exempt plant in the form of a packaged fluid milk product; and

(3) In accordance with the utilization assigned to it by the market administrator if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product to an exempt plant. For this purpose, the receiving handler's utilization of skim milk and butterfat in each class, in series beginning with Class IV, shall be assigned to the extent

possible to its receipts of skim milk and butterfat, in bulk fluid cream products, and bulk fluid milk products, respectively, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not a plant regulated under another order in 7 CFR, chapter X, an exempt plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization, excluding the milk equivalent of both nonfat milk solids and concentrated milk used in the plant during the month, to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(A) The transferring handler or diverting handler claims such classification in such handler's report of receipts and utilization filed pursuant to § ____.30 of each Federal milk order in 7 CFR, chapter X for the month within which such transaction occurred; and

(B) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order in 7 CFR, chapter X from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from plants regulated under other Federal orders in 7 CFR, chapter X;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from plants regulated under other Federal orders in 7 CFR, chapter X;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and plants regulated under other Federal orders in 7 CFR, chapter X;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant regulated under any Federal order in 7 CFR, chapter X, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the receiving plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from plants regulated under other Federal orders in 7 CFR, chapter X;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal order in 7 CFR, chapter X which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and plants regulated under other Federal orders in 7 CFR, chapter X shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization and then to all other utilization, in sequence beginning with Class IV at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and plants regulated under other Federal orders in 7 CFR, chapter X shall be assigned, pro rata among such plants, to the extent possible to any remaining utilization, in sequence beginning with Class IV at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal order in 7 CFR, chapter X shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

§ 1000.43 General classification rules.

In determining the classification of producer milk pursuant to § 1000.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § ____.30 of each Federal milk order in 7 CFR, chapter X and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1000.9(c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1000.40 and 1000.42, and paragraph (b) of this section.

(b) For purposes of classifying all milk reported by a handler pursuant to § ____.30 of each Federal milk order in 7 CFR, chapter X, the market administrator shall:

(1) Determine the shrinkage or overage of skim milk and butterfat for each pool plant and for each handler described in § 1000.9(c) by subtracting total utilization from total receipts. Any positive difference would be shrinkage, and any negative difference would be overage;

(2) Prorate the shrinkage or overage computed in paragraph (b)(1) of this section to the respective quantities of skim milk and butterfat reported in each class. In the case of a handler described in § 1000.9(c), the proration of shrinkage shall be based upon the utilization of the plants to which the milk was delivered; and

(3) Add the prorated shrinkage to, or subtract the prorated overage from, the handler's reported utilization. The results shall be known as the gross utilization in each class.

(c) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by the handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use

of specific concentrated receipts that is established by the handler) prior to any assignments under § 1000.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1000.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

§ 1000.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1000.9(a) for each pool plant of the handler separately and for each handler described in § 1000.9(c) the classification of producer milk by allocating the handler's receipts of skim milk and butterfat to the gross utilization of such receipts pursuant to § 1000.43(b)(3) by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal order in 7 CFR, chapter X is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order in 7 CFR, chapter X;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal order in 7 CFR, chapter X in the immediately preceding month;

(iii) Fluid milk products received in packaged form from plants regulated under other Federal orders in 7 CFR, chapter X;

(iv) Any remaining receipts of skim milk shall be allocated pursuant to paragraph (a)(3)(iv) of this section.

(2) Subtract from the pounds of skim milk in Class II the pounds of skim milk in the receipts of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product in Class II (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1000.40(c)(4)). Any remaining receipts of skim milk shall be allocated pursuant to paragraph (a)(3)(iv) of this section.

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class IV, the pounds of skim milk in:

(i) Receipts of bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product);

(ii) Receipts of fluid milk products and bulk fluid cream products for which appropriate health approval is not established and from unidentified sources;

(iii) Receipts of fluid milk products and bulk fluid cream products from an exempt plant;

(iv) Fluid milk products and bulk fluid cream products received, or acquired for distribution, from a producer-handler as defined under this order or any other Federal order in 7 CFR, chapter X; and

(v) Any receipts not subtracted pursuant to paragraphs (a)(1) and (a)(2) of this section.

(4) Subtract from the pounds of skim milk remaining in all classes other than Class I, in sequence beginning with Class IV, the receipts of fluid milk products from an unregulated supply plant that were not previously subtracted in this section for which the handler requests classification other than Class I, but not in excess of the pounds of skim milk remaining in these other classes combined.

(5) Subtract from the pounds of skim milk remaining in all classes other than Class I, in sequence beginning with Class IV, receipts of fluid milk products from an unregulated supply plant that were not subtracted in previous paragraphs, and which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(5)(i) through (iii) of this section;

(i) Multiply by 1.25 the pounds of skim milk remaining in Class I at this allocation step;

(ii) Subtract from the above result the pounds of skim milk in receipts of producer milk and fluid milk products from pool plants of other handlers; and

(iii) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants remaining at this pool plant is of all such receipts remaining pursuant to this allocation step.

(6) Subtract from the pounds of skim milk remaining in all classes other than Class I, in sequence beginning with Class IV, the pounds of skim milk in receipts of bulk fluid milk products from a handler regulated under another Federal order in 7 CFR, chapter X that are in excess of bulk fluid milk products transferred or diverted to such handler, if other than Class I classification is requested, but not in excess of the pounds of skim milk remaining in these classes combined.

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III (or Class IV if the plant had only Class IV utilization), the pounds of skim milk in fluid milk products and bulk fluid cream products in inventory at the beginning of the month that were not previously subtracted in this section.

(8) Subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in all other classes combined, and in sequence beginning with Class IV, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not previously subtracted in this section and that were not offset by transfers or diversions of fluid milk products to the unregulated supply plant from which fluid milk products to be allocated at this step were received.

(9) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from a handler regulated under another Federal order in 7 CFR, chapter X that are in excess of bulk fluid milk products transferred or diverted to such handler that were not subtracted in paragraph (a)(6) of this section;

(i) Such subtraction shall be pro rata to the pounds of skim milk in Class I and in all other classes combined, with the quantity prorated to all classes combined being subtracted in sequence beginning with Class IV, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1000.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step.

(ii) [Reserved]

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1000.42(a).

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the

computations pursuant to paragraphs (a) and (b) of this section.

§ 1000.45 Market administrator's reports and announcements concerning classification.

(a) Whenever required for the purpose of allocating receipts from other Federal order plants pursuant to § 1000.44(a)(9) and the corresponding step of § 1000.44(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in Class I during the month of skim milk and butterfat, respectively, in producer milk of all handlers. The estimate shall be based upon the most current available data and shall be final for such purpose.

(b) The market administrator shall report to the other Federal order market administrators, as soon as possible after the handlers' reports of receipts and utilization are received, the class to which receipts from other Federal order plants are allocated pursuant to §§ 1000.43(d) and 1000.44 (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter any change in allocation required to correct errors disclosed on the verification of such report.

(c) The market administrator shall furnish each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to a plant fully regulated under another Federal order in 7 CFR, chapter X the class to which the shipments were allocated by the market administrator of the other Federal order in 7 CFR, chapter X on the basis of the report by the receiving handler and, as necessary, any changes in the allocation arising from the verification of such report.

(d) The market administrator shall report to each cooperative association which so requests, the percentage of producer milk delivered by members of the association that was used in each class by each handler receiving the milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by the handler.

Subpart G—Class Prices

§ 1000.50 Class prices and component prices.

Subject to the provisions of § 1000.52, the class prices per hundredweight of milk containing 3.5 percent butterfat and the component prices for the month shall be as follows:

(a) *Class I price.* The Class I price shall be .965 times the Class I skim milk price plus 3.5 times the Class I butterfat price.

(b) *Class II price.* The Class II price shall be .965 times the Class II skim milk price plus 3.5 times the month's butterfat price.

(c) *Class III price.* The Class III price shall be .965 times the Class III skim milk price plus 3.5 times the month's butterfat price.

(d) *Class IV price.* The Class IV price shall be .965 times the Class IV skim milk price plus 3.5 times the month's butterfat price.

(e) *Class I differential price.* The Class I differential price shall be the difference between the current month's Class I and Class III prices (this price may be negative).

(f) *Class II differential price.* The Class II differential price shall be the difference between the current month's Class II and Class IV prices.

(g) *Class I skim milk price.* The Class I skim milk price per hundredweight, rounded to the nearest cent, shall be the adjusted Class I differential effective at the location of the plant as specified in § 1000.52(a) plus a six month declining average computed by totaling the value of the higher of Class III or Class IV skim milk price for each month, starting with the second preceding month, multiplied by a factor of six and reducing the factor by one for each preceding month and dividing the sum by 21.

(h) *Class II skim milk price.* The Class II skim milk price per hundredweight shall be the Class IV skim milk price for the month plus 70 cents.

(i) *Class III skim milk price.* The Class III skim milk price per hundredweight, rounded to the nearest cent, shall be the protein price per pound times 3.3 pounds of protein plus the other solids price per pound times 5.7 pounds of other solids;

(j) *Class IV skim milk price.* The Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be the nonfat solids price per pound times 9 pounds of nonfat solids.

(k) *Class I butterfat price.* The Class I butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the adjusted Class I differential effective at the location of the plant as specified in § 1000.52(a) divided by 100, plus a six month declining average computed by totaling the value of the butterfat price for each month, starting with the second preceding month, multiplied by a factor of six and reducing the factor by one for each preceding month and dividing the sum by 21.

(l) *Butterfat price.* The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the National Agricultural Statistical Service (NASS) AA Butter survey price as reported by the Department less .079 (make allowance), with the result divided by 0.82.

(m) *Nonfat solids price.* The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the NASS nonfat dry milk survey price as reported by the Department less $0.125 (make allowance), with the result divided by 0.96.

(n) *Protein price.* The protein price per pound, rounded to the nearest one-hundredth cent shall be the total of:

(1) The NASS 40-lb block cheese survey price as reported by the Department less 12.7 cents, with the result multiplied by 1.32; and

(2) Multiply by 1.20 an amount computed as follows: The NASS 40-lb block cheese survey price as reported by the Department less 12.7 cents, with the result multiplied by 1.582 then reduced by the butterfat price.

(o) *Other solids price.* The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the NASS dry whey survey price as reported by the Department minus 10 cents, with the result divided by 0.968.

(p) *Somatic cell adjustment.* (1) The somatic cell adjustment rate, per 1,000 somatic cells, rounded to five decimal places, shall be computed by multiplying .0005 times the monthly NASS 40-pound block cheese survey price;

(2) The somatic cell adjustment, per hundredweight, shall be determined by subtracting from 350 the somatic cell count (in thousands) of the milk, multiplying the difference by the somatic cell adjustment rate, and rounding to the nearest full cent.

§ 1000.51 [Reserved]

§ 1000.52 Adjusted Class I differentials.

The Class I differential adjusted for location to be used in § 1000.50(g) and (k) shall be as follows, except that:

(1) Under the Option 1B Revenue-Enhancement Phase-In, the differential shall be increased by $1.10 in 1999, $.70 in 2000, $.40 in 2001, and $.20 in 2002; and

(2) Under the Option 1B Revenue Neutral Phase-In, the differential shall be increased by $.55 in 1999, $.35 in 2000, $.20 in 2001, and $.10 in 2002:

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
AUTAUGA	AL	3.30	3.12	2.96	2.79	2.63	2.47
BALDWIN	AL	3.50	3.43	3.29	3.14	3.00	2.85
BARBOUR	AL	3.45	3.27	3.14	3.00	2.87	2.74
BIBB	AL	3.10	2.93	2.78	2.63	2.48	2.33
BLOUNT	AL	3.10	2.80	2.62	2.45	2.27	2.09
BULLOCK	AL	3.30	3.16	3.04	2.91	2.79	2.67
BUTLER	AL	3.45	3.26	3.11	2.97	2.82	2.68
CALHOUN	AL	3.10	2.92	2.75	2.59	2.42	2.26
CHAMBERS	AL	3.10	3.05	2.92	2.79	2.66	2.53
CHEROKEE	AL	3.10	2.82	2.66	2.51	2.35	2.19
CHILTON	AL	3.10	3.02	2.86	2.71	2.55	2.39
CHOCTAW	AL	3.30	3.23	3.06	2.90	2.73	2.56
CLARKE	AL	3.45	3.25	3.10	2.94	2.79	2.64
CLAY	AL	3.10	2.94	2.80	2.65	2.51	2.37
CLEBURNE	AL	3.10	2.93	2.78	2.63	2.48	2.33
COFFEE	AL	3.45	3.28	3.16	3.05	2.93	2.81
COLBERT	AL	2.90	2.67	2.50	2.34	2.17	2.01
CONECUH	AL	3.45	3.27	3.13	3.00	2.86	2.73
COOSA	AL	3.10	3.02	2.86	2.71	2.55	2.39
COVINGTON	AL	3.45	3.28	3.15	3.03	2.90	2.78
CRENSHAW	AL	3.45	3.26	3.12	2.97	2.83	2.69
CULLMAN	AL	3.10	2.79	2.60	2.41	2.22	2.03
DALE	AL	3.45	3.28	3.16	3.05	2.93	2.81
DALLAS	AL	3.30	3.13	2.98	2.82	2.67	2.52
DE KALB	AL	2.90	2.68	2.53	2.38	2.23	2.08
ELMORE	AL	3.30	3.12	2.96	2.81	2.65	2.49
ESCAMBIA	AL	3.45	3.28	3.16	3.04	2.92	2.80
ETOWAH	AL	3.10	2.81	2.65	2.48	2.32	2.15
FAYETTE	AL	3.10	2.83	2.68	2.54	2.39	2.24
FRANKLIN	AL	2.90	2.68	2.53	2.39	2.24	2.09
GENEVA	AL	3.45	3.29	3.19	3.08	2.98	2.87
GREENE	AL	3.10	3.03	2.88	2.72	2.57	2.42
HALE	AL	3.10	3.03	2.88	2.73	2.58	2.43
HENRY	AL	3.45	3.28	3.17	3.05	2.94	2.82
HOUSTON	AL	3.45	3.29	3.19	3.08	2.98	2.87
JACKSON	AL	2.90	2.66	2.50	2.33	2.17	2.00
JEFFERSON	AL	3.10	2.90	2.72	2.55	2.37	2.19
LAMAR	AL	3.10	2.84	2.70	2.55	2.41	2.27
LAUDERDALE	AL	2.90	2.65	2.48	2.30	2.13	1.95
LAWRENCE	AL	2.90	2.66	2.49	2.31	2.14	1.97
LEE	AL	3.30	3.06	2.95	2.83	2.72	2.60
LIMESTONE	AL	2.90	2.64	2.44	2.25	2.05	1.86
LOWNDES	AL	3.30	3.14	2.99	2.85	2.70	2.56
MACON	AL	3.30	3.14	3.01	2.87	2.74	2.60
MADISON	AL	2.90	2.64	2.44	2.25	2.05	1.86
MARENGO	AL	3.30	3.13	2.98	2.83	2.68	2.53
MARION	AL	3.10	2.81	2.65	2.48	2.32	2.15
MARSHALL	AL	2.90	2.66	2.49	2.33	2.16	1.99
MOBILE	AL	3.50	3.43	3.27	3.12	2.96	2.81
MONROE	AL	3.45	3.26	3.12	2.97	2.83	2.69
MONTGOMERY	AL	3.30	3.13	2.99	2.84	2.70	2.55
MORGAN	AL	2.90	2.65	2.47	2.30	2.12	1.94
PERRY	AL	3.10	3.03	2.89	2.74	2.60	2.45
PICKENS	AL	3.10	2.93	2.78	2.64	2.49	2.34
PIKE	AL	3.45	3.26	3.12	2.98	2.84	2.70
RANDOLPH	AL	3.10	2.95	2.82	2.69	2.56	2.43
RUSSELL	AL	3.30	3.16	3.05	2.93	2.82	2.70
SHELBY	AL	3.10	2.91	2.75	2.58	2.42	2.25
ST. CLAIR	AL	3.10	2.90	2.72	2.54	2.36	2.18
SUMTER	AL	3.10	3.04	2.90	2.75	2.61	2.47
TALLADEGA	AL	3.10	2.92	2.76	2.61	2.45	2.29
TALLAPOOSA	AL	3.10	3.04	2.90	2.76	2.62	2.48
TUSCALOOSA	AL	3.10	2.92	2.76	2.61	2.45	2.29
WALKER	AL	3.10	2.81	2.65	2.48	2.32	2.15
WASHINGTON	AL	3.45	3.25	3.11	2.96	2.82	2.67
WILCOX	AL	3.30	3.14	3.00	2.86	2.72	2.58
WINSTON	AL	3.10	2.80	2.61	2.43	2.24	2.06
ARKANSAS	AR	2.90	2.71	2.59	2.46	2.34	2.22
ASHLEY	AR	3.10	2.92	2.76	2.60	2.44	2.28
BAXTER	AR	2.60	2.36	2.17	1.97	1.78	1.59

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
BENTON	AR	2.60	2.30	2.04	1.79	1.53	1.28
BOONE	AR	2.60	2.33	2.11	1.88	1.66	1.44
BRADLEY	AR	2.90	2.82	2.66	2.50	2.34	2.18
CALHOUN	AR	2.90	2.80	2.62	2.45	2.27	2.09
CARROLL	AR	2.60	2.31	2.07	1.82	1.58	1.34
CHICOT	AR	3.10	2.93	2.78	2.64	2.49	2.34
CLARK	AR	2.90	2.64	2.45	2.27	2.08	1.89
CLAY	AR	2.60	2.42	2.30	2.17	2.05	1.92
CLEBURNE	AR	2.80	2.53	2.36	2.18	2.01	1.84
CLEVELAND	AR	2.90	2.81	2.63	2.46	2.28	2.11
COLUMBIA	AR	3.10	2.86	2.64	2.42	2.20	1.98
CONWAY	AR	2.80	2.56	2.36	2.15	1.95	1.74
CRAIGHEAD	AR	2.60	2.58	2.46	2.33	2.21	2.09
CRAWFORD	AR	2.80	2.51	2.26	2.00	1.75	1.49
CRITTENDEN	AR	2.80	2.69	2.61	2.53	2.45	2.37
CROSS	AR	2.80	2.67	2.57	2.46	2.36	2.26
DALLAS	AR	2.90	2.78	2.58	2.39	2.19	1.99
DESHA	AR	2.90	2.84	2.70	2.56	2.42	2.28
DREW	AR	2.90	2.83	2.68	2.53	2.38	2.23
FAULKNER	AR	2.80	2.59	2.41	2.22	2.04	1.86
FRANKLIN	AR	2.80	2.52	2.27	2.01	1.76	1.51
FULTON	AR	2.60	2.38	2.20	2.03	1.85	1.68
GARLAND	AR	2.80	2.58	2.39	2.19	2.00	1.81
GRANT	AR	2.90	2.66	2.50	2.33	2.17	2.00
GREENE	AR	2.60	2.44	2.33	2.23	2.12	2.01
HEMPSTEAD	AR	2.90	2.75	2.51	2.28	2.04	1.81
HOT SPRING	AR	2.90	2.64	2.45	2.27	2.08	1.89
HOWARD	AR	2.90	2.60	2.38	2.15	1.93	1.70
INDEPENDENCE	AR	2.60	2.54	2.38	2.22	2.06	1.90
IZARD	AR	2.60	2.39	2.23	2.07	1.91	1.75
JACKSON	AR	2.60	2.57	2.44	2.30	2.17	2.04
JEFFERSON	AR	2.90	2.69	2.55	2.41	2.27	2.13
JOHNSON	AR	2.80	2.47	2.24	2.02	1.79	1.56
LAFAYETTE	AR	3.10	2.84	2.60	2.35	2.11	1.87
LAWRENCE	AR	2.60	2.43	2.30	2.18	2.05	1.93
LEE	AR	2.80	2.68	2.58	2.49	2.39	2.30
LINCOLN	AR	2.90	2.82	2.66	2.51	2.35	2.19
LITTLE RIVER	AR	2.90	2.72	2.46	2.20	1.94	1.68
LOGAN	AR	2.80	2.53	2.30	2.06	1.83	1.59
LONOKE	AR	2.80	2.62	2.46	2.31	2.15	2.00
MADISON	AR	2.60	2.32	2.08	1.85	1.61	1.38
MARION	AR	2.60	2.34	2.13	1.93	1.72	1.51
MILLER	AR	3.10	2.82	2.57	2.31	2.06	1.80
MISSISSIPPI	AR	2.60	2.59	2.48	2.37	2.26	2.15
MONROE	AR	2.80	2.66	2.55	2.45	2.34	2.23
MONTGOMERY	AR	2.80	2.57	2.37	2.16	1.96	1.76
NEVADA	AR	2.90	2.77	2.55	2.34	2.12	1.91
NEWTON	AR	2.60	2.38	2.15	1.93	1.70	1.48
OUACHITA	AR	2.90	2.79	2.59	2.40	2.20	2.01
PERRY	AR	2.80	2.57	2.38	2.18	1.99	1.79
PHILLIPS	AR	2.90	2.73	2.63	2.52	2.42	2.32
PIKE	AR	2.90	2.62	2.40	2.19	1.97	1.76
POINSETT	AR	2.60	2.59	2.49	2.38	2.28	2.17
POLK	AR	2.80	2.54	2.31	2.07	1.84	1.61
POPE	AR	2.80	2.49	2.28	2.06	1.85	1.64
PRAIRIE	AR	2.80	2.64	2.52	2.39	2.27	2.14
PULASKI	AR	2.80	2.61	2.45	2.28	2.12	1.96
RANDOLPH	AR	2.60	2.41	2.27	2.12	1.98	1.84
SALINE	AR	2.80	2.60	2.43	2.26	2.09	1.92
SCOTT	AR	2.80	2.54	2.31	2.07	1.84	1.61
SEARCY	AR	2.60	2.40	2.19	1.99	1.78	1.58
SEBASTIAN	AR	2.80	2.53	2.28	2.04	1.79	1.55
SEVIER	AR	2.90	2.59	2.35	2.11	1.87	1.63
SHARP	AR	2.60	2.41	2.26	2.12	1.97	1.83
ST. FRANCIS	AR	2.80	2.68	2.58	2.49	2.39	2.30
STONE	AR	2.60	2.43	2.26	2.08	1.91	1.74
UNION	AR	3.10	2.89	2.70	2.51	2.32	2.13
VAN BUREN	AR	2.80	2.50	2.31	2.11	1.92	1.72
WASHINGTON	AR	2.60	2.31	2.07	1.82	1.58	1.34
WHITE	AR	2.80	2.61	2.46	2.30	2.15	1.99

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
WOODRUFF	AR	2.80	2.64	2.51	2.39	2.26	2.13
YELL	AR	2.80	2.55	2.33	2.12	1.90	1.68
APACHE	AZ	1.90	2.25	2.11	1.96	1.82	1.67
COCHISE	AZ	2.10	2.20	1.98	1.75	1.53	1.31
COCONINO	AZ	1.90	2.24	2.07	1.90	1.73	1.56
GILA	AZ	2.10	2.18	1.95	1.73	1.50	1.28
GRAHAM	AZ	2.10	2.28	2.03	1.79	1.54	1.30
GREENLEE	AZ	2.10	2.21	2.00	1.80	1.59	1.38
LA PAZ	AZ	2.10	2.23	2.06	1.88	1.71	1.54
MARICOPA	AZ	2.35	2.24	1.97	1.69	1.42	1.14
MOHAVE	AZ	1.90	2.10	2.00	1.90	1.80	1.70
NAVAJO	AZ	1.90	2.18	2.02	1.87	1.71	1.56
PIMA	AZ	2.35	2.37	2.10	1.82	1.55	1.28
PINAL	AZ	2.35	2.26	2.00	1.73	1.47	1.21
SANTA CRUZ	AZ	2.10	2.28	2.04	1.79	1.55	1.31
YAVAPAI	AZ	1.90	2.20	2.00	1.81	1.61	1.41
YUMA	AZ	2.10	2.25	2.08	1.92	1.75	1.58
ALAMEDA	CA	1.80	1.69	1.59	1.48	1.38	1.27
ALPINE	CA	1.70	1.53	1.36	1.20	1.03	0.86
AMADOR	CA	1.70	1.54	1.39	1.23	1.08	0.92
BUTTE	CA	1.70	1.72	1.60	1.47	1.35	1.23
CALAVERAS	CA	1.70	1.54	1.37	1.21	1.04	0.88
COLUSA	CA	1.70	1.62	1.54	1.46	1.38	1.30
CONTRA COSTA	CA	1.80	1.68	1.57	1.45	1.34	1.22
DEL NORTE	CA	1.80	1.73	1.65	1.58	1.50	1.43
EL DORADO	CA	1.70	1.55	1.39	1.24	1.08	0.93
FRESNO	CA	1.60	1.59	1.41	1.24	1.06	0.89
GLENN	CA	1.70	1.63	1.55	1.48	1.40	1.33
HUMBOLDT	CA	1.80	1.73	1.66	1.58	1.51	1.44
IMPERIAL	CA	2.00	1.92	1.84	1.77	1.69	1.61
INYO	CA	1.60	1.51	1.43	1.34	1.26	1.17
KERN	CA	1.80	1.68	1.57	1.45	1.34	1.22
KINGS	CA	1.60	1.50	1.39	1.29	1.18	1.08
LAKE	CA	1.80	1.71	1.63	1.54	1.46	1.37
LASSEN	CA	1.70	1.57	1.44	1.32	1.19	1.06
LOS ANGELES	CA	2.10	2.03	1.82	1.61	1.40	1.19
MADERA	CA	1.60	1.45	1.30	1.15	1.00	0.85
MARIN	CA	1.80	1.71	1.62	1.53	1.44	1.35
MARIPOSA	CA	1.70	1.52	1.34	1.16	0.98	0.80
MENDOCINO	CA	1.80	1.72	1.65	1.57	1.50	1.42
MERCED	CA	1.70	1.54	1.39	1.23	1.08	0.92
MODOC	CA	1.70	1.59	1.48	1.38	1.27	1.16
MONO	CA	1.60	1.45	1.30	1.14	0.99	0.84
MONTEREY	CA	1.80	1.77	1.74	1.72	1.69	1.66
NAPA	CA	1.80	1.69	1.59	1.48	1.38	1.27
NEVADA	CA	1.70	1.57	1.44	1.30	1.17	1.04
ORANGE	CA	2.10	1.93	1.76	1.60	1.43	1.26
PLACER	CA	1.70	1.56	1.41	1.27	1.12	0.98
PLUMAS	CA	1.70	1.58	1.45	1.33	1.20	1.08
RIVERSIDE	CA	2.00	1.88	1.76	1.65	1.53	1.41
SACRAMENTO	CA	1.70	1.58	1.46	1.34	1.22	1.10
SAN BENITO	CA	1.80	1.74	1.69	1.63	1.58	1.52
SAN BERNARDINO	CA	1.80	1.72	1.64	1.57	1.49	1.41
SAN DIEGO	CA	2.10	2.07	1.91	1.74	1.58	1.41
SAN FRANCISCO	CA	1.80	1.74	1.64	1.53	1.43	1.33
SAN JOAQUIN	CA	1.70	1.56	1.42	1.29	1.15	1.01
SAN LUIS OBISPO	CA	1.80	1.73	1.66	1.60	1.53	1.46
SAN MATEO	CA	1.80	1.72	1.64	1.56	1.48	1.40
SANTA BARBARA	CA	1.80	1.74	1.67	1.61	1.54	1.48
SANTA CLARA	CA	1.80	1.73	1.65	1.58	1.50	1.43
SANTA CRUZ	CA	1.80	1.75	1.70	1.65	1.60	1.55
SHASTA	CA	1.70	1.74	1.64	1.53	1.43	1.33
SIERRA	CA	1.70	1.57	1.44	1.31	1.18	1.05
SISKIYOU	CA	1.80	1.71	1.63	1.54	1.46	1.37
SOLANO	CA	1.80	1.68	1.56	1.45	1.33	1.21
SONOMA	CA	1.80	1.71	1.63	1.54	1.46	1.37
STANISLAUS	CA	1.70	1.53	1.36	1.20	1.03	0.86
SUTTER	CA	1.70	1.61	1.52	1.42	1.33	1.24
TEHAMA	CA	1.70	1.63	1.55	1.48	1.40	1.33
TRINITY	CA	1.80	1.72	1.65	1.57	1.50	1.42

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
TULARE	CA	1.60	1.48	1.37	1.25	1.14	1.02
TUOLUMNE	CA	1.70	1.52	1.35	1.17	1.00	0.82
VENTURA	CA	1.80	1.71	1.61	1.52	1.42	1.33
YOLO	CA	1.70	1.60	1.50	1.39	1.29	1.19
YUBA	CA	1.70	1.60	1.50	1.39	1.29	1.19
ADAMS	CO	2.55	2.40	2.07	1.75	1.42	1.09
ALAMOSA	CO	1.90	2.35	2.20	2.05	1.90	1.75
ARAPAHOE	CO	2.55	2.42	2.11	1.79	1.48	1.17
ARCHULETA	CO	1.90	1.73	1.76	1.80	1.83	1.86
BACA	CO	2.35	2.29	2.08	1.86	1.65	1.44
BENT	CO	2.35	2.35	2.11	1.86	1.62	1.37
BOULDER	CO	2.45	2.31	2.01	1.72	1.42	1.13
CHAFFEE	CO	1.90	2.31	2.12	1.92	1.73	1.54
CHEYENNE	CO	2.35	2.25	2.00	1.74	1.49	1.24
CLEAR CREEK	CO	2.45	2.33	2.06	1.78	1.51	1.24
CONEJOS	CO	1.90	2.29	2.18	2.06	1.95	1.84
COSTILLA	CO	1.90	2.35	2.20	2.04	1.89	1.74
CROWLEY	CO	2.45	2.47	2.20	1.94	1.67	1.41
CUSTER	CO	2.45	2.39	2.18	1.98	1.77	1.56
DELTA	CO	2.00	1.95	1.89	1.84	1.78	1.73
DENVER	CO	2.55	2.41	2.09	1.78	1.46	1.14
DOLORES	CO	1.90	1.80	1.80	1.80	1.80	1.80
DOUGLAS	CO	2.55	2.43	2.13	1.83	1.53	1.23
EAGLE	CO	1.90	1.72	1.64	1.56	1.48	1.40
EL PASO	CO	2.45	2.43	2.13	1.83	1.53	1.23
ELBERT	CO	2.55	2.45	2.18	1.90	1.63	1.35
FREMONT	CO	2.45	2.38	2.16	1.94	1.72	1.50
GARFIELD	CO	2.00	1.92	1.83	1.75	1.66	1.58
GILPIN	CO	2.45	2.32	2.04	1.76	1.48	1.20
GRAND	CO	1.90	2.25	2.00	1.74	1.49	1.24
GUNNISON	CO	1.90	1.77	1.74	1.70	1.67	1.64
HINSDALE	CO	1.90	1.79	1.78	1.78	1.77	1.76
HUERFANO	CO	2.45	2.40	2.21	2.01	1.82	1.62
JACKSON	CO	1.90	2.24	1.98	1.72	1.46	1.20
JEFFERSON	CO	2.55	2.43	2.13	1.82	1.52	1.22
KIOWA	CO	2.35	2.34	2.08	1.83	1.57	1.31
KIT CARSON	CO	2.35	2.24	1.97	1.71	1.44	1.18
LA PLATA	CO	1.90	2.29	2.08	1.87	1.66	1.45
LAKE	CO	1.90	1.73	1.76	1.78	1.81	1.84
LARIMER	CO	2.45	2.30	2.00	1.69	1.39	1.09
LAS ANIMAS	CO	2.35	2.41	2.22	2.04	1.85	1.66
LINCOLN	CO	2.45	2.33	2.06	1.78	1.51	1.24
LOGAN	CO	2.35	2.21	1.91	1.62	1.32	1.03
MESA	CO	2.00	1.95	1.89	1.84	1.78	1.73
MINERAL	CO	1.90	1.71	1.73	1.74	1.76	1.77
MOFFAT	CO	1.90	1.71	1.62	1.53	1.44	1.35
MONTEZUMA	CO	1.90	1.72	1.74	1.77	1.79	1.81
MONTROSE	CO	2.00	1.96	1.91	1.87	1.82	1.78
MORGAN	CO	2.35	2.29	1.98	1.66	1.35	1.04
OTERO	CO	2.45	2.47	2.21	1.95	1.69	1.43
OURAY	CO	1.90	1.80	1.80	1.79	1.79	1.79
PARK	CO	2.45	2.35	2.10	1.85	1.60	1.35
PHILLIPS	CO	2.35	2.13	1.87	1.60	1.34	1.07
PITKIN	CO	1.90	1.74	1.68	1.63	1.57	1.51
PROWERS	CO	2.35	2.27	2.04	1.80	1.57	1.34
PUEBLO	CO	2.45	2.48	2.23	1.99	1.74	1.49
RIO BLANCO	CO	1.90	1.73	1.66	1.60	1.53	1.46
RIO GRANDE	CO	1.90	2.27	2.15	2.02	1.90	1.77
ROUTT	CO	1.90	1.70	1.60	1.50	1.40	1.30
SAGUACHE	CO	1.90	1.69	1.67	1.66	1.64	1.63
SAN JUAN	CO	1.90	1.80	1.80	1.80	1.80	1.80
SAN MIGUEL	CO	1.90	1.80	1.80	1.80	1.80	1.80
SEDGWICK	CO	2.35	2.13	1.85	1.58	1.30	1.03
SUMMIT	CO	1.90	2.27	2.04	1.80	1.57	1.34
TELLER	CO	2.45	2.46	2.20	1.93	1.67	1.40
WASHINGTON	CO	2.35	2.30	1.99	1.69	1.38	1.08
WELD	CO	2.45	2.28	1.96	1.63	1.31	0.99
YUMA	CO	2.35	2.22	1.95	1.67	1.40	1.12
FAIRFIELD	CT	3.10	2.91	2.72	2.54	2.35	2.17
HARTFORD	CT	3.10	2.92	2.70	2.47	2.25	2.03

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
LITCHFIELD	CT	3.00	2.91	2.68	2.44	2.21	1.98
MIDDLESEX	CT	3.10	2.97	2.77	2.58	2.38	2.18
NEW HAVEN	CT	3.10	2.95	2.75	2.56	2.36	2.17
NEW LONDON	CT	3.10	2.99	2.80	2.62	2.43	2.25
TOLLAND	CT	3.10	2.97	2.76	2.54	2.33	2.11
WINDHAM	CT	3.10	3.00	2.80	2.61	2.41	2.22
DISTRICT OF COLUMBIA	DC	3.00	2.74	2.45	2.17	1.88	1.59
KENT	DE	3.00	2.69	2.47	2.25	2.03	1.81
NEW CASTLE	DE	3.00	2.81	2.53	2.24	1.96	1.68
SUSSEX	DE	3.00	2.68	2.49	2.29	2.10	1.91
ALACHUA	FL	3.70	3.55	3.52	3.50	3.47	3.44
BAKER	FL	3.70	3.52	3.47	3.41	3.36	3.30
BAY	FL	3.70	3.47	3.37	3.26	3.16	3.05
BRADFORD	FL	3.70	3.54	3.51	3.47	3.44	3.40
BREVARD	FL	4.00	3.86	3.84	3.83	3.81	3.79
BROWARD	FL	4.30	4.19	4.20	4.20	4.21	4.22
CALHOUN	FL	3.70	3.47	3.36	3.26	3.15	3.04
CHARLOTTE	FL	4.30	3.91	3.95	3.98	4.02	4.05
CITRUS	FL	4.00	3.82	3.77	3.71	3.66	3.60
CLAY	FL	3.70	3.55	3.51	3.48	3.44	3.41
COLLIER	FL	4.30	3.94	4.00	4.07	4.13	4.19
COLUMBIA	FL	3.70	3.52	3.47	3.41	3.36	3.30
DADE	FL	4.30	4.20	4.22	4.25	4.27	4.29
DE SOTO	FL	4.30	3.91	3.93	3.96	3.98	4.01
DIXIE	FL	3.70	3.54	3.50	3.45	3.41	3.37
DUVAL	FL	3.70	3.54	3.49	3.45	3.40	3.36
ESCAMBIA	FL	3.45	3.44	3.30	3.16	3.02	2.88
FLAGLER	FL	4.00	3.81	3.74	3.68	3.61	3.54
FRANKLIN	FL	3.70	3.50	3.42	3.35	3.27	3.19
GADSDEN	FL	3.70	3.48	3.37	3.27	3.16	3.06
GILCHRIST	FL	3.70	3.54	3.50	3.47	3.43	3.39
GLADES	FL	4.30	4.16	4.14	4.11	4.09	4.07
GULF	FL	3.70	3.49	3.40	3.30	3.21	3.12
HAMILTON	FL	3.70	3.50	3.42	3.35	3.27	3.19
HARDEE	FL	4.30	3.89	3.91	3.92	3.94	3.95
HENDRY	FL	4.30	4.17	4.15	4.14	4.12	4.11
HERNANDO	FL	4.00	3.84	3.80	3.77	3.73	3.69
HIGHLANDS	FL	4.30	3.90	3.92	3.94	3.96	3.98
HILLSBOROUGH	FL	4.00	3.87	3.85	3.84	3.82	3.81
HOLMES	FL	3.70	3.45	3.31	3.18	3.04	2.91
INDIAN RIVER	FL	4.00	4.13	4.07	4.02	3.96	3.91
JACKSON	FL	3.70	3.46	3.33	3.21	3.08	2.96
JEFFERSON	FL	3.70	3.49	3.40	3.32	3.23	3.14
LAFAYETTE	FL	3.70	3.55	3.52	3.48	3.45	3.42
LAKE	FL	4.00	3.84	3.80	3.75	3.71	3.67
LEE	FL	4.30	3.92	3.97	4.01	4.06	4.10
LEON	FL	3.70	3.49	3.39	3.30	3.20	3.11
LEVY	FL	4.00	3.80	3.72	3.64	3.56	3.48
LIBERTY	FL	3.70	3.48	3.39	3.29	3.20	3.10
MADISON	FL	3.70	3.49	3.40	3.30	3.21	3.12
MANATEE	FL	4.30	3.89	3.91	3.92	3.94	3.95
MARION	FL	4.00	3.81	3.75	3.68	3.62	3.55
MARTIN	FL	4.30	4.15	4.12	4.09	4.06	4.03
MONROE	FL	4.30	4.21	4.23	4.26	4.28	4.31
NASSAU	FL	3.70	3.51	3.45	3.38	3.32	3.25
OKALOOSA	FL	3.45	3.44	3.30	3.17	3.03	2.89
OKEECHOBEE	FL	4.30	4.14	4.11	4.07	4.04	4.00
ORANGE	FL	4.00	3.85	3.82	3.78	3.75	3.72
OSCEOLA	FL	4.00	3.87	3.86	3.84	3.83	3.82
PALM BEACH	FL	4.30	4.17	4.16	4.14	4.13	4.12
PASCO	FL	4.00	3.85	3.82	3.78	3.75	3.72
PINELLAS	FL	4.00	3.87	3.85	3.84	3.82	3.81
POLK	FL	4.00	3.87	3.86	3.85	3.84	3.83
PUTNAM	FL	3.70	3.57	3.55	3.54	3.52	3.51
SANTA ROSA	FL	3.45	3.44	3.30	3.16	3.02	2.88
SARASOTA	FL	4.30	3.90	3.93	3.95	3.98	4.00
SEMINOLE	FL	4.00	3.84	3.80	3.77	3.73	3.69
ST. JOHNS	FL	3.70	3.55	3.53	3.50	3.48	3.45
ST. LUCIE	FL	4.30	4.14	4.10	4.05	4.01	3.97
SUMTER	FL	4.00	3.83	3.79	3.74	3.70	3.65

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
SUWANNEE	FL	3.70	3.51	3.45	3.38	3.32	3.25
TAYLOR	FL	3.70	3.51	3.44	3.37	3.30	3.23
UNION	FL	3.70	3.53	3.49	3.44	3.40	3.35
VOLUSIA	FL	4.00	3.83	3.78	3.72	3.67	3.62
WAKULLA	FL	3.70	3.50	3.41	3.33	3.24	3.16
WALTON	FL	3.45	3.45	3.32	3.20	3.07	2.94
WASHINGTON	FL	3.70	3.46	3.33	3.21	3.08	2.96
APPLING	GA	3.45	3.28	3.17	3.05	2.94	2.82
ATKINSON	GA	3.45	3.31	3.22	3.12	3.03	2.94
BACON	GA	3.45	3.30	3.20	3.11	3.01	2.91
BAKER	GA	3.45	3.30	3.19	3.09	2.98	2.88
BALDWIN	GA	3.10	3.03	2.88	2.72	2.57	2.42
BANKS	GA	3.10	2.93	2.77	2.62	2.46	2.31
BARROW	GA	3.10	2.94	2.81	2.67	2.54	2.40
BARTOW	GA	3.10	2.85	2.72	2.58	2.45	2.32
BEN HILL	GA	3.45	3.28	3.16	3.03	2.91	2.79
BERRIEN	GA	3.45	3.31	3.22	3.12	3.03	2.94
BIBB	GA	3.30	3.02	2.86	2.70	2.54	2.38
BLECKLEY	GA	3.30	3.13	2.98	2.84	2.69	2.54
BRANTLEY	GA	3.45	3.33	3.26	3.20	3.13	3.06
BROOKS	GA	3.45	3.33	3.26	3.18	3.11	3.04
BRYAN	GA	3.45	3.29	3.18	3.07	2.96	2.85
BULLOCH	GA	3.30	3.16	3.04	2.93	2.81	2.69
BURKE	GA	3.30	3.05	2.91	2.78	2.64	2.51
BUTTS	GA	3.10	2.95	2.82	2.70	2.57	2.44
CALHOUN	GA	3.45	3.29	3.18	3.06	2.95	2.84
CAMDEN	GA	3.45	3.36	3.31	3.27	3.22	3.18
CANDLER	GA	3.30	3.16	3.04	2.93	2.81	2.69
CARROLL	GA	3.10	2.95	2.82	2.68	2.55	2.42
CATOOSA	GA	2.80	2.64	2.51	2.38	2.25	2.12
CHARLTON	GA	3.45	3.36	3.32	3.27	3.23	3.19
CHATHAM	GA	3.45	3.30	3.20	3.09	2.99	2.89
CHATTAHOOCHEE	GA	3.30	3.16	3.05	2.93	2.82	2.70
CHATTOOGA	GA	2.80	2.65	2.53	2.42	2.30	2.18
CHEROKEE	GA	3.10	2.86	2.73	2.61	2.48	2.36
CLARKE	GA	3.10	2.94	2.80	2.67	2.53	2.39
CLAY	GA	3.45	3.28	3.16	3.04	2.92	2.80
CLAYTON	GA	3.10	2.96	2.84	2.72	2.60	2.48
CLINCH	GA	3.45	3.34	3.27	3.21	3.14	3.08
COBB	GA	3.10	2.95	2.82	2.69	2.56	2.43
COFFEE	GA	3.45	3.30	3.19	3.09	2.98	2.88
COLQUITT	GA	3.45	3.31	3.21	3.12	3.02	2.93
COLUMBIA	GA	3.10	3.02	2.86	2.71	2.55	2.39
COOK	GA	3.45	3.31	3.22	3.13	3.04	2.95
COWETA	GA	3.10	2.96	2.84	2.71	2.59	2.47
CRAWFORD	GA	3.30	3.04	2.90	2.77	2.63	2.49
CRISP	GA	3.45	3.17	3.06	2.95	2.84	2.73
DADE	GA	2.80	2.64	2.50	2.37	2.23	2.10
DAWSON	GA	3.10	2.85	2.71	2.58	2.44	2.31
DE KALB	GA	3.45	3.32	3.24	3.15	3.07	2.99
DECATUR	GA	3.10	2.96	2.83	2.71	2.58	2.46
DODGE	GA	3.45	3.15	3.02	2.89	2.76	2.63
DOOLY	GA	3.45	3.15	3.02	2.89	2.76	2.63
DOUGHERTY	GA	3.45	3.29	3.17	3.06	2.94	2.83
DOUGLAS	GA	3.10	2.95	2.82	2.70	2.57	2.44
EARLY	GA	3.45	3.30	3.19	3.09	2.98	2.88
ECHOLS	GA	3.45	3.34	3.29	3.23	3.18	3.12
EFFINGHAM	GA	3.30	3.17	3.06	2.95	2.84	2.73
ELBERT	GA	3.10	2.92	2.77	2.61	2.46	2.30
EMANUEL	GA	3.30	3.14	3.01	2.87	2.74	2.60
EVANS	GA	3.45	3.18	3.08	2.97	2.87	2.77
FANNIN	GA	2.80	2.65	2.53	2.42	2.30	2.18
FAYETTE	GA	3.10	2.96	2.84	2.72	2.60	2.48
FLOYD	GA	3.10	2.84	2.69	2.55	2.40	2.26
FORSYTH	GA	3.10	2.94	2.79	2.65	2.50	2.36
FRANKLIN	GA	3.10	2.92	2.76	2.59	2.43	2.27
FULTON	GA	3.10	2.96	2.83	2.71	2.58	2.46
GILMER	GA	3.10	2.71	2.59	2.46	2.34	2.22
GLASCOCK	GA	3.10	3.03	2.88	2.74	2.59	2.44
GLYNN	GA	3.45	3.34	3.28	3.22	3.16	3.10

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
GORDON	GA	3.10	2.83	2.68	2.54	2.39	2.24
GRADY	GA	3.45	3.32	3.24	3.15	3.07	2.99
GREENE	GA	3.10	2.94	2.81	2.67	2.54	2.40
GWINNETT	GA	3.10	2.95	2.82	2.69	2.56	2.43
HABERSHAM	GA	3.10	2.83	2.68	2.54	2.39	2.24
HALL	GA	3.10	2.93	2.78	2.64	2.49	2.34
HANCOCK	GA	3.10	3.03	2.88	2.72	2.57	2.42
HARALSON	GA	3.10	2.93	2.79	2.64	2.50	2.35
HARRIS	GA	3.30	3.06	2.95	2.83	2.72	2.60
HART	GA	3.10	2.92	2.75	2.59	2.42	2.26
HEARD	GA	3.10	2.96	2.83	2.71	2.58	2.46
HENRY	GA	3.10	2.96	2.84	2.71	2.59	2.47
HOUSTON	GA	3.30	3.12	2.96	2.81	2.65	2.49
IRWIN	GA	3.45	3.28	3.17	3.05	2.94	2.82
JACKSON	GA	3.10	2.94	2.79	2.65	2.50	2.36
JASPER	GA	3.10	2.95	2.82	2.68	2.55	2.42
JEFF DAVIS	GA	3.45	3.28	3.16	3.05	2.93	2.81
JEFFERSON	GA	3.30	3.04	2.90	2.76	2.62	2.48
JENKINS	GA	3.30	3.14	3.00	2.87	2.73	2.59
JOHNSON	GA	3.30	3.13	2.99	2.84	2.70	2.55
JONES	GA	3.10	3.02	2.86	2.71	2.55	2.39
LAMAR	GA	3.10	3.04	2.90	2.75	2.61	2.47
LANIER	GA	3.45	3.33	3.26	3.18	3.11	3.04
LAURENS	GA	3.30	3.14	3.00	2.85	2.71	2.57
LEE	GA	3.45	3.28	3.15	3.03	2.90	2.78
LIBERTY	GA	3.45	3.30	3.20	3.09	2.99	2.89
LINCOLN	GA	3.10	2.93	2.79	2.64	2.50	2.35
LONG	GA	3.45	3.30	3.20	3.09	2.99	2.89
LOWNDES	GA	3.45	3.33	3.26	3.18	3.11	3.04
LUMPKIN	GA	3.10	2.84	2.70	2.55	2.41	2.27
MACON	GA	3.10	3.02	2.87	2.71	2.56	2.40
MADISON	GA	3.45	3.32	3.24	3.15	3.07	2.99
MARION	GA	3.30	3.15	3.01	2.88	2.74	2.61
MCDUFFIE	GA	3.10	2.93	2.79	2.64	2.50	2.35
MCINTOSH	GA	3.30	3.16	3.03	2.91	2.78	2.66
MERIWETHER	GA	3.10	3.05	2.92	2.79	2.66	2.53
MILLER	GA	3.45	3.30	3.20	3.11	3.01	2.91
MITCHELL	GA	3.45	3.30	3.20	3.11	3.01	2.91
MONROE	GA	3.10	3.03	2.88	2.73	2.58	2.43
MONTGOMERY	GA	3.45	3.17	3.05	2.94	2.82	2.71
MORGAN	GA	3.10	2.95	2.82	2.68	2.55	2.42
MURRAY	GA	2.80	2.66	2.54	2.43	2.31	2.20
MUSCOGEE	GA	3.30	3.08	2.98	2.87	2.77	2.67
NEWTON	GA	3.10	2.95	2.82	2.70	2.57	2.44
OCONEE	GA	3.10	2.94	2.81	2.67	2.54	2.40
OGLETHORPE	GA	3.10	2.94	2.79	2.65	2.50	2.36
PAULDING	GA	3.10	2.94	2.81	2.67	2.54	2.40
PEACH	GA	3.30	3.12	2.97	2.81	2.66	2.50
PICKENS	GA	3.10	2.84	2.70	2.57	2.43	2.29
PIERCE	GA	3.45	3.32	3.24	3.15	3.07	2.99
PIKE	GA	3.10	3.04	2.91	2.77	2.64	2.50
POLK	GA	3.10	2.92	2.77	2.61	2.46	2.30
PULASKI	GA	3.45	3.14	3.01	2.87	2.74	2.60
PUTNAM	GA	3.10	2.95	2.81	2.68	2.54	2.41
QUITMAN	GA	3.45	3.27	3.14	3.02	2.89	2.76
RABUN	GA	3.10	2.81	2.65	2.48	2.32	2.15
RANDOLPH	GA	3.45	3.28	3.16	3.03	2.91	2.79
RICHMOND	GA	3.30	3.03	2.88	2.72	2.57	2.42
ROCKDALE	GA	3.10	2.95	2.83	2.70	2.58	2.45
SCHLEY	GA	3.30	3.16	3.03	2.91	2.78	2.66
SCREVEN	GA	3.30	3.15	3.02	2.88	2.75	2.62
SEMINOLE	GA	3.45	3.31	3.22	3.12	3.03	2.94
SPALDING	GA	3.10	2.96	2.84	2.72	2.60	2.48
STEPHENS	GA	3.10	2.91	2.75	2.58	2.42	2.25
STEWART	GA	3.45	3.17	3.06	2.95	2.84	2.73
SUMTER	GA	3.45	3.16	3.05	2.93	2.82	2.70
TALBOT	GA	3.30	3.06	2.94	2.81	2.69	2.57
TALIAFERRO	GA	3.10	2.94	2.81	2.67	2.54	2.40
TATTNALL	GA	3.45	3.18	3.09	2.99	2.90	2.80
TAYLOR	GA	3.30	3.06	2.94	2.82	2.70	2.58

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
TELFAIR	GA	3.45	3.17	3.07	2.96	2.86	2.75
TERRELL	GA	3.45	3.28	3.15	3.03	2.90	2.78
THOMAS	GA	3.45	3.32	3.25	3.17	3.10	3.02
TIFT	GA	3.45	3.29	3.18	3.08	2.97	2.86
TOOMBS	GA	3.45	3.17	3.06	2.94	2.83	2.72
TOWNS	GA	3.10	2.70	2.56	2.43	2.29	2.16
TREUTLEN	GA	3.30	3.15	3.02	2.88	2.75	2.62
TROUP	GA	3.10	3.05	2.91	2.78	2.64	2.51
TURNER	GA	3.45	3.28	3.16	3.03	2.91	2.79
TWIGGS	GA	3.30	3.04	2.90	2.75	2.61	2.47
UNION	GA	3.10	2.70	2.57	2.45	2.32	2.19
UPSON	GA	3.10	3.05	2.91	2.78	2.64	2.51
WALKER	GA	2.80	2.64	2.51	2.39	2.26	2.13
WALTON	GA	3.10	2.95	2.82	2.68	2.55	2.42
WARE	GA	3.45	3.32	3.25	3.17	3.10	3.02
WARREN	GA	3.10	3.03	2.87	2.72	2.56	2.41
WASHINGTON	GA	3.30	3.04	2.90	2.75	2.61	2.47
WAYNE	GA	3.45	3.31	3.21	3.12	3.02	2.93
WEBSTER	GA	3.45	3.17	3.06	2.96	2.85	2.74
WHEELER	GA	3.45	3.16	3.05	2.93	2.82	2.70
WHITE	GA	3.10	2.84	2.70	2.55	2.41	2.27
WHITFIELD	GA	2.80	2.65	2.53	2.42	2.30	2.18
WILCOX	GA	3.45	3.17	3.05	2.94	2.82	2.71
WILKES	GA	3.10	2.94	2.79	2.65	2.50	2.36
WILKINSON	GA	3.30	3.03	2.89	2.74	2.60	2.45
WORTH	GA	3.45	3.29	3.18	3.06	2.95	2.84
ADAIR	IA	1.80	1.55	1.54	1.54	1.53	1.53
ADAMS	IA	1.80	1.55	1.55	1.54	1.54	1.54
ALLAMAKEE	IA	1.75	1.23	1.21	1.18	1.16	1.13
APPANOOSE	IA	1.80	1.54	1.53	1.51	1.50	1.49
AUDUBON	IA	1.80	1.54	1.53	1.53	1.52	1.51
BENTON	IA	1.80	1.48	1.48	1.47	1.47	1.47
BLACK HAWK	IA	1.75	1.37	1.36	1.36	1.35	1.34
BOONE	IA	1.80	1.53	1.51	1.49	1.47	1.45
BREMER	IA	1.75	1.33	1.31	1.29	1.28	1.26
BUCHANAN	IA	1.75	1.38	1.37	1.35	1.34	1.32
BUENA VISTA	IA	1.75	1.50	1.46	1.41	1.37	1.32
BUTLER	IA	1.75	1.38	1.37	1.35	1.34	1.32
CALHOUN	IA	1.75	1.52	1.49	1.46	1.43	1.40
CARROLL	IA	1.80	1.53	1.51	1.49	1.47	1.45
CASS	IA	1.80	1.71	1.67	1.62	1.58	1.54
CEDAR	IA	1.80	1.48	1.49	1.49	1.50	1.50
CERRO GORDO	IA	1.75	1.30	1.28	1.27	1.25	1.24
CHEROKEE	IA	1.75	1.66	1.57	1.48	1.39	1.30
CHICKASAW	IA	1.75	1.29	1.27	1.24	1.22	1.20
CLARKE	IA	1.80	1.54	1.54	1.53	1.53	1.52
CLAY	IA	1.75	1.22	1.24	1.26	1.27	1.29
CLAYTON	IA	1.75	1.29	1.24	1.20	1.16	1.12
CLINTON	IA	1.80	1.47	1.46	1.46	1.45	1.44
CRAWFORD	IA	1.80	1.69	1.63	1.56	1.50	1.44
DALLAS	IA	1.80	1.54	1.53	1.52	1.51	1.50
DAVIS	IA	1.80	1.54	1.52	1.51	1.49	1.48
DECATUR	IA	1.80	1.54	1.54	1.53	1.53	1.52
DELAWARE	IA	1.75	1.34	1.31	1.29	1.26	1.24
DES MOINES	IA	1.80	1.55	1.54	1.54	1.53	1.53
DICKINSON	IA	1.75	1.20	1.21	1.23	1.24	1.25
DUBUQUE	IA	1.75	1.34	1.31	1.29	1.26	1.24
EMMET	IA	1.75	1.22	1.22	1.23	1.24	1.25
FAYETTE	IA	1.75	1.33	1.29	1.25	1.20	1.16
FLOYD	IA	1.75	1.31	1.29	1.27	1.25	1.23
FRANKLIN	IA	1.75	1.35	1.35	1.34	1.34	1.33
FREMONT	IA	1.85	1.71	1.67	1.62	1.58	1.54
GREENE	IA	1.80	1.53	1.51	1.49	1.47	1.45
GRUNDY	IA	1.75	1.40	1.40	1.39	1.38	1.37
GUTHRIE	IA	1.80	1.54	1.53	1.52	1.51	1.50
HAMILTON	IA	1.75	1.42	1.41	1.41	1.40	1.39
HANCOCK	IA	1.75	1.33	1.32	1.31	1.29	1.28
HARDIN	IA	1.75	1.41	1.40	1.39	1.39	1.38
HARRISON	IA	1.80	1.70	1.65	1.60	1.55	1.50
HENRY	IA	1.80	1.54	1.53	1.52	1.51	1.50

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
HOWARD	IA	1.75	1.19	1.18	1.17	1.16	1.15
HUMBOLDT	IA	1.75	1.34	1.34	1.34	1.34	1.34
IDA	IA	1.75	1.67	1.60	1.52	1.45	1.37
IOWA	IA	1.80	1.49	1.49	1.50	1.50	1.51
JACKSON	IA	1.80	1.38	1.38	1.38	1.38	1.38
JASPER	IA	1.80	1.54	1.52	1.51	1.49	1.48
JEFFERSON	IA	1.80	1.54	1.53	1.51	1.50	1.49
JOHNSON	IA	1.80	1.49	1.49	1.50	1.50	1.51
JONES	IA	1.80	1.47	1.45	1.44	1.42	1.41
KEOKUK	IA	1.80	1.48	1.49	1.49	1.50	1.50
KOSSUTH	IA	1.75	1.22	1.23	1.25	1.26	1.28
LEE	IA	1.80	1.53	1.52	1.50	1.49	1.47
LINN	IA	1.80	1.48	1.49	1.49	1.50	1.50
LOUISA	IA	1.80	1.49	1.50	1.50	1.51	1.52
LUCAS	IA	1.80	1.54	1.53	1.53	1.52	1.51
LYON	IA	1.75	1.44	1.39	1.33	1.28	1.22
MADISON	IA	1.80	1.54	1.54	1.53	1.53	1.52
MAHASKA	IA	1.80	1.54	1.53	1.52	1.51	1.50
MARION	IA	1.80	1.54	1.53	1.52	1.51	1.50
MARSHALL	IA	1.80	1.47	1.47	1.46	1.46	1.45
MILLS	IA	1.85	1.71	1.67	1.64	1.60	1.56
MITCHELL	IA	1.75	1.20	1.19	1.19	1.18	1.18
MONONA	IA	1.80	1.68	1.61	1.54	1.47	1.40
MONROE	IA	1.80	1.54	1.53	1.51	1.50	1.49
MONTGOMERY	IA	1.80	1.71	1.67	1.64	1.60	1.56
MUSCATINE	IA	1.80	1.49	1.50	1.51	1.52	1.53
O'BRIEN	IA	1.75	1.45	1.41	1.36	1.32	1.27
OSCEOLA	IA	1.75	1.43	1.38	1.34	1.29	1.24
PAGE	IA	1.80	1.71	1.67	1.63	1.59	1.55
PALO ALTO	IA	1.75	1.27	1.27	1.28	1.28	1.29
PLYMOUTH	IA	1.75	1.50	1.44	1.38	1.32	1.26
POCAHONTAS	IA	1.75	1.30	1.31	1.32	1.33	1.34
POLK	IA	1.80	1.54	1.53	1.52	1.51	1.50
POTTAWATTAMIE	IA	1.85	1.71	1.67	1.64	1.60	1.56
POWESHIEK	IA	1.80	1.48	1.48	1.49	1.49	1.49
RINGGOLD	IA	1.80	1.55	1.54	1.54	1.53	1.53
SAC	IA	1.75	1.68	1.61	1.54	1.47	1.40
SCOTT	IA	1.80	1.49	1.50	1.52	1.53	1.54
SHELBY	IA	1.80	1.70	1.65	1.61	1.56	1.51
SIOUX	IA	1.75	1.65	1.55	1.44	1.34	1.24
STORY	IA	1.80	1.53	1.51	1.49	1.47	1.45
TAMA	IA	1.80	1.47	1.46	1.46	1.45	1.44
TAYLOR	IA	1.80	1.55	1.55	1.54	1.54	1.54
UNION	IA	1.80	1.55	1.54	1.54	1.53	1.53
VAN BUREN	IA	1.80	1.53	1.51	1.50	1.48	1.46
WAPELLO	IA	1.80	1.54	1.53	1.51	1.50	1.49
WARREN	IA	1.80	1.54	1.53	1.53	1.52	1.51
WASHINGTON	IA	1.80	1.49	1.49	1.50	1.50	1.51
WAYNE	IA	1.80	1.54	1.53	1.52	1.51	1.50
WEBSTER	IA	1.75	1.48	1.46	1.44	1.42	1.40
WINNEBAGO	IA	1.75	1.20	1.21	1.21	1.22	1.22
WINNESHIEK	IA	1.75	1.19	1.18	1.16	1.15	1.14
WOODBURY	IA	1.75	1.55	1.49	1.44	1.38	1.32
WORTH	IA	1.75	1.20	1.20	1.20	1.20	1.20
WRIGHT	IA	1.75	1.37	1.36	1.35	1.34	1.33
ADA	ID	1.60	1.31	1.21	1.12	1.02	0.93
ADAMS	ID	1.60	1.16	1.12	1.07	1.03	0.99
BANNOCK	ID	1.60	1.52	1.39	1.25	1.12	0.99
BEAR LAKE	ID	1.60	1.52	1.39	1.27	1.14	1.01
BENEWAH	ID	1.90	1.72	1.54	1.35	1.17	0.99
BINGHAM	ID	1.60	1.47	1.34	1.20	1.07	0.94
BLAINE	ID	1.60	1.39	1.28	1.17	1.06	0.95
BOISE	ID	1.60	1.39	1.28	1.16	1.05	0.94
BONNER	ID	1.90	1.72	1.53	1.35	1.16	0.98
BONNEVILLE	ID	1.60	1.46	1.32	1.19	1.05	0.91
BOUNDARY	ID	1.90	1.72	1.55	1.37	1.20	1.02
BUTTE	ID	1.60	1.39	1.27	1.16	1.04	0.93
CAMAS	ID	1.60	1.39	1.28	1.16	1.05	0.94
CANYON	ID	1.60	1.27	1.19	1.10	1.02	0.94
CARIBOU	ID	1.60	1.51	1.38	1.24	1.11	0.97

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CASSIA	ID	1.60	1.52	1.38	1.25	1.11	0.98
CLARK	ID	1.60	1.42	1.29	1.15	1.02	0.89
CLEARWATER	ID	1.60	1.73	1.57	1.40	1.24	1.07
CUSTER	ID	1.60	1.39	1.28	1.18	1.07	0.96
ELMORE	ID	1.60	1.35	1.24	1.14	1.03	0.93
FRANKLIN	ID	1.60	1.52	1.40	1.27	1.15	1.02
FREMONT	ID	1.60	1.46	1.31	1.17	1.02	0.88
GEM	ID	1.60	1.27	1.19	1.10	1.02	0.94
GOODING	ID	1.60	1.39	1.28	1.17	1.06	0.95
IDAHO	ID	1.60	1.61	1.47	1.34	1.20	1.06
JEFFERSON	ID	1.60	1.46	1.32	1.18	1.04	0.90
JEROME	ID	1.60	1.39	1.28	1.18	1.07	0.96
KOOTENAI	ID	1.90	1.71	1.53	1.34	1.16	0.97
LATAH	ID	1.90	1.72	1.54	1.35	1.17	0.99
LEMHI	ID	1.60	1.40	1.30	1.20	1.10	1.00
LEWIS	ID	1.60	1.61	1.46	1.32	1.17	1.03
LINCOLN	ID	1.60	1.47	1.34	1.21	1.08	0.95
MADISON	ID	1.60	1.46	1.32	1.17	1.03	0.89
MINIDOKA	ID	1.60	1.47	1.35	1.22	1.10	0.97
NEZ PERCE	ID	1.60	1.60	1.45	1.31	1.16	1.01
ONEIDA	ID	1.60	1.52	1.39	1.27	1.14	1.01
OWYHEE	ID	1.60	1.29	1.21	1.12	1.04	0.95
PAYETTE	ID	1.60	1.23	1.16	1.09	1.02	0.95
POWER	ID	1.60	1.52	1.38	1.25	1.11	0.98
SHOSHONE	ID	1.90	1.73	1.56	1.39	1.22	1.05
TETON	ID	1.60	1.36	1.25	1.13	1.02	0.90
TWIN FALLS	ID	1.60	1.45	1.33	1.20	1.08	0.96
VALLEY	ID	1.60	1.40	1.30	1.19	1.09	0.99
WASHINGTON	ID	1.60	1.22	1.16	1.09	1.03	0.96
ADAMS	IL	1.80	1.68	1.61	1.54	1.47	1.40
ALEXANDER	IL	2.20	2.03	1.97	1.90	1.84	1.77
BOND	IL	2.00	1.85	1.78	1.70	1.63	1.56
BOONE	IL	1.75	1.32	1.33	1.35	1.36	1.37
BROWN	IL	1.80	1.70	1.66	1.61	1.57	1.52
BUREAU	IL	1.80	1.61	1.62	1.62	1.63	1.63
CALHOUN	IL	2.00	1.86	1.79	1.73	1.66	1.60
CARROLL	IL	1.80	1.78	1.68	1.58	1.48	1.38
CASS	IL	1.80	1.61	1.61	1.62	1.62	1.62
CHAMPAIGN	IL	1.80	1.72	1.69	1.67	1.64	1.61
CHRISTIAN	IL	2.00	1.86	1.80	1.75	1.69	1.63
CLARK	IL	2.00	1.84	1.76	1.68	1.60	1.52
CLAY	IL	2.00	1.84	1.75	1.67	1.58	1.50
CLINTON	IL	2.00	1.84	1.77	1.69	1.62	1.54
COLES	IL	2.00	1.85	1.77	1.70	1.62	1.55
COOK	IL	1.80	1.45	1.50	1.55	1.60	1.65
CRAWFORD	IL	2.00	1.84	1.76	1.67	1.59	1.51
CUMBERLAND	IL	2.00	1.84	1.76	1.69	1.61	1.53
DE KALB	IL	1.80	1.35	1.39	1.42	1.46	1.50
DE WITT	IL	1.80	1.74	1.74	1.73	1.73	1.72
DOUGLAS	IL	2.00	1.72	1.68	1.65	1.61	1.58
DU PAGE	IL	1.80	1.44	1.49	1.53	1.58	1.62
EDGAR	IL	2.00	1.71	1.67	1.63	1.59	1.55
EDWARDS	IL	2.20	1.85	1.77	1.70	1.62	1.55
EFFINGHAM	IL	2.00	1.84	1.76	1.69	1.61	1.53
FAYETTE	IL	2.00	1.84	1.77	1.69	1.62	1.54
FORD	IL	1.80	1.62	1.63	1.65	1.66	1.67
FRANKLIN	IL	2.20	1.93	1.85	1.77	1.69	1.61
FULTON	IL	1.80	1.63	1.65	1.66	1.68	1.70
GALLATIN	IL	2.20	2.01	1.93	1.84	1.76	1.67
GREENE	IL	2.00	1.85	1.79	1.72	1.66	1.59
GRUNDY	IL	1.80	1.62	1.63	1.64	1.65	1.66
HAMILTON	IL	2.20	1.93	1.85	1.76	1.68	1.60
HANCOCK	IL	1.80	1.69	1.64	1.58	1.53	1.47
HARDIN	IL	2.20	2.02	1.94	1.87	1.79	1.71
HENDERSON	IL	1.80	1.55	1.55	1.56	1.56	1.56
HENRY	IL	1.80	1.51	1.53	1.56	1.58	1.61
IROQUOIS	IL	1.80	1.61	1.61	1.60	1.60	1.60
JACKSON	IL	2.20	1.94	1.86	1.79	1.71	1.64
JASPER	IL	2.00	1.84	1.75	1.67	1.58	1.50
JEFFERSON	IL	2.00	1.85	1.78	1.70	1.63	1.56

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
JERSEY	IL	2.00	1.86	1.80	1.73	1.67	1.61
JO DAVIESS	IL	1.75	1.50	1.44	1.39	1.33	1.28
JOHNSON	IL	2.20	2.02	1.95	1.87	1.80	1.72
KANE	IL	1.80	1.43	1.46	1.50	1.53	1.56
KANKAKEE	IL	1.80	1.61	1.61	1.62	1.62	1.62
KENDALL	IL	1.80	1.44	1.48	1.53	1.57	1.61
KNOX	IL	1.80	1.62	1.64	1.65	1.67	1.68
LA SALLE	IL	1.80	1.43	1.46	1.49	1.52	1.55
LAKE	IL	1.80	1.62	1.63	1.65	1.66	1.67
LAWRENCE	IL	2.00	1.84	1.76	1.67	1.59	1.51
LEE	IL	1.80	1.31	1.35	1.40	1.45	1.50
LIVINGSTON	IL	1.80	1.63	1.65	1.66	1.68	1.70
LOGAN	IL	1.80	1.75	1.75	1.75	1.75	1.75
MACON	IL	1.80	1.60	1.59	1.59	1.58	1.57
MACOUPIN	IL	1.80	1.37	1.40	1.42	1.45	1.48
MADISON	IL	1.80	1.75	1.75	1.74	1.74	1.74
MARION	IL	1.80	1.73	1.71	1.70	1.68	1.66
MARSHALL	IL	2.00	1.86	1.80	1.73	1.67	1.61
MASON	IL	2.00	1.93	1.85	1.78	1.70	1.62
MASSAC	IL	2.00	1.84	1.76	1.68	1.60	1.52
MCDONOUGH	IL	1.80	1.64	1.67	1.70	1.73	1.76
MCHENRY	IL	1.80	1.63	1.65	1.68	1.70	1.72
MCLEAN	IL	2.20	2.03	1.96	1.89	1.82	1.75
MENARD	IL	1.80	1.74	1.73	1.71	1.70	1.69
MERCER	IL	1.80	1.50	1.52	1.54	1.56	1.58
MONROE	IL	2.00	1.94	1.87	1.79	1.72	1.65
MONTGOMERY	IL	2.00	1.86	1.79	1.73	1.66	1.60
MORGAN	IL	1.80	1.72	1.69	1.67	1.64	1.61
MOULTRIE	IL	2.00	1.72	1.69	1.66	1.63	1.60
OGLE	IL	1.80	1.28	1.31	1.34	1.36	1.39
PEORIA	IL	1.80	1.65	1.69	1.74	1.78	1.82
PERRY	IL	2.00	1.93	1.85	1.76	1.68	1.60
PIATT	IL	1.80	1.73	1.71	1.69	1.67	1.65
PIKE	IL	1.80	1.70	1.66	1.61	1.57	1.52
POPE	IL	2.20	2.02	1.95	1.87	1.80	1.72
PULASKI	IL	2.20	2.03	1.96	1.89	1.82	1.75
PUTNAM	IL	1.80	1.63	1.65	1.66	1.68	1.70
RANDOLPH	IL	2.00	1.93	1.86	1.78	1.71	1.63
RICHLAND	IL	2.00	1.83	1.74	1.66	1.57	1.48
ROCK ISLAND	IL	1.80	1.50	1.52	1.53	1.55	1.57
SALINE	IL	2.20	1.94	1.87	1.80	1.73	1.66
SANGAMON	IL	1.80	1.73	1.71	1.69	1.67	1.65
SCHUYLER	IL	1.80	1.71	1.68	1.64	1.61	1.57
SCOTT	IL	1.80	1.71	1.68	1.64	1.61	1.57
SHELBY	IL	2.00	1.85	1.78	1.71	1.64	1.57
ST. CLAIR	IL	2.00	1.94	1.87	1.79	1.72	1.65
STARK	IL	1.80	1.63	1.66	1.68	1.71	1.73
STEPHENSON	IL	1.75	1.25	1.26	1.27	1.28	1.29
TAZEWELL	IL	1.80	1.66	1.70	1.75	1.79	1.84
UNION	IL	2.20	2.02	1.94	1.87	1.79	1.71
VERMILION	IL	1.80	1.72	1.68	1.65	1.61	1.58
WABASH	IL	2.20	1.85	1.78	1.70	1.63	1.56
WARREN	IL	1.80	1.61	1.61	1.60	1.60	1.60
WASHINGTON	IL	2.00	1.85	1.77	1.70	1.62	1.55
WAYNE	IL	2.20	1.84	1.77	1.69	1.62	1.54
WHITE	IL	2.20	1.93	1.85	1.78	1.70	1.62
WHITESIDE	IL	1.80	1.25	1.30	1.36	1.42	1.48
WILL	IL	1.80	1.45	1.50	1.54	1.59	1.64
WILLIAMSON	IL	2.20	1.94	1.87	1.79	1.72	1.65
WINNEBAGO	IL	1.75	1.31	1.31	1.32	1.32	1.32
WOODFORD	IL	1.80	1.65	1.69	1.74	1.78	1.82
ADAMS	IN	1.80	1.71	1.62	1.52	1.43	1.34
ALLEN	IN	1.80	1.71	1.61	1.52	1.42	1.33
BARTHOLOMEW	IN	2.20	1.82	1.73	1.65	1.56	1.48
BENTON	IN	1.80	1.75	1.71	1.66	1.62	1.57
BLACKFORD	IN	1.80	1.72	1.64	1.56	1.48	1.40
BOONE	IN	2.00	1.83	1.75	1.68	1.60	1.53
BROWN	IN	2.20	1.82	1.74	1.66	1.58	1.50
CARROLL	IN	1.80	1.74	1.68	1.61	1.55	1.49
CASS	IN	1.80	1.73	1.66	1.58	1.51	1.44

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CLARK	IN	2.20	1.97	1.83	1.68	1.54	1.40
CLAY	IN	2.00	1.82	1.75	1.67	1.60	1.52
CLINTON	IN	1.80	1.82	1.74	1.67	1.59	1.51
CRAWFORD	IN	2.20	1.99	1.86	1.74	1.61	1.49
DAVIESS	IN	2.20	1.99	1.87	1.76	1.64	1.52
DE KALB	IN	2.20	1.98	1.85	1.71	1.58	1.45
DEARBORN	IN	2.20	1.81	1.73	1.64	1.56	1.47
DECATUR	IN	1.80	1.62	1.54	1.45	1.37	1.29
DELAWARE	IN	2.00	1.81	1.72	1.63	1.54	1.45
DUBOIS	IN	2.20	1.99	1.87	1.76	1.64	1.52
ELKHART	IN	1.80	1.61	1.53	1.44	1.36	1.27
FAYETTE	IN	2.00	1.81	1.72	1.64	1.55	1.46
FLOYD	IN	2.20	1.97	1.83	1.69	1.55	1.41
FOUNTAIN	IN	1.80	1.83	1.76	1.69	1.62	1.55
FRANKLIN	IN	2.00	1.81	1.72	1.64	1.55	1.46
FULTON	IN	1.80	1.72	1.64	1.56	1.48	1.40
GIBSON	IN	2.20	2.01	1.90	1.80	1.69	1.59
GRANT	IN	1.80	1.80	1.70	1.61	1.51	1.41
GREENE	IN	2.20	1.82	1.74	1.67	1.59	1.51
HAMILTON	IN	2.00	1.82	1.74	1.67	1.59	1.51
HANCOCK	IN	2.00	1.82	1.74	1.66	1.58	1.50
HARRISON	IN	2.20	1.98	1.84	1.71	1.57	1.44
HENDRICKS	IN	2.00	1.83	1.76	1.68	1.61	1.54
HENRY	IN	2.00	1.81	1.73	1.64	1.56	1.47
HOWARD	IN	1.80	1.81	1.72	1.64	1.55	1.46
HUNTINGTON	IN	1.80	1.71	1.62	1.54	1.45	1.36
JACKSON	IN	2.20	1.89	1.78	1.68	1.57	1.46
JASPER	IN	1.80	1.66	1.63	1.59	1.56	1.52
JAY	IN	1.80	1.72	1.64	1.55	1.47	1.39
JEFFERSON	IN	2.20	1.89	1.77	1.66	1.54	1.43
JENNINGS	IN	2.20	1.89	1.78	1.67	1.56	1.45
JOHNSON	IN	2.00	1.82	1.75	1.67	1.60	1.52
KNOX	IN	2.20	1.99	1.87	1.76	1.64	1.52
KOSCIUSKO	IN	1.80	1.61	1.52	1.42	1.33	1.24
LA PORTE	IN	1.80	1.61	1.52	1.44	1.35	1.26
LAGRANGE	IN	1.80	1.55	1.55	1.56	1.56	1.56
LAKE	IN	1.80	1.65	1.60	1.54	1.49	1.44
LAWRENCE	IN	2.20	1.90	1.80	1.69	1.59	1.49
MADISON	IN	2.00	1.82	1.73	1.65	1.56	1.48
MARION	IN	2.00	1.83	1.75	1.68	1.60	1.53
MARSHALL	IN	1.80	1.63	1.56	1.49	1.42	1.35
MARTIN	IN	2.20	1.99	1.87	1.74	1.62	1.50
MIAMI	IN	1.80	1.72	1.64	1.56	1.48	1.40
MONROE	IN	2.20	1.82	1.74	1.66	1.58	1.50
MONTGOMERY	IN	2.00	1.83	1.76	1.68	1.61	1.54
MORGAN	IN	2.00	1.83	1.75	1.68	1.60	1.53
NEWTON	IN	1.80	1.67	1.64	1.62	1.59	1.56
NOBLE	IN	1.80	1.62	1.53	1.45	1.36	1.28
OHIO	IN	2.20	1.98	1.84	1.71	1.57	1.44
ORANGE	IN	2.20	1.99	1.86	1.74	1.61	1.49
OWEN	IN	2.00	1.82	1.75	1.67	1.60	1.52
PARKE	IN	2.00	1.83	1.76	1.68	1.61	1.54
PERRY	IN	2.20	1.99	1.87	1.75	1.63	1.51
PIKE	IN	2.20	2.00	1.89	1.78	1.67	1.56
PORTER	IN	1.80	1.54	1.53	1.51	1.50	1.49
POSEY	IN	2.20	2.02	1.92	1.83	1.73	1.64
PULASKI	IN	1.80	1.65	1.60	1.56	1.51	1.46
PUTNAM	IN	2.00	1.83	1.75	1.68	1.60	1.53
RANDOLPH	IN	2.00	1.80	1.71	1.61	1.52	1.42
RIPLEY	IN	2.20	1.89	1.78	1.67	1.56	1.45
RUSH	IN	2.00	1.82	1.73	1.65	1.56	1.48
SCOTT	IN	1.80	1.63	1.55	1.48	1.40	1.33
SHELBY	IN	2.20	1.89	1.77	1.66	1.54	1.43
SPENCER	IN	2.00	1.82	1.74	1.66	1.58	1.50
ST. JOSEPH	IN	2.20	2.00	1.90	1.79	1.69	1.58
STARKE	IN	1.80	1.65	1.60	1.54	1.49	1.44
STEUBEN	IN	1.80	1.62	1.53	1.45	1.36	1.28
SULLIVAN	IN	2.20	1.82	1.74	1.67	1.59	1.51
SWITZERLAND	IN	2.20	1.89	1.78	1.66	1.55	1.44
TIPPECANOE	IN	1.80	1.83	1.75	1.68	1.60	1.53

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
TIPTON	IN	1.80	1.82	1.73	1.65	1.56	1.48
UNION	IN	2.00	1.81	1.72	1.63	1.54	1.45
VANDERBURGH	IN	2.20	2.01	1.92	1.82	1.73	1.63
VERMILLION	IN	2.00	1.83	1.76	1.69	1.62	1.55
VIGO	IN	2.00	1.83	1.75	1.68	1.60	1.53
WABASH	IN	1.80	1.71	1.63	1.54	1.46	1.37
WARREN	IN	1.80	1.83	1.76	1.70	1.63	1.56
WARRICK	IN	2.20	2.01	1.91	1.82	1.72	1.62
WASHINGTON	IN	2.20	1.98	1.85	1.71	1.58	1.45
WAYNE	IN	2.00	1.81	1.72	1.63	1.54	1.45
WELLS	IN	1.80	1.71	1.63	1.54	1.46	1.37
WHITE	IN	1.80	1.74	1.68	1.61	1.55	1.49
WHITLEY	IN	1.80	1.62	1.54	1.46	1.38	1.30
ALLEN	KS	2.20	2.11	1.92	1.72	1.53	1.34
ANDERSON	KS	2.00	1.81	1.70	1.58	1.47	1.36
ATCHISON	KS	2.00	1.83	1.74	1.64	1.55	1.46
BARBER	KS	2.20	2.11	1.92	1.72	1.53	1.34
BARTON	KS	2.20	2.10	1.89	1.69	1.48	1.28
BOURBON	KS	2.20	2.11	1.92	1.72	1.53	1.34
BROWN	KS	2.00	1.83	1.74	1.64	1.55	1.46
BUTLER	KS	2.20	2.10	1.90	1.71	1.51	1.31
CHASE	KS	2.20	1.80	1.69	1.57	1.46	1.34
CHAUTAUQUA	KS	2.20	2.11	1.92	1.74	1.55	1.36
CHEROKEE	KS	2.20	2.10	1.90	1.70	1.50	1.30
CHEYENNE	KS	2.20	2.15	1.91	1.66	1.42	1.17
CLARK	KS	2.20	2.27	2.04	1.81	1.58	1.35
CLAY	KS	2.00	1.80	1.69	1.57	1.46	1.34
CLOUD	KS	2.00	1.80	1.68	1.57	1.45	1.33
COFFEY	KS	2.00	1.81	1.69	1.58	1.46	1.35
COMANCHE	KS	2.20	2.11	1.92	1.73	1.54	1.35
COWLEY	KS	2.20	2.11	1.92	1.72	1.53	1.34
CRAWFORD	KS	2.20	2.10	1.90	1.71	1.51	1.31
DECATUR	KS	2.00	1.91	1.73	1.54	1.36	1.17
DICKINSON	KS	2.00	1.80	1.68	1.56	1.44	1.32
DONIPHAN	KS	2.00	1.83	1.74	1.66	1.57	1.48
DOUGLAS	KS	2.00	1.82	1.72	1.62	1.52	1.42
EDWARDS	KS	2.20	2.10	1.90	1.70	1.50	1.30
ELK	KS	2.20	2.11	1.92	1.72	1.53	1.34
ELLIS	KS	2.00	2.09	1.88	1.68	1.47	1.26
ELLSWORTH	KS	2.00	2.10	1.89	1.69	1.48	1.28
FINNEY	KS	2.20	2.26	2.02	1.79	1.55	1.31
FORD	KS	2.20	2.27	2.03	1.80	1.56	1.33
FRANKLIN	KS	2.00	1.81	1.71	1.60	1.50	1.39
GEARY	KS	2.00	1.80	1.69	1.57	1.46	1.34
GOVE	KS	2.20	2.25	2.00	1.74	1.49	1.24
GRAHAM	KS	2.00	1.92	1.75	1.57	1.40	1.22
GRANT	KS	2.20	2.27	2.04	1.82	1.59	1.36
GRAY	KS	2.20	2.27	2.03	1.80	1.56	1.33
GREELEY	KS	2.20	2.26	2.01	1.77	1.52	1.28
GREENWOOD	KS	2.20	2.11	1.91	1.72	1.52	1.33
HAMILTON	KS	2.20	2.27	2.03	1.80	1.56	1.33
HARPER	KS	2.20	2.11	1.91	1.72	1.52	1.33
HARVEY	KS	2.20	2.10	1.90	1.69	1.49	1.29
HASKELL	KS	2.20	2.27	2.03	1.80	1.56	1.33
HODGEMAN	KS	2.20	2.26	2.02	1.77	1.53	1.29
JACKSON	KS	2.00	1.82	1.72	1.63	1.53	1.43
JEFFERSON	KS	2.00	1.82	1.72	1.63	1.53	1.43
JEWELL	KS	2.00	1.93	1.76	1.60	1.43	1.26
JOHNSON	KS	2.00	1.82	1.73	1.63	1.54	1.44
KEARNY	KS	2.20	2.27	2.03	1.80	1.56	1.33
KINGMAN	KS	2.20	2.10	1.90	1.70	1.50	1.30
KIOWA	KS	2.20	2.10	1.91	1.71	1.52	1.32
LABETTE	KS	2.20	2.10	1.91	1.71	1.52	1.32
LANE	KS	2.20	2.25	2.01	1.76	1.52	1.27
LEAVENWORTH	KS	2.00	1.83	1.73	1.64	1.54	1.45
LINCOLN	KS	2.00	2.10	1.90	1.69	1.49	1.29
LINN	KS	2.00	1.81	1.71	1.60	1.50	1.39
LOGAN	KS	2.20	2.13	1.91	1.68	1.46	1.24
LYON	KS	2.00	1.81	1.69	1.58	1.46	1.35
MARION	KS	2.20	2.10	1.90	1.69	1.49	1.29

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MARSHALL	KS	2.20	2.10	1.90	1.71	1.51	1.31
MCPHERSON	KS	2.00	1.81	1.71	1.60	1.50	1.39
MEADE	KS	2.20	2.27	2.04	1.82	1.59	1.36
MIAMI	KS	2.00	1.82	1.72	1.61	1.51	1.41
MITCHELL	KS	2.00	1.94	1.78	1.61	1.45	1.29
MONTGOMERY	KS	2.20	2.11	1.92	1.73	1.54	1.35
MORRIS	KS	2.00	1.80	1.69	1.57	1.46	1.34
MORTON	KS	2.20	2.28	2.06	1.84	1.62	1.40
NEMAHA	KS	2.00	1.82	1.73	1.63	1.54	1.44
NEOSHO	KS	2.20	2.11	1.91	1.72	1.52	1.33
NESS	KS	2.20	2.25	2.01	1.76	1.52	1.27
NORTON	KS	2.00	1.92	1.74	1.55	1.37	1.19
OSAGE	KS	2.00	1.81	1.70	1.60	1.49	1.38
OSBORNE	KS	2.00	1.93	1.76	1.59	1.42	1.25
OTTAWA	KS	2.00	1.80	1.68	1.55	1.43	1.31
PAWNEE	KS	2.20	2.10	1.90	1.69	1.49	1.29
PHILLIPS	KS	2.00	1.92	1.74	1.56	1.38	1.20
POTTAWATOMIE	KS	2.00	1.81	1.71	1.60	1.50	1.39
PRATT	KS	2.20	2.10	1.90	1.71	1.51	1.31
RAWLINS	KS	2.00	1.91	1.72	1.53	1.34	1.15
RENO	KS	2.20	2.10	1.90	1.69	1.49	1.29
REPUBLIC	KS	2.00	1.80	1.68	1.55	1.43	1.31
RICE	KS	2.20	2.10	1.89	1.69	1.48	1.28
RILEY	KS	2.00	1.81	1.70	1.59	1.48	1.37
ROOKS	KS	2.00	1.93	1.75	1.58	1.40	1.23
RUSH	KS	2.20	2.09	1.89	1.68	1.48	1.27
RUSSELL	KS	2.00	2.09	1.89	1.68	1.48	1.27
SALINE	KS	2.00	1.80	1.67	1.55	1.42	1.30
SCOTT	KS	2.20	2.26	2.01	1.77	1.52	1.28
SEDGWICK	KS	2.20	2.10	1.90	1.69	1.49	1.29
SEWARD	KS	2.20	2.27	2.05	1.82	1.60	1.37
SHAWNEE	KS	2.00	1.82	1.71	1.61	1.50	1.40
SHERIDAN	KS	2.00	1.92	1.74	1.56	1.38	1.20
SHERMAN	KS	2.20	2.16	1.91	1.67	1.42	1.18
SMITH	KS	2.00	1.93	1.75	1.58	1.40	1.23
STAFFORD	KS	2.20	2.10	1.90	1.69	1.49	1.29
STANTON	KS	2.20	2.27	2.05	1.82	1.60	1.37
STEVENS	KS	2.20	2.27	2.05	1.82	1.60	1.37
SUMNER	KS	2.20	2.11	1.91	1.72	1.52	1.33
THOMAS	KS	2.00	1.92	1.74	1.55	1.37	1.19
TREGO	KS	2.20	2.25	2.00	1.75	1.50	1.25
WABAUNSEE	KS	2.00	2.20	1.99	1.79	1.58	1.38
WALLACE	KS	2.20	2.25	2.00	1.74	1.49	1.24
WASHINGTON	KS	2.00	1.81	1.70	1.58	1.47	1.36
WICHITA	KS	2.20	2.26	2.01	1.77	1.52	1.28
WILSON	KS	2.20	2.11	1.91	1.72	1.52	1.33
WOODSON	KS	2.20	2.11	1.92	1.72	1.53	1.34
WYANDOTTE	KS	2.00	1.83	1.73	1.64	1.54	1.45
ADAIR	KY	2.40	1.98	1.85	1.72	1.59	1.46
ALLEN	KY	2.40	2.12	1.98	1.85	1.71	1.57
ANDERSON	KY	2.20	1.97	1.83	1.69	1.55	1.41
BALLARD	KY	2.40	2.27	2.15	2.03	1.91	1.79
BARREN	KY	2.40	2.11	1.97	1.82	1.68	1.53
BATH	KY	2.20	2.00	1.89	1.78	1.67	1.56
BELL	KY	2.40	2.30	2.15	1.99	1.84	1.69
BOONE	KY	2.20	1.98	1.85	1.71	1.58	1.45
BOURBON	KY	2.20	1.99	1.86	1.74	1.61	1.49
BOYD	KY	2.20	2.02	1.93	1.85	1.76	1.67
BOYLE	KY	2.20	1.97	1.83	1.69	1.55	1.41
BRACKEN	KY	2.20	1.99	1.87	1.74	1.62	1.50
BREATHITT	KY	2.20	2.28	2.11	1.94	1.77	1.60
BRECKINRIDGE	KY	2.20	1.99	1.87	1.74	1.62	1.50
BULLITT	KY	2.20	1.97	1.83	1.69	1.55	1.41
BUTLER	KY	2.40	2.00	1.90	1.79	1.69	1.58
CALDWELL	KY	2.40	2.15	2.05	1.94	1.84	1.73
CALLOWAY	KY	2.40	2.28	2.18	2.07	1.97	1.86
CAMPBELL	KY	2.20	1.98	1.85	1.72	1.59	1.46
CARLISLE	KY	2.40	2.28	2.17	2.05	1.94	1.83
CARROLL	KY	2.20	1.97	1.84	1.70	1.57	1.43
CARTER	KY	2.20	2.01	1.92	1.82	1.73	1.63

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CASEY	KY	2.40	1.97	1.83	1.69	1.55	1.41
CHRISTIAN	KY	2.40	2.15	2.04	1.92	1.81	1.70
CLARK	KY	2.20	1.99	1.87	1.74	1.62	1.50
CLAY	KY	2.40	2.28	2.11	1.93	1.76	1.59
CLINTON	KY	2.40	2.00	1.89	1.78	1.67	1.56
CRITTENDEN	KY	2.40	2.15	2.04	1.94	1.83	1.72
CUMBERLAND	KY	2.40	2.00	1.89	1.77	1.66	1.55
DAVIESS	KY	2.20	2.01	1.91	1.81	1.71	1.61
EDMONSON	KY	2.40	1.99	1.87	1.76	1.64	1.52
ELLIOTT	KY	2.20	2.01	1.92	1.82	1.73	1.63
ESTILL	KY	2.20	1.99	1.87	1.76	1.64	1.52
FAYETTE	KY	2.20	1.98	1.85	1.72	1.59	1.46
FLEMING	KY	2.20	2.00	1.89	1.77	1.66	1.55
FLOYD	KY	2.20	2.09	1.98	1.88	1.77	1.67
FRANKLIN	KY	2.20	1.97	1.84	1.70	1.57	1.43
FULTON	KY	2.40	2.29	2.19	2.10	2.00	1.90
GALLATIN	KY	2.20	1.98	1.84	1.71	1.57	1.44
GARRARD	KY	2.20	1.97	1.84	1.70	1.57	1.43
GRANT	KY	2.20	1.98	1.85	1.71	1.58	1.45
GRAVES	KY	2.40	2.28	2.17	2.07	1.96	1.85
GRAYSON	KY	2.40	1.99	1.87	1.75	1.63	1.51
GREEN	KY	2.40	1.98	1.85	1.71	1.58	1.45
GREENUP	KY	2.20	2.01	1.92	1.82	1.73	1.63
HANCOCK	KY	2.20	2.00	1.89	1.77	1.66	1.55
HARDIN	KY	2.20	1.98	1.85	1.72	1.59	1.46
HARLAN	KY	2.40	2.30	2.15	2.00	1.85	1.70
HARRISON	KY	2.20	1.98	1.86	1.73	1.61	1.48
HART	KY	2.40	1.98	1.86	1.73	1.61	1.48
HENDERSON	KY	2.20	2.02	1.92	1.83	1.73	1.64
HENRY	KY	2.20	1.97	1.83	1.70	1.56	1.42
HICKMAN	KY	2.40	2.28	2.18	2.07	1.97	1.86
HOPKINS	KY	2.40	2.15	2.03	1.92	1.80	1.69
JACKSON	KY	2.20	2.26	2.07	1.89	1.70	1.51
JEFFERSON	KY	2.20	1.97	1.82	1.68	1.53	1.39
JESSAMINE	KY	2.20	1.98	1.85	1.71	1.58	1.45
JOHNSON	KY	2.20	2.08	1.97	1.87	1.76	1.65
KENTON	KY	2.20	1.98	1.85	1.72	1.59	1.46
KNOTT	KY	2.40	2.29	2.14	1.98	1.83	1.67
KNOX	KY	2.40	2.28	2.11	1.95	1.78	1.61
LARUE	KY	2.20	1.98	1.84	1.71	1.57	1.44
LAUREL	KY	2.40	2.27	2.08	1.90	1.71	1.53
LAWRENCE	KY	2.20	2.09	1.98	1.88	1.77	1.67
LEE	KY	2.20	2.27	2.09	1.91	1.73	1.55
LESLIE	KY	2.40	2.29	2.13	1.98	1.82	1.66
LETCHER	KY	2.40	2.30	2.15	1.99	1.84	1.69
LEWIS	KY	2.20	2.00	1.90	1.79	1.69	1.58
LINCOLN	KY	2.20	1.97	1.83	1.70	1.56	1.42
LIVINGSTON	KY	2.40	2.26	2.13	2.01	1.88	1.75
LOGAN	KY	2.40	2.13	2.00	1.88	1.75	1.62
LYON	KY	2.40	2.16	2.06	1.97	1.87	1.77
MADISON	KY	2.40	2.27	2.15	2.03	1.91	1.79
MAGOFFIN	KY	2.40	2.27	2.09	1.92	1.74	1.56
MARION	KY	2.20	2.02	1.92	1.83	1.73	1.64
MARSHALL	KY	2.20	1.98	1.85	1.73	1.60	1.47
MARTIN	KY	2.20	2.08	1.97	1.85	1.74	1.63
MASON	KY	2.20	1.97	1.83	1.70	1.56	1.42
MCCRACKEN	KY	2.40	2.27	2.15	2.04	1.92	1.80
MCCREARY	KY	2.20	2.09	1.99	1.89	1.79	1.69
MCLEAN	KY	2.20	1.99	1.88	1.76	1.65	1.53
MEADE	KY	2.20	1.98	1.85	1.73	1.60	1.47
MENIFEE	KY	2.20	2.00	1.89	1.79	1.68	1.57
MERCER	KY	2.20	1.97	1.83	1.69	1.55	1.41
METCALFE	KY	2.40	1.99	1.87	1.74	1.62	1.50
MONROE	KY	2.40	2.00	1.89	1.77	1.66	1.55
MONTGOMERY	KY	2.20	1.99	1.88	1.76	1.65	1.53
MORGAN	KY	2.20	2.07	1.96	1.84	1.73	1.61
MUHLENBERG	KY	2.40	2.14	2.01	1.89	1.76	1.64
NELSON	KY	2.20	1.97	1.83	1.70	1.56	1.42
NICHOLAS	KY	2.20	1.99	1.87	1.76	1.64	1.52
OHIO	KY	2.40	2.01	1.90	1.80	1.69	1.59

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
OLDHAM	KY	2.20	1.97	1.83	1.68	1.54	1.40
OWEN	KY	2.20	1.98	1.84	1.71	1.57	1.44
OWSLEY	KY	2.20	2.27	2.10	1.92	1.75	1.57
PENDLETON	KY	2.20	1.98	1.86	1.73	1.61	1.48
PERRY	KY	2.40	2.29	2.13	1.97	1.81	1.65
PIKE	KY	2.40	2.09	1.99	1.89	1.79	1.69
POWELL	KY	2.20	2.00	1.88	1.77	1.65	1.54
PULASKI	KY	2.40	2.24	2.03	1.83	1.62	1.41
ROBERTSON	KY	2.20	1.99	1.87	1.74	1.62	1.50
ROCKCASTLE	KY	2.20	2.25	2.05	1.86	1.66	1.46
ROWAN	KY	2.20	2.01	1.90	1.80	1.69	1.59
RUSSELL	KY	2.40	1.98	1.85	1.73	1.60	1.47
SCOTT	KY	2.20	1.98	1.85	1.71	1.58	1.45
SHELBY	KY	2.20	1.97	1.83	1.68	1.54	1.40
SIMPSON	KY	2.40	2.01	1.91	1.80	1.70	1.60
SPENCER	KY	2.20	1.97	1.83	1.68	1.54	1.40
TAYLOR	KY	2.40	1.97	1.84	1.70	1.57	1.43
TODD	KY	2.40	2.14	2.02	1.90	1.78	1.66
TRIGG	KY	2.40	2.16	2.07	1.97	1.88	1.78
TRIMBLE	KY	2.20	1.97	1.83	1.70	1.56	1.42
UNION	KY	2.20	2.02	1.94	1.85	1.77	1.68
WARREN	KY	2.40	2.00	1.89	1.78	1.67	1.56
WASHINGTON	KY	2.20	1.97	1.83	1.69	1.55	1.41
WAYNE	KY	2.40	1.99	1.88	1.76	1.65	1.53
WEBSTER	KY	2.40	2.02	1.94	1.85	1.77	1.68
WHITLEY	KY	2.40	2.28	2.11	1.94	1.77	1.60
WOLFE	KY	2.20	2.07	1.95	1.83	1.71	1.59
WOODFORD	KY	2.20	1.97	1.84	1.70	1.57	1.43
ACADIA	LA	3.50	3.43	3.21	3.00	2.78	2.56
ALLEN	LA	3.50	3.36	3.13	2.91	2.68	2.46
ASCENSION	LA	3.60	3.40	3.16	2.91	2.67	2.42
ASSUMPTION	LA	3.60	3.41	3.18	2.94	2.71	2.47
AVOYELLES	LA	3.40	3.21	3.01	2.82	2.62	2.43
BEAUREGARD	LA	3.50	3.35	3.12	2.88	2.65	2.42
BIENVILLE	LA	3.30	2.97	2.76	2.56	2.35	2.14
BOSSIER	LA	3.10	2.94	2.69	2.45	2.20	1.96
CADDO	LA	3.10	2.93	2.68	2.42	2.17	1.92
CALCASIEU	LA	3.50	3.42	3.19	2.97	2.74	2.51
CALDWELL	LA	3.30	3.10	2.91	2.73	2.54	2.36
CAMERON	LA	3.60	3.43	3.21	3.00	2.78	2.56
CATAHOULA	LA	3.40	3.20	3.00	2.80	2.60	2.40
CLAIBORNE	LA	3.10	2.96	2.75	2.53	2.32	2.10
CONCORDIA	LA	3.40	3.20	3.00	2.81	2.61	2.41
DE SOTO	LA	3.30	3.04	2.79	2.55	2.30	2.06
EAST BATON ROUGE	LA	3.60	3.40	3.15	2.90	2.65	2.40
EAST CARROLL	LA	3.10	3.02	2.86	2.70	2.54	2.38
EAST FELICIANA	LA	3.50	3.34	3.11	2.87	2.64	2.40
EVANGELINE	LA	3.50	3.36	3.14	2.91	2.69	2.47
FRANKLIN	LA	3.30	3.10	2.92	2.75	2.57	2.39
GRANT	LA	3.40	3.19	2.97	2.76	2.54	2.33
IBERIA	LA	3.60	3.44	3.22	3.01	2.79	2.58
IBERVILLE	LA	3.60	3.41	3.16	2.92	2.67	2.43
JACKSON	LA	3.30	3.00	2.82	2.63	2.45	2.27
JEFFERSON	LA	3.60	3.41	3.16	2.92	2.67	2.43
JEFFERSON DAVIS	LA	3.50	3.43	3.20	2.98	2.75	2.53
LA SALLE	LA	3.60	3.44	3.23	3.01	2.80	2.59
LAFAYETTE	LA	3.60	3.41	3.18	2.94	2.71	2.47
LAFOURCHE	LA	3.40	3.19	2.98	2.78	2.57	2.36
LINCOLN	LA	3.10	2.99	2.79	2.60	2.40	2.21
LIVINGSTON	LA	3.60	3.40	3.15	2.90	2.65	2.40
MADISON	LA	3.30	3.10	2.93	2.75	2.58	2.40
MOREHOUSE	LA	3.10	3.01	2.84	2.67	2.50	2.33
NATCHITOCHES	LA	3.30	3.17	2.94	2.70	2.47	2.24
ORLEANS	LA	3.60	3.41	3.17	2.93	2.69	2.45
OUACHITA	LA	3.10	3.01	2.84	2.66	2.49	2.32
PLAQUEMINES	LA	3.60	3.43	3.21	2.99	2.77	2.55
POINTE COUPEE	LA	3.50	3.35	3.12	2.90	2.67	2.44
RAPIDES	LA	3.40	3.20	2.99	2.79	2.58	2.38
RED RIVER	LA	3.30	3.05	2.82	2.58	2.35	2.12
RICHLAND	LA	3.10	3.02	2.86	2.70	2.54	2.38

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
SABINE	LA	3.30	3.16	2.92	2.68	2.44	2.20
ST. BERNARD	LA	3.60	3.41	3.18	2.94	2.71	2.47
ST. CHARLES	LA	3.60	3.41	3.16	2.92	2.67	2.43
ST. HELENA	LA	3.50	3.35	3.11	2.88	2.64	2.41
ST. JAMES	LA	3.60	3.41	3.17	2.92	2.68	2.44
ST. JOHN THE BAPTIST	LA	3.60	3.41	3.16	2.92	2.67	2.43
ST. LANDRY	LA	3.50	3.36	3.14	2.93	2.71	2.49
ST. MARTIN	LA	3.60	3.43	3.21	3.00	2.78	2.56
ST. MARY	LA	3.60	3.43	3.21	3.00	2.78	2.56
ST. TAMMANY	LA	3.50	3.36	3.14	2.91	2.69	2.47
TANGIPAHOA	LA	3.60	3.40	3.16	2.91	2.67	2.42
TENSAS	LA	3.30	3.10	2.93	2.75	2.58	2.40
TERREBONNE	LA	3.60	3.42	3.20	2.97	2.75	2.52
UNION	LA	3.10	2.99	2.80	2.61	2.42	2.23
VERMILION	LA	3.60	3.44	3.23	3.03	2.82	2.61
VERNON	LA	3.40	3.18	2.97	2.75	2.54	2.32
WASHINGTON	LA	3.50	3.36	3.13	2.91	2.68	2.46
WEBSTER	LA	3.10	2.94	2.70	2.46	2.22	1.98
WEST BATON ROUGE	LA	3.60	3.40	3.16	2.91	2.67	2.42
WEST CARROLL	LA	3.10	3.02	2.85	2.69	2.52	2.36
WEST FELICIANA	LA	3.50	3.35	3.12	2.88	2.65	2.42
WINN	LA	3.30	3.08	2.88	2.69	2.49	2.29
BARNSTABLE	MA	3.25	3.06	2.87	2.69	2.50	2.32
BERKSHIRE	MA	2.80	2.71	2.49	2.28	2.06	1.85
BRISTOL	MA	3.25	3.07	2.89	2.72	2.54	2.37
DUKES	MA	3.25	3.06	2.88	2.71	2.53	2.35
ESSEX	MA	3.25	3.04	2.83	2.63	2.42	2.22
FRANKLIN	MA	3.00	2.80	2.58	2.36	2.14	1.92
HAMPDEN	MA	3.00	2.90	2.68	2.45	2.23	2.01
HAMPSHIRE	MA	3.00	2.91	2.67	2.44	2.20	1.97
MIDDLESEX	MA	3.25	3.04	2.84	2.64	2.44	2.24
NANTUCKET	MA	3.25	3.06	2.88	2.69	2.51	2.33
NORFOLK	MA	3.25	3.05	2.87	2.68	2.50	2.31
PLYMOUTH	MA	3.25	3.06	2.88	2.71	2.53	2.35
SUFFOLK	MA	3.25	3.06	2.87	2.69	2.50	2.32
WORCESTER	MA	3.10	2.99	2.78	2.58	2.37	2.17
ALLEGANY	MD	2.60	2.58	2.33	2.09	1.84	1.60
ANNE ARUNDEL	MD	3.00	2.75	2.47	2.18	1.90	1.62
BALTIMORE	MD	3.00	2.73	2.44	2.14	1.85	1.55
BALTIMORE CITY	MD	3.00	2.74	2.45	2.15	1.86	1.57
CALVERT	MD	3.00	2.77	2.50	2.24	1.97	1.71
CAROLINE	MD	3.00	2.78	2.53	2.28	2.03	1.78
CARROLL	MD	2.80	2.72	2.41	2.10	1.79	1.48
CECIL	MD	3.00	2.80	2.51	2.22	1.93	1.64
CHARLES	MD	3.00	2.76	2.48	2.21	1.93	1.66
DORCHESTER	MD	3.00	2.68	2.46	2.24	2.02	1.80
FREDERICK	MD	2.80	2.72	2.41	2.10	1.79	1.48
GARRETT	MD	2.60	2.55	2.32	2.09	1.86	1.63
HARFORD	MD	3.00	2.74	2.45	2.15	1.86	1.57
HOWARD	MD	3.00	2.73	2.44	2.14	1.85	1.55
KENT	MD	3.00	2.75	2.48	2.20	1.93	1.65
MONTGOMERY	MD	3.00	2.73	2.44	2.14	1.85	1.55
PRINCE GEORGE'S	MD	3.00	2.75	2.47	2.19	1.91	1.63
QUEEN ANNE'S	MD	3.00	2.76	2.49	2.23	1.96	1.69
SOMERSET	MD	3.00	2.77	2.52	2.26	2.01	1.75
ST. MARY'S	MD	3.00	2.64	2.46	2.27	2.09	1.91
TALBOT	MD	3.00	2.78	2.52	2.27	2.01	1.76
WASHINGTON	MD	2.80	2.71	2.39	2.08	1.76	1.44
WICOMICO	MD	3.00	2.66	2.47	2.28	2.09	1.90
WORCESTER	MD	3.00	2.65	2.48	2.30	2.13	1.96
ANDROSCOGGIN	ME	2.80	2.67	2.43	2.18	1.94	1.69
AROOSTOOK	ME	2.60	2.09	1.91	1.72	1.54	1.35
CUMBERLAND	ME	3.00	2.76	2.53	2.29	2.06	1.83
FRANKLIN	ME	2.60	2.37	2.16	1.96	1.75	1.54
HANCOCK	ME	2.80	2.26	2.07	1.87	1.68	1.49
KENNEBEC	ME	2.80	2.37	2.18	1.98	1.79	1.59
KNOX	ME	2.80	2.38	2.19	1.99	1.80	1.61
LINCOLN	ME	2.80	2.47	2.27	2.08	1.88	1.68
OXFORD	ME	2.80	2.42	2.24	2.05	1.87	1.69
PENOBSCOT	ME	2.80	2.25	2.03	1.80	1.58	1.36

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
PISCATAQUIS	ME	2.60	2.24	2.03	1.81	1.60	1.39
SAGADAHOC	ME	2.80	2.70	2.46	2.23	1.99	1.75
SOMERSET	ME	2.60	2.33	2.12	1.90	1.69	1.47
WALDO	ME	2.80	2.32	2.12	1.91	1.71	1.51
WASHINGTON	ME	2.80	2.16	1.98	1.79	1.61	1.42
YORK	ME	3.00	2.87	2.65	2.42	2.20	1.98
ALCONA	MI	1.80	1.58	1.47	1.37	1.26	1.16
ALGER	MI	1.80	1.28	1.21	1.14	1.07	1.00
ALLEGAN	MI	1.80	1.62	1.54	1.45	1.37	1.29
ALPENA	MI	1.80	1.57	1.46	1.34	1.23	1.12
ANTRIM	MI	1.80	1.55	1.42	1.29	1.16	1.03
ARENAC	MI	1.80	1.59	1.50	1.40	1.31	1.22
BARAGA	MI	1.70	1.27	1.19	1.10	1.02	0.94
BARRY	MI	1.80	1.62	1.53	1.45	1.36	1.28
BAY	MI	1.80	1.66	1.56	1.47	1.37	1.28
BENZIE	MI	1.80	1.58	1.48	1.38	1.28	1.18
BERRIEN	MI	1.80	1.64	1.57	1.51	1.44	1.38
BRANCH	MI	1.80	1.62	1.53	1.45	1.36	1.28
CALHOUN	MI	1.80	1.62	1.54	1.46	1.38	1.30
CASS	MI	1.80	1.62	1.53	1.45	1.36	1.28
CHARLEVOIX	MI	1.80	1.55	1.41	1.28	1.14	1.01
CHEBOYGAN	MI	1.80	1.55	1.42	1.30	1.17	1.04
CHIPPEWA	MI	1.80	1.32	1.30	1.27	1.25	1.22
CLARE	MI	1.80	1.60	1.52	1.44	1.36	1.28
CLINTON	MI	1.80	1.68	1.62	1.55	1.49	1.42
CRAWFORD	MI	1.80	1.55	1.42	1.30	1.17	1.04
DELTA	MI	1.70	1.11	1.07	1.04	1.00	0.96
DICKINSON	MI	1.70	1.09	1.03	0.98	0.92	0.86
EATON	MI	1.80	1.64	1.57	1.51	1.44	1.38
EMMET	MI	1.80	1.55	1.42	1.28	1.15	1.02
GENESEE	MI	1.80	1.67	1.59	1.51	1.43	1.35
GLADWIN	MI	1.80	1.59	1.50	1.41	1.32	1.23
GOGEBIC	MI	1.70	1.12	1.09	1.07	1.04	1.01
GRAND TRAVERSE	MI	1.80	1.57	1.46	1.35	1.24	1.13
GRATIOT	MI	1.80	1.67	1.59	1.52	1.44	1.36
HILLSDALE	MI	1.80	1.66	1.57	1.49	1.40	1.31
HOUGHTON	MI	1.70	1.27	1.19	1.12	1.04	0.96
HURON	MI	1.80	1.66	1.56	1.47	1.37	1.28
INGHAM	MI	1.80	1.68	1.61	1.55	1.48	1.41
IONIA	MI	1.80	1.63	1.56	1.49	1.42	1.35
IOSCO	MI	1.80	1.58	1.48	1.39	1.29	1.19
IRON	MI	1.70	1.10	1.04	0.99	0.93	0.88
ISABELLA	MI	1.80	1.61	1.54	1.46	1.39	1.32
JACKSON	MI	1.80	1.67	1.59	1.52	1.44	1.36
KALAMAZOO	MI	1.80	1.61	1.51	1.42	1.32	1.23
KALKASKA	MI	1.80	1.56	1.44	1.33	1.21	1.09
KENT	MI	1.80	1.62	1.53	1.45	1.36	1.28
KEWEENAW	MI	1.70	1.28	1.20	1.13	1.05	0.98
LAKE	MI	1.80	1.61	1.54	1.48	1.41	1.34
LAPEER	MI	1.80	1.67	1.59	1.50	1.42	1.34
LEELANAU	MI	1.80	1.56	1.45	1.33	1.22	1.10
LENAWEE	MI	1.80	1.71	1.62	1.53	1.44	1.35
LIVINGSTON	MI	1.80	1.67	1.60	1.52	1.45	1.37
LUCE	MI	1.80	1.30	1.25	1.21	1.16	1.11
MACKINAC	MI	1.80	1.30	1.25	1.21	1.16	1.11
MACOMB	MI	1.80	1.68	1.60	1.53	1.45	1.38
MANISTEE	MI	1.80	1.60	1.52	1.43	1.35	1.27
MARQUETTE	MI	1.80	1.27	1.18	1.10	1.01	0.93
MASON	MI	1.80	1.62	1.56	1.49	1.43	1.37
MECOSTA	MI	1.80	1.61	1.54	1.48	1.41	1.34
MENOMINEE	MI	1.70	1.11	1.07	1.03	0.99	0.95
MIDLAND	MI	1.80	1.60	1.53	1.45	1.38	1.30
MISSAUKEE	MI	1.80	1.59	1.49	1.40	1.30	1.21
MONROE	MI	1.80	1.72	1.63	1.55	1.46	1.38
MONTCALM	MI	1.80	1.63	1.56	1.48	1.41	1.34
MONTMORENCY	MI	1.80	1.55	1.42	1.29	1.16	1.03
MUSKEGON	MI	1.80	1.63	1.57	1.50	1.44	1.37
NEWAYGO	MI	1.80	1.61	1.55	1.48	1.42	1.35
OAKLAND	MI	1.80	1.67	1.59	1.50	1.42	1.34
OCEANA	MI	1.80	1.62	1.56	1.50	1.44	1.38

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
OGEMAW	MI	1.80	1.58	1.47	1.37	1.26	1.16
ONTONAGON	MI	1.70	1.12	1.08	1.05	1.01	0.98
OSCEOLA	MI	1.80	1.61	1.53	1.46	1.38	1.31
OSCODA	MI	1.80	1.56	1.44	1.33	1.21	1.09
OTSEGO	MI	1.80	1.54	1.40	1.25	1.11	0.97
OTTAWA	MI	1.80	1.62	1.54	1.46	1.38	1.30
PRESQUE ISLE	MI	1.80	1.56	1.44	1.33	1.21	1.09
ROSCOMMON	MI	1.80	1.57	1.46	1.35	1.24	1.13
SAGINAW	MI	1.80	1.67	1.59	1.50	1.42	1.34
SANILAC	MI	1.80	1.66	1.57	1.49	1.40	1.31
SCHOOLCRAFT	MI	1.80	1.29	1.22	1.16	1.09	1.03
SHIAWASSEE	MI	1.80	1.68	1.61	1.53	1.46	1.39
ST. CLAIR	MI	1.80	1.68	1.60	1.53	1.45	1.38
ST. JOSEPH	MI	1.80	1.61	1.52	1.44	1.35	1.26
TUSCOLA	MI	1.80	1.66	1.57	1.48	1.39	1.30
VAN BUREN	MI	1.80	1.62	1.54	1.45	1.37	1.29
WASHTENAW	MI	1.80	1.67	1.59	1.52	1.44	1.36
WAYNE	MI	1.80	1.67	1.60	1.52	1.45	1.37
WEXFORD	MI	1.80	1.59	1.50	1.42	1.33	1.24
AITKIN	MN	1.65	1.13	1.13	1.12	1.12	1.11
ANOKA	MN	1.70	1.15	1.15	1.16	1.16	1.17
BECKER	MN	1.65	1.09	1.04	0.98	0.93	0.88
BELTRAMI	MN	1.65	1.13	1.05	0.98	0.90	0.83
BENTON	MN	1.70	1.13	1.12	1.12	1.11	1.10
BIG STONE	MN	1.70	1.11	1.08	1.05	1.02	0.99
BLUE EARTH	MN	1.70	1.20	1.19	1.19	1.18	1.18
BROWN	MN	1.70	1.19	1.19	1.18	1.18	1.17
CARLTON	MN	1.65	1.15	1.17	1.18	1.20	1.21
CARVER	MN	1.70	1.15	1.15	1.16	1.16	1.17
CASS	MN	1.65	1.10	1.07	1.03	1.00	0.96
CHIPPEWA	MN	1.70	1.12	1.11	1.09	1.08	1.06
CHISAGO	MN	1.70	1.14	1.14	1.15	1.15	1.15
CLAY	MN	1.65	1.13	1.06	1.00	0.93	0.86
CLEARWATER	MN	1.65	1.13	1.05	0.98	0.90	0.83
COOK	MN	1.65	1.17	1.13	1.10	1.06	1.03
COTTONWOOD	MN	1.70	1.20	1.19	1.19	1.18	1.18
CROW WING	MN	1.65	1.12	1.10	1.08	1.06	1.04
DAKOTA	MN	1.70	1.14	1.15	1.15	1.16	1.16
DODGE	MN	1.70	1.14	1.13	1.13	1.12	1.12
DOUGLAS	MN	1.70	1.10	1.07	1.03	1.00	0.96
FARIBAULT	MN	1.70	1.20	1.20	1.21	1.21	1.21
FILLMORE	MN	1.70	1.14	1.14	1.13	1.13	1.13
FREEBORN	MN	1.70	1.20	1.19	1.19	1.18	1.18
GOODHUE	MN	1.70	1.14	1.13	1.13	1.12	1.12
GRANT	MN	1.70	1.10	1.06	1.03	0.99	0.95
HENNEPIN	MN	1.70	1.20	1.20	1.20	1.20	1.20
HOUSTON	MN	1.70	1.15	1.15	1.16	1.16	1.17
HUBBARD	MN	1.65	1.09	1.05	1.00	0.96	0.91
ISANTI	MN	1.70	1.14	1.14	1.15	1.15	1.15
ITASCA	MN	1.65	1.16	1.12	1.09	1.05	1.01
JACKSON	MN	1.70	1.20	1.20	1.21	1.21	1.21
KANABEC	MN	1.70	1.14	1.14	1.14	1.14	1.14
KANDIYOHI	MN	1.70	1.13	1.11	1.10	1.08	1.07
KITTSON	MN	1.60	1.13	1.06	1.00	0.93	0.86
KOOCHICHING	MN	1.65	1.14	1.09	1.03	0.98	0.92
LAC QUI PARLE	MN	1.70	1.17	1.14	1.10	1.07	1.04
LAKE	MN	1.65	1.18	1.16	1.15	1.13	1.11
LAKE OF THE WOODS	MN	1.60	1.12	1.05	0.97	0.90	0.82
LE SUEUR	MN	1.70	1.15	1.15	1.16	1.16	1.17
LINCOLN	MN	1.70	1.33	1.27	1.22	1.16	1.11
LYON	MN	1.70	1.19	1.17	1.16	1.14	1.13
MAHNOMEN	MN	1.70	1.14	1.14	1.14	1.14	1.14
MARSHALL	MN	1.65	1.13	1.05	0.98	0.90	0.83
MARTIN	MN	1.65	1.12	1.05	0.97	0.90	0.82
MCLEOD	MN	1.70	1.20	1.20	1.21	1.21	1.21
MEEKER	MN	1.70	1.13	1.12	1.12	1.11	1.10
MILLE LACS	MN	1.70	1.13	1.13	1.12	1.12	1.11
MORRISON	MN	1.70	1.12	1.10	1.08	1.06	1.04
MOWER	MN	1.70	1.19	1.18	1.16	1.15	1.14
MURRAY	MN	1.70	1.19	1.19	1.18	1.18	1.17

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
NICOLLET	MN	1.70	1.15	1.15	1.16	1.16	1.17
NOBLES	MN	1.70	1.37	1.33	1.28	1.24	1.20
NORMAN	MN	1.65	1.13	1.07	1.00	0.94	0.87
OLMSTED	MN	1.70	1.18	1.16	1.14	1.12	1.10
OTTER TAIL	MN	1.65	1.10	1.05	1.01	0.96	0.92
PENNINGTON	MN	1.65	1.10	1.00	0.91	0.81	0.71
PINE	MN	1.70	1.15	1.16	1.16	1.17	1.18
PIPESTONE	MN	1.70	1.36	1.31	1.25	1.20	1.15
POLK	MN	1.65	1.13	1.06	0.99	0.92	0.85
POPE	MN	1.70	1.11	1.08	1.06	1.03	1.00
RAMSEY	MN	1.70	1.20	1.20	1.20	1.20	1.20
RED LAKE	MN	1.65	1.11	1.02	0.93	0.84	0.75
REDWOOD	MN	1.70	1.19	1.18	1.16	1.15	1.14
RENVILLE	MN	1.70	1.14	1.13	1.13	1.12	1.12
RICE	MN	1.70	1.14	1.15	1.15	1.16	1.16
ROCK	MN	1.70	1.41	1.36	1.30	1.25	1.20
ROSEAU	MN	1.60	1.12	1.03	0.95	0.86	0.78
SCOTT	MN	1.65	1.18	1.16	1.15	1.13	1.11
SHERBURNE	MN	1.70	1.15	1.15	1.16	1.16	1.17
SIBLEY	MN	1.70	1.14	1.14	1.13	1.13	1.13
ST. LOUIS	MN	1.70	1.14	1.15	1.15	1.16	1.16
STEARNS	MN	1.70	1.12	1.11	1.09	1.08	1.06
STEELE	MN	1.70	1.14	1.14	1.15	1.15	1.15
STEVENS	MN	1.70	1.11	1.08	1.04	1.01	0.98
SWIFT	MN	1.70	1.12	1.10	1.07	1.05	1.03
TODD	MN	1.70	1.11	1.08	1.05	1.02	0.99
TRAVERSE	MN	1.70	1.10	1.07	1.03	1.00	0.96
WABASHA	MN	1.70	1.13	1.12	1.12	1.11	1.10
WADENA	MN	1.65	1.10	1.06	1.02	0.98	0.94
WASECA	MN	1.70	1.15	1.15	1.16	1.16	1.17
WASHINGTON	MN	1.70	1.19	1.18	1.17	1.16	1.15
WATONWAN	MN	1.70	1.20	1.20	1.19	1.19	1.19
WILKIN	MN	1.65	1.09	1.05	1.00	0.96	0.91
WINONA	MN	1.70	1.14	1.14	1.15	1.15	1.15
WRIGHT	MN	1.70	1.14	1.14	1.14	1.14	1.14
YELLOW MEDICINE	MN	1.70	1.18	1.16	1.13	1.11	1.09
ADAIR	MO	1.80	1.67	1.61	1.56	1.50	1.45
ANDREW	MO	1.80	1.84	1.75	1.67	1.58	1.50
ATCHISON	MO	1.80	1.84	1.76	1.68	1.60	1.52
AUDRAIN	MO	2.00	1.84	1.76	1.68	1.60	1.52
BARRY	MO	2.20	2.01	1.82	1.64	1.45	1.27
BARTON	MO	2.20	2.10	1.90	1.71	1.51	1.31
BATES	MO	2.00	1.81	1.71	1.60	1.50	1.39
BENTON	MO	2.00	1.82	1.71	1.61	1.50	1.40
BOLLINGER	MO	2.20	1.95	1.89	1.83	1.77	1.71
BOONE	MO	2.00	1.85	1.78	1.71	1.64	1.57
BUCHANAN	MO	1.80	1.83	1.75	1.66	1.58	1.49
BUTLER	MO	2.20	2.11	2.04	1.96	1.89	1.81
CALDWELL	MO	1.80	1.83	1.75	1.66	1.58	1.49
CALLAWAY	MO	2.00	1.85	1.78	1.70	1.63	1.56
CAMDEN	MO	2.00	2.03	1.87	1.72	1.56	1.40
CAPE GIRARDEAU	MO	2.20	1.95	1.89	1.84	1.78	1.72
CARROLL	MO	1.80	1.67	1.63	1.58	1.54	1.49
CARTER	MO	2.20	2.10	2.00	1.91	1.81	1.72
CASS	MO	2.00	1.82	1.72	1.63	1.53	1.43
CEDAR	MO	2.20	2.02	1.84	1.67	1.49	1.32
CHARITON	MO	1.80	1.84	1.75	1.67	1.58	1.50
CHRISTIAN	MO	2.20	2.02	1.84	1.67	1.49	1.32
CLARK	MO	1.80	1.66	1.60	1.55	1.49	1.43
CLAY	MO	1.80	1.83	1.74	1.65	1.56	1.47
CLINTON	MO	1.80	1.83	1.75	1.66	1.58	1.49
COLE	MO	2.00	1.84	1.76	1.69	1.61	1.53
COOPER	MO	2.00	1.84	1.76	1.69	1.61	1.53
CRAWFORD	MO	2.00	1.92	1.84	1.75	1.67	1.58
DADE	MO	2.20	2.01	1.83	1.65	1.47	1.29
DALLAS	MO	2.20	2.01	1.84	1.66	1.49	1.31
DAVIESS	MO	1.80	1.84	1.76	1.67	1.59	1.51
DE KALB	MO	1.80	1.84	1.75	1.67	1.58	1.50
DENT	MO	2.00	2.06	1.94	1.81	1.69	1.56
DOUGLAS	MO	2.20	2.03	1.88	1.72	1.57	1.41

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
DUNKLIN	MO	2.20	2.44	2.32	2.21	2.09	1.98
FRANKLIN	MO	2.00	1.93	1.85	1.77	1.69	1.61
GASCONADE	MO	2.00	2.07	1.94	1.82	1.69	1.57
GENTRY	MO	1.80	1.84	1.76	1.68	1.60	1.52
GREENE	MO	2.20	2.01	1.84	1.66	1.49	1.31
GRUNDY	MO	1.80	1.54	1.53	1.52	1.51	1.50
HARRISON	MO	1.80	1.54	1.54	1.53	1.53	1.52
HENRY	MO	2.00	1.82	1.72	1.61	1.51	1.41
HICKORY	MO	2.00	2.02	1.85	1.69	1.52	1.35
HOLT	MO	1.80	1.84	1.75	1.67	1.58	1.50
HOWARD	MO	2.00	1.84	1.77	1.69	1.62	1.54
HOWELL	MO	2.20	2.07	1.95	1.84	1.72	1.60
IRON	MO	2.00	2.08	1.97	1.87	1.76	1.65
JACKSON	MO	2.00	1.83	1.74	1.64	1.55	1.46
JASPER	MO	2.20	2.10	1.89	1.69	1.48	1.28
JEFFERSON	MO	2.00	1.94	1.87	1.79	1.72	1.65
JOHNSON	MO	2.00	1.82	1.73	1.63	1.54	1.44
KNOX	MO	1.80	1.66	1.60	1.54	1.48	1.42
LACLEDE	MO	2.20	2.03	1.86	1.70	1.53	1.37
LAFAYETTE	MO	2.00	1.83	1.74	1.66	1.57	1.48
LAWRENCE	MO	2.20	2.01	1.83	1.64	1.46	1.28
LEWIS	MO	1.80	1.65	1.58	1.51	1.44	1.37
LINCOLN	MO	2.00	1.85	1.78	1.72	1.65	1.58
LINN	MO	1.80	1.67	1.62	1.58	1.53	1.48
LIVINGSTON	MO	1.80	1.68	1.63	1.59	1.54	1.50
MACON	MO	2.20	2.01	1.82	1.64	1.45	1.27
MADISON	MO	1.80	1.67	1.62	1.56	1.51	1.46
MARIES	MO	2.20	2.09	1.99	1.88	1.78	1.68
MARION	MO	2.00	2.05	1.92	1.78	1.65	1.51
MCDONALD	MO	1.80	1.65	1.59	1.52	1.46	1.39
MERCER	MO	1.80	1.54	1.53	1.53	1.52	1.51
MILLER	MO	2.00	1.83	1.74	1.65	1.56	1.47
MISSISSIPPI	MO	2.20	2.28	2.17	2.05	1.94	1.83
MONITEAU	MO	2.00	1.84	1.77	1.69	1.62	1.54
MONROE	MO	1.80	1.67	1.62	1.57	1.52	1.47
MONTGOMERY	MO	2.00	1.85	1.78	1.70	1.63	1.56
MORGAN	MO	2.00	1.83	1.74	1.64	1.55	1.46
NEW MADRID	MO	2.20	2.29	2.19	2.09	1.99	1.89
NEWTON	MO	2.20	2.09	1.89	1.68	1.48	1.27
NODAWAY	MO	1.80	1.84	1.76	1.69	1.61	1.53
OREGON	MO	2.20	2.09	1.99	1.90	1.80	1.70
OSAGE	MO	2.00	1.85	1.77	1.70	1.62	1.55
OZARK	MO	2.20	2.05	1.91	1.77	1.63	1.49
PEMISCOT	MO	2.20	2.44	2.33	2.21	2.10	1.99
PERRY	MO	2.20	1.94	1.87	1.79	1.72	1.65
PETTIS	MO	2.00	1.83	1.74	1.65	1.56	1.47
PHELPS	MO	2.00	2.05	1.92	1.78	1.65	1.51
PIKE	MO	2.00	1.68	1.64	1.59	1.55	1.51
PLATTE	MO	1.80	1.83	1.74	1.65	1.56	1.47
POLK	MO	2.20	2.01	1.83	1.66	1.48	1.30
PULASKI	MO	2.20	2.04	1.90	1.75	1.61	1.46
PUTNAM	MO	1.80	1.54	1.52	1.51	1.49	1.48
RALLS	MO	2.00	1.66	1.61	1.55	1.50	1.44
RANDOLPH	MO	1.80	1.84	1.76	1.67	1.59	1.51
RAY	MO	1.80	1.67	1.63	1.58	1.54	1.49
REYNOLDS	MO	2.20	2.08	1.97	1.87	1.76	1.65
RIPLEY	MO	2.20	2.11	2.03	1.96	1.88	1.80
SALINE	MO	2.00	1.93	1.85	1.78	1.70	1.62
SCHUYLER	MO	1.80	1.53	1.51	1.50	1.48	1.46
SCOTLAND	MO	1.80	1.66	1.61	1.55	1.50	1.44
SCOTT	MO	2.20	2.27	2.15	2.02	1.90	1.78
SHANNON	MO	2.20	2.08	1.96	1.85	1.73	1.62
SHELBY	MO	1.80	1.66	1.60	1.55	1.49	1.43
ST. CHARLES	MO	2.00	1.93	1.85	1.78	1.70	1.62
ST. CLAIR	MO	2.00	1.81	1.70	1.58	1.47	1.36
ST. FRANCOIS	MO	2.00	1.94	1.86	1.79	1.71	1.64
ST. LOUIS	MO	2.00	1.94	1.87	1.80	1.73	1.66
ST. LOUIS CITY	MO	2.00	1.94	1.87	1.81	1.74	1.67
STE. GENEVIEVE	MO	2.00	1.94	1.86	1.79	1.71	1.64
STODDARD	MO	2.20	2.11	2.04	1.96	1.89	1.81

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
STONE	MO	2.20	2.01	1.84	1.66	1.49	1.31
SULLIVAN	MO	1.80	1.67	1.63	1.58	1.54	1.49
TANEY	MO	2.20	2.03	1.86	1.70	1.53	1.37
TEXAS	MO	2.20	2.05	1.91	1.77	1.63	1.49
VERNON	MO	2.20	2.11	1.92	1.73	1.54	1.35
WARREN	MO	2.00	1.93	1.84	1.76	1.67	1.59
WASHINGTON	MO	2.00	1.93	1.85	1.78	1.70	1.62
WAYNE	MO	2.20	2.10	2.01	1.92	1.83	1.74
WEBSTER	MO	2.20	2.01	1.83	1.64	1.46	1.28
WORTH	MO	1.80	1.84	1.76	1.69	1.61	1.53
WRIGHT	MO	2.20	2.03	1.87	1.70	1.54	1.38
ADAMS	MS	3.40	3.20	3.00	2.81	2.61	2.41
ALCORN	MS	2.90	2.70	2.57	2.43	2.30	2.17
AMITE	MS	3.40	3.20	3.01	2.81	2.62	2.42
ATTALA	MS	3.10	2.95	2.82	2.70	2.57	2.44
BENTON	MS	2.90	2.72	2.61	2.50	2.39	2.28
BOLIVAR	MS	3.10	2.85	2.72	2.60	2.47	2.34
CALHOUN	MS	3.10	2.86	2.74	2.63	2.51	2.39
CARROLL	MS	3.10	2.95	2.82	2.68	2.55	2.42
CHICKASAW	MS	3.10	2.85	2.73	2.60	2.48	2.35
CHOCTAW	MS	3.10	2.95	2.82	2.68	2.55	2.42
CLAIBORNE	MS	3.30	3.11	2.94	2.76	2.59	2.42
CLARKE	MS	3.30	3.13	2.98	2.84	2.69	2.54
CLAY	MS	3.10	2.94	2.80	2.65	2.51	2.37
COAHOMA	MS	2.90	2.74	2.64	2.55	2.45	2.36
COPIAH	MS	3.30	3.11	2.94	2.78	2.61	2.44
COVINGTON	MS	3.40	3.22	3.04	2.87	2.69	2.51
DE SOTO	MS	2.90	2.75	2.66	2.58	2.49	2.41
FORREST	MS	3.40	3.23	3.06	2.90	2.73	2.56
FRANKLIN	MS	3.40	3.20	3.01	2.81	2.62	2.42
GEORGE	MS	3.40	3.41	3.23	3.06	2.88	2.71
GREENE	MS	3.40	3.25	3.10	2.95	2.80	2.65
GRENADA	MS	3.10	2.87	2.75	2.64	2.52	2.41
HANCOCK	MS	3.50	3.37	3.16	2.96	2.75	2.54
HARRISON	MS	3.50	3.39	3.20	3.02	2.83	2.64
HINDS	MS	3.30	3.11	2.94	2.78	2.61	2.44
HOLMES	MS	3.10	2.95	2.82	2.68	2.55	2.42
HUMPHREYS	MS	3.10	2.95	2.81	2.68	2.54	2.41
ISSAQUENA	MS	3.10	3.02	2.86	2.71	2.55	2.39
ITAWAMBA	MS	2.90	2.71	2.59	2.46	2.34	2.22
JACKSON	MS	3.50	3.41	3.24	3.08	2.91	2.74
JASPER	MS	3.30	3.13	2.98	2.82	2.67	2.52
JEFFERSON	MS	3.40	3.20	3.01	2.81	2.62	2.42
JEFFERSON DAVIS	MS	3.40	3.22	3.04	2.85	2.67	2.49
JONES	MS	3.40	3.23	3.06	2.88	2.71	2.54
KEMPER	MS	3.10	3.03	2.89	2.74	2.60	2.45
LAFAYETTE	MS	2.90	2.74	2.65	2.55	2.46	2.37
LAMAR	MS	3.40	3.23	3.05	2.88	2.70	2.53
LAUDERDALE	MS	3.30	3.12	2.96	2.81	2.65	2.49
LAWRENCE	MS	3.40	3.21	3.02	2.84	2.65	2.46
LEAKE	MS	3.10	3.04	2.89	2.75	2.60	2.46
LEE	MS	2.90	2.72	2.60	2.49	2.37	2.26
LEFLORE	MS	3.10	2.94	2.81	2.67	2.54	2.40
LINCOLN	MS	3.40	3.21	3.02	2.82	2.63	2.44
LOWNDES	MS	3.10	2.93	2.79	2.64	2.50	2.35
MADISON	MS	3.10	3.03	2.88	2.74	2.59	2.44
MARION	MS	3.40	3.22	3.04	2.85	2.67	2.49
MARSHALL	MS	2.90	2.74	2.64	2.55	2.45	2.36
MONROE	MS	3.10	2.84	2.71	2.57	2.44	2.30
MONTGOMERY	MS	3.10	2.95	2.82	2.68	2.55	2.42
NESHOBA	MS	3.10	3.04	2.89	2.75	2.60	2.46
NEWTON	MS	3.30	3.12	2.96	2.80	2.64	2.48
NOXUBEE	MS	3.10	2.95	2.81	2.68	2.54	2.41
OKTIBBEHA	MS	3.10	2.94	2.81	2.67	2.54	2.40
PANOLA	MS	2.90	2.74	2.66	2.57	2.49	2.40
PEARL RIVER	MS	3.40	3.37	3.16	2.94	2.73	2.52
PERRY	MS	3.40	3.24	3.08	2.92	2.76	2.60
PIKE	MS	3.40	3.21	3.02	2.82	2.63	2.44
PONTOTOC	MS	2.90	2.73	2.63	2.53	2.43	2.33
PRENTISS	MS	2.90	2.70	2.57	2.44	2.31	2.18

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
QUITMAN	MS	2.90	2.74	2.65	2.57	2.48	2.39
RANKIN	MS	3.30	3.12	2.95	2.79	2.62	2.46
SCOTT	MS	3.30	3.12	2.96	2.79	2.63	2.47
SHARKEY	MS	3.10	3.02	2.87	2.71	2.56	2.40
SIMPSON	MS	3.30	3.12	2.96	2.79	2.63	2.47
SMITH	MS	3.30	3.12	2.96	2.81	2.65	2.49
STONE	MS	3.40	3.38	3.19	2.99	2.80	2.60
SUNFLOWER	MS	3.10	2.86	2.74	2.62	2.50	2.38
TALLAHATCHIE	MS	3.10	2.86	2.75	2.63	2.52	2.40
TATE	MS	2.90	2.74	2.66	2.57	2.49	2.40
TIPPAH	MS	2.90	2.71	2.60	2.48	2.37	2.25
TISHOMINGO	MS	2.90	2.69	2.54	2.40	2.25	2.11
TUNICA	MS	2.90	2.74	2.65	2.57	2.48	2.39
UNION	MS	2.90	2.72	2.61	2.51	2.40	2.29
WALTHALL	MS	3.40	3.21	3.02	2.84	2.65	2.46
WARREN	MS	3.30	3.11	2.94	2.76	2.59	2.42
WASHINGTON	MS	3.10	2.94	2.80	2.65	2.51	2.37
WAYNE	MS	3.40	3.24	3.08	2.91	2.75	2.59
WEBSTER	MS	3.10	2.95	2.81	2.68	2.54	2.41
WILKINSON	MS	3.40	3.20	3.00	2.81	2.61	2.41
WINSTON	MS	3.10	2.95	2.82	2.69	2.56	2.43
YALOBUSHA	MS	3.10	2.86	2.75	2.63	2.52	2.40
YAZOO	MS	3.10	3.03	2.88	2.73	2.58	2.43
BEAVERHEAD	MT	1.60	1.47	1.34	1.21	1.08	0.95
BIG HORN	MT	1.60	1.50	1.40	1.31	1.21	1.11
BLAINE	MT	1.60	1.53	1.45	1.38	1.30	1.23
BROADWATER	MT	1.60	1.48	1.36	1.24	1.12	1.00
CARBON	MT	1.60	1.49	1.38	1.26	1.15	1.04
CARTER	MT	1.65	1.48	1.35	1.23	1.10	0.98
CASCADE	MT	1.60	1.54	1.48	1.42	1.36	1.30
CHOUTEAU	MT	1.60	1.54	1.48	1.41	1.35	1.29
CUSTER	MT	1.60	1.49	1.38	1.28	1.17	1.06
DANIELS	MT	1.60	1.50	1.41	1.31	1.22	1.12
DAWSON	MT	1.60	1.49	1.38	1.28	1.17	1.06
DEER LODGE	MT	1.60	1.50	1.40	1.29	1.19	1.09
FALLON	MT	1.65	1.48	1.36	1.25	1.13	1.01
FERGUS	MT	1.60	1.52	1.43	1.35	1.26	1.18
FLATHEAD	MT	1.60	1.52	1.43	1.35	1.26	1.18
GALLATIN	MT	1.60	1.44	1.28	1.11	0.95	0.79
GARFIELD	MT	1.60	1.51	1.42	1.34	1.25	1.16
GLACIER	MT	1.60	1.53	1.46	1.38	1.31	1.24
GOLDEN VALLEY	MT	1.60	1.50	1.41	1.31	1.22	1.12
GRANITE	MT	1.60	1.52	1.43	1.35	1.26	1.18
HILL	MT	1.60	1.53	1.47	1.40	1.34	1.27
JEFFERSON	MT	1.60	1.48	1.36	1.25	1.13	1.01
JUDITH BASIN	MT	1.60	1.52	1.44	1.36	1.28	1.20
LAKE	MT	1.60	1.52	1.44	1.35	1.27	1.19
LEWIS AND CLARK	MT	1.60	1.52	1.44	1.35	1.27	1.19
LIBERTY	MT	1.60	1.54	1.47	1.41	1.34	1.28
LINCOLN	MT	1.80	1.50	1.40	1.29	1.19	1.09
MADISON	MT	1.60	1.50	1.40	1.30	1.20	1.10
MCCONE	MT	1.60	1.45	1.31	1.16	1.02	0.87
MEAGHER	MT	1.60	1.49	1.38	1.26	1.15	1.04
MINERAL	MT	1.80	1.51	1.42	1.32	1.23	1.14
MISSOULA	MT	1.60	1.52	1.44	1.37	1.29	1.21
MUSSELSHELL	MT	1.60	1.51	1.42	1.33	1.24	1.15
PARK	MT	1.60	1.45	1.29	1.14	0.98	0.83
PETROLEUM	MT	1.60	1.51	1.43	1.34	1.26	1.17
PHILLIPS	MT	1.60	1.52	1.44	1.36	1.28	1.20
PONDERA	MT	1.60	1.54	1.47	1.41	1.34	1.28
POWDER RIVER	MT	1.60	1.49	1.37	1.26	1.14	1.03
POWELL	MT	1.60	1.51	1.42	1.34	1.25	1.16
PRAIRIE	MT	1.60	1.49	1.39	1.28	1.18	1.07
RAVALLI	MT	1.60	1.52	1.44	1.37	1.29	1.21
RICHLAND	MT	1.60	1.49	1.38	1.27	1.16	1.05
ROOSEVELT	MT	1.60	1.50	1.39	1.29	1.18	1.08
ROSEBUD	MT	1.60	1.50	1.40	1.31	1.21	1.11
SANDERS	MT	1.80	1.51	1.41	1.32	1.22	1.13
SHERIDAN	MT	1.60	1.50	1.39	1.29	1.18	1.08
SILVER BOW	MT	1.60	1.49	1.37	1.26	1.14	1.03

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
STILLWATER	MT	1.60	1.48	1.36	1.24	1.12	1.00
SWEET GRASS	MT	1.60	1.47	1.34	1.21	1.08	0.95
TETON	MT	1.60	1.54	1.48	1.42	1.36	1.30
TOOLE	MT	1.60	1.54	1.47	1.41	1.34	1.28
TREASURE	MT	1.60	1.51	1.41	1.32	1.22	1.13
VALLEY	MT	1.60	1.51	1.42	1.34	1.25	1.16
WHEATLAND	MT	1.60	1.50	1.39	1.29	1.18	1.08
WIBAUX	MT	1.60	1.49	1.37	1.26	1.14	1.03
YELLOWSTONE	MT	1.60	1.51	1.42	1.33	1.24	1.15
YELLOWSTONE NATIONAL PARK	MT	1.60	1.45	1.30	1.15	1.00	0.85
ALAMANCE	NC	3.10	2.86	2.63	2.41	2.18	1.96
ALEXANDER	NC	2.95	2.70	2.48	2.25	2.03	1.80
ALLEGHANY	NC	2.95	2.69	2.45	2.22	1.98	1.74
ANSON	NC	3.10	2.88	2.68	2.49	2.29	2.09
ASHE	NC	2.95	2.69	2.45	2.22	1.98	1.74
AVERY	NC	2.95	2.70	2.47	2.24	2.01	1.78
BEAUFORT	NC	3.20	3.06	2.90	2.73	2.57	2.40
BERTIE	NC	3.20	3.03	2.84	2.64	2.45	2.25
BLADEN	NC	3.30	3.07	2.91	2.76	2.60	2.44
BRUNSWICK	NC	3.30	3.11	2.99	2.86	2.74	2.62
BUNCOMBE	NC	2.95	2.72	2.51	2.29	2.08	1.87
BURKE	NC	2.95	2.71	2.49	2.26	2.04	1.82
CABARRUS	NC	3.10	2.84	2.61	2.37	2.14	1.90
CALDWELL	NC	2.95	2.70	2.47	2.25	2.02	1.79
CAMDEN	NC	3.20	3.03	2.84	2.64	2.45	2.25
CARTERET	NC	3.20	3.09	2.95	2.81	2.67	2.53
CASWELL	NC	3.10	2.84	2.60	2.36	2.12	1.88
CATAWBA	NC	3.10	2.83	2.58	2.33	2.08	1.83
CHATHAM	NC	3.10	2.88	2.68	2.48	2.28	2.08
CHEROKEE	NC	2.95	2.77	2.60	2.44	2.27	2.11
CHOWAN	NC	3.20	3.03	2.83	2.64	2.44	2.24
CLAY	NC	2.95	2.77	2.61	2.46	2.30	2.14
CLEVELAND	NC	3.10	2.84	2.61	2.37	2.14	1.90
COLUMBUS	NC	3.30	3.09	2.95	2.82	2.68	2.54
CRAVEN	NC	3.20	3.08	2.93	2.79	2.64	2.49
CUMBERLAND	NC	3.30	3.04	2.84	2.65	2.45	2.26
CURRITUCK	NC	3.20	3.03	2.83	2.64	2.44	2.24
DARE	NC	3.20	3.05	2.88	2.70	2.53	2.35
DAVIDSON	NC	3.10	2.85	2.62	2.38	2.15	1.92
DAVIE	NC	3.10	2.83	2.59	2.34	2.10	1.85
DUPLIN	NC	3.30	3.07	2.91	2.75	2.59	2.43
DURHAM	NC	3.10	2.87	2.66	2.46	2.25	2.04
EDGECOMBE	NC	3.20	3.03	2.83	2.64	2.44	2.24
FORSYTH	NC	3.10	2.84	2.59	2.35	2.10	1.86
FRANKLIN	NC	3.10	2.88	2.68	2.49	2.29	2.09
GASTON	NC	3.10	2.84	2.60	2.35	2.11	1.87
GATES	NC	3.20	3.02	2.81	2.60	2.39	2.18
GRAHAM	NC	2.95	2.76	2.58	2.41	2.23	2.06
GRANVILLE	NC	3.10	2.86	2.65	2.43	2.22	2.00
GREENE	NC	3.20	3.05	2.87	2.70	2.52	2.34
GUILFORD	NC	3.10	2.85	2.62	2.38	2.15	1.92
HALIFAX	NC	3.10	2.89	2.70	2.51	2.32	2.13
HARNETT	NC	3.30	3.02	2.81	2.59	2.38	2.17
HAYWOOD	NC	2.95	2.73	2.54	2.34	2.15	1.95
HENDERSON	NC	2.95	2.74	2.54	2.35	2.15	1.96
HERTFORD	NC	3.20	3.02	2.81	2.59	2.38	2.17
HOKE	NC	3.30	3.03	2.83	2.64	2.44	2.24
HYDE	NC	3.20	3.07	2.91	2.75	2.59	2.43
IREDELL	NC	3.10	2.83	2.58	2.33	2.08	1.83
JACKSON	NC	2.95	2.75	2.57	2.40	2.22	2.04
JOHNSTON	NC	3.20	3.03	2.82	2.62	2.41	2.21
JONES	NC	3.20	3.08	2.93	2.77	2.62	2.47
LEE	NC	3.10	2.89	2.70	2.50	2.31	2.12
LENOIR	NC	3.20	3.07	2.91	2.75	2.59	2.43
LINCOLN	NC	3.10	2.83	2.59	2.34	2.10	1.85
MACON	NC	2.95	2.71	2.49	2.27	2.05	1.83
MADISON	NC	2.95	2.76	2.59	2.42	2.25	2.08
MARTIN	NC	2.95	2.71	2.50	2.28	2.07	1.85
MCDOWELL	NC	3.20	3.04	2.86	2.67	2.49	2.30
MECKLENBURG	NC	3.10	2.84	2.60	2.37	2.13	1.89

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MITCHELL	NC	2.95	2.70	2.48	2.25	2.03	1.80
MONTGOMERY	NC	3.10	2.87	2.66	2.44	2.23	2.02
MOORE	NC	3.10	2.89	2.69	2.50	2.30	2.11
NASH	NC	3.10	2.90	2.72	2.54	2.36	2.18
NEW HANOVER	NC	3.30	3.11	2.98	2.86	2.73	2.61
NORTHAMPTON	NC	3.10	2.88	2.69	2.49	2.30	2.10
ONSLOW	NC	3.30	3.09	2.95	2.80	2.66	2.52
ORANGE	NC	3.10	2.87	2.65	2.44	2.22	2.01
PAMLICO	NC	3.20	3.08	2.93	2.78	2.63	2.48
PASQUOTANK	NC	3.20	3.03	2.84	2.64	2.45	2.25
PENDER	NC	3.30	3.09	2.95	2.81	2.67	2.53
PERQUIMANS	NC	3.20	3.04	2.84	2.65	2.45	2.26
PERSON	NC	3.10	2.85	2.62	2.38	2.15	1.92
PITT	NC	3.20	3.05	2.88	2.70	2.53	2.35
POLK	NC	3.10	2.85	2.63	2.40	2.18	1.95
RANDOLPH	NC	3.10	2.86	2.64	2.42	2.20	1.98
RICHMOND	NC	3.10	2.90	2.72	2.53	2.35	2.17
ROBESON	NC	3.30	3.05	2.88	2.70	2.53	2.35
ROCKINGHAM	NC	2.95	2.71	2.50	2.28	2.07	1.85
ROWAN	NC	3.10	2.84	2.60	2.37	2.13	1.89
RUTHERFORD	NC	3.10	2.84	2.60	2.37	2.13	1.89
SAMPSON	NC	3.30	3.05	2.87	2.70	2.52	2.34
SCOTLAND	NC	3.30	3.03	2.83	2.64	2.44	2.24
STANLY	NC	3.10	2.86	2.64	2.41	2.19	1.97
STOKES	NC	2.95	2.70	2.47	2.25	2.02	1.79
SURRY	NC	2.95	2.70	2.47	2.23	2.00	1.77
SWAIN	NC	2.95	2.75	2.57	2.39	2.21	2.03
TRANSYLVANIA	NC	2.95	2.75	2.56	2.38	2.19	2.01
TYRRELL	NC	3.20	3.05	2.87	2.70	2.52	2.34
UNION	NC	3.10	2.86	2.65	2.43	2.22	2.00
VANCE	NC	3.10	2.86	2.64	2.43	2.21	1.99
WAKE	NC	3.10	2.89	2.70	2.50	2.31	2.12
WARREN	NC	3.10	2.86	2.65	2.43	2.22	2.00
WASHINGTON	NC	3.30	3.05	2.87	2.69	2.51	2.33
WATAUGA	NC	2.95	2.70	2.46	2.23	1.99	1.76
WAYNE	NC	3.20	3.05	2.87	2.68	2.50	2.32
WILKES	NC	2.95	2.70	2.47	2.24	2.01	1.78
WILSON	NC	3.20	3.03	2.83	2.62	2.42	2.22
YADKIN	NC	3.10	2.71	2.49	2.26	2.04	1.82
YANCEY	NC	2.95	2.71	2.49	2.26	2.04	1.82
ADAMS	ND	1.65	1.15	1.10	1.05	1.00	0.95
BARNES	ND	1.65	1.15	1.10	1.05	1.00	0.95
BENSON	ND	1.60	1.15	1.11	1.06	1.02	0.97
BILLINGS	ND	1.60	1.16	1.12	1.09	1.05	1.01
BOTTINEAU	ND	1.60	1.16	1.12	1.07	1.03	0.99
BOWMAN	ND	1.65	1.15	1.11	1.06	1.02	0.97
BURKE	ND	1.60	1.16	1.13	1.09	1.06	1.02
BURLEIGH	ND	1.65	1.15	1.10	1.06	1.01	0.96
CASS	ND	1.65	1.14	1.08	1.01	0.95	0.89
CAVALIER	ND	1.60	1.15	1.10	1.06	1.01	0.96
DICKEY	ND	1.65	1.15	1.10	1.05	1.00	0.95
DIVIDE	ND	1.60	1.17	1.14	1.10	1.07	1.04
DUNN	ND	1.60	1.16	1.12	1.07	1.03	0.99
EDDY	ND	1.65	1.16	1.11	1.07	1.02	0.98
EMMONS	ND	1.65	1.15	1.10	1.05	1.00	0.95
FOSTER	ND	1.65	1.15	1.11	1.06	1.02	0.97
GOLDEN VALLEY	ND	1.60	1.16	1.13	1.09	1.06	1.02
GRAND FORKS	ND	1.65	1.16	1.12	1.08	1.04	1.00
GRANT	ND	1.65	1.15	1.10	1.05	1.00	0.95
GRIGGS	ND	1.65	1.15	1.11	1.06	1.02	0.97
HETTINGER	ND	1.65	1.15	1.10	1.06	1.01	0.96
KIDDER	ND	1.65	1.15	1.11	1.06	1.02	0.97
LA MOURE	ND	1.65	1.15	1.10	1.05	1.00	0.95
LOGAN	ND	1.65	1.15	1.10	1.05	1.00	0.95
MCHENRY	ND	1.60	1.16	1.11	1.07	1.02	0.98
MCINTOSH	ND	1.65	1.15	1.10	1.05	1.00	0.95
MCKENZIE	ND	1.60	1.17	1.13	1.10	1.06	1.03
MCLEAN	ND	1.60	1.16	1.11	1.07	1.02	0.98
MERCER	ND	1.60	1.16	1.11	1.07	1.02	0.98
MORTON	ND	1.65	1.15	1.10	1.06	1.01	0.96

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MOUNTRAIL	ND	1.60	1.16	1.12	1.09	1.05	1.01
NELSON	ND	1.65	1.16	1.11	1.07	1.02	0.98
OLIVER	ND	1.60	1.15	1.11	1.06	1.02	0.97
PEMBINA	ND	1.60	1.14	1.09	1.03	0.98	0.92
PIERCE	ND	1.60	1.15	1.11	1.06	1.02	0.97
RAMSEY	ND	1.60	1.16	1.11	1.07	1.02	0.98
RANSOM	ND	1.65	1.14	1.09	1.03	0.98	0.92
RENVILLE	ND	1.60	1.16	1.12	1.08	1.04	1.00
RICHLAND	ND	1.65	1.14	1.08	1.03	0.97	0.91
ROLETTE	ND	1.60	1.16	1.11	1.07	1.02	0.98
SARGENT	ND	1.65	1.15	1.09	1.04	0.98	0.93
SHERIDAN	ND	1.60	1.15	1.11	1.06	1.02	0.97
SIOUX	ND	1.65	1.15	1.10	1.05	1.00	0.95
SLOPE	ND	1.65	1.16	1.12	1.07	1.03	0.99
STARK	ND	1.60	1.16	1.12	1.07	1.03	0.99
STEELE	ND	1.65	1.15	1.11	1.06	1.02	0.97
STUTSMAN	ND	1.65	1.15	1.10	1.05	1.00	0.95
TOWNER	ND	1.60	1.15	1.11	1.06	1.02	0.97
TRAILL	ND	1.65	1.15	1.10	1.05	1.00	0.95
WALSH	ND	1.60	1.15	1.10	1.06	1.01	0.96
WARD	ND	1.60	1.16	1.12	1.07	1.03	0.99
WELLS	ND	1.65	1.15	1.11	1.06	1.02	0.97
WILLIAMS	ND	1.60	1.17	1.13	1.10	1.06	1.03
ADAMS	NE	1.80	1.65	1.54	1.44	1.33	1.23
ANTELOPE	NE	1.75	1.54	1.44	1.33	1.23	1.12
ARTHUR	NE	1.80	1.22	1.17	1.12	1.07	1.02
BANNER	NE	1.80	1.72	1.54	1.37	1.19	1.01
BLAINE	NE	1.75	1.37	1.29	1.22	1.14	1.07
BOONE	NE	1.80	1.64	1.52	1.41	1.29	1.18
BOX BUTTE	NE	1.80	1.72	1.53	1.35	1.16	0.98
BOYD	NE	1.75	1.45	1.35	1.25	1.16	1.06
BROWN	NE	1.75	1.42	1.32	1.22	1.13	1.03
BUFFALO	NE	1.80	1.63	1.51	1.40	1.28	1.16
BURT	NE	1.80	1.68	1.61	1.53	1.46	1.39
BUTLER	NE	1.80	1.67	1.59	1.50	1.42	1.34
CASS	NE	1.85	1.70	1.66	1.61	1.57	1.52
CEDAR	NE	1.75	1.56	1.46	1.35	1.25	1.14
CHASE	NE	1.80	1.62	1.49	1.35	1.22	1.09
CHERRY	NE	1.75	1.39	1.29	1.19	1.08	0.98
CHEYENNE	NE	1.80	1.72	1.55	1.37	1.20	1.02
CLAY	NE	1.80	1.65	1.55	1.46	1.36	1.26
COLFAX	NE	1.80	1.66	1.57	1.48	1.39	1.30
CUMING	NE	1.80	1.59	1.52	1.44	1.37	1.29
CUSTER	NE	1.80	1.62	1.49	1.37	1.24	1.11
DAKOTA	NE	1.75	1.65	1.56	1.46	1.37	1.27
DAWES	NE	1.80	1.71	1.52	1.34	1.15	0.96
DAWSON	NE	1.80	1.62	1.50	1.37	1.25	1.12
DEUEL	NE	1.80	1.73	1.55	1.38	1.20	1.03
DIXON	NE	1.75	1.64	1.53	1.42	1.31	1.20
DODGE	NE	1.80	1.68	1.61	1.54	1.47	1.40
DOUGLAS	NE	1.85	1.70	1.66	1.61	1.57	1.52
DUNDY	NE	1.80	1.62	1.50	1.37	1.25	1.12
FILLMORE	NE	1.80	1.66	1.57	1.49	1.40	1.31
FRANKLIN	NE	1.80	1.64	1.54	1.43	1.33	1.22
FRONTIER	NE	1.80	1.62	1.50	1.37	1.25	1.12
FURNAS	NE	1.80	1.62	1.50	1.37	1.25	1.12
GAGE	NE	1.85	1.68	1.61	1.54	1.47	1.40
GARDEN	NE	1.80	1.72	1.54	1.37	1.19	1.01
GARFIELD	NE	1.75	1.46	1.37	1.28	1.20	1.11
GOSPER	NE	1.80	1.63	1.51	1.38	1.26	1.14
GRANT	NE	1.75	1.23	1.17	1.11	1.05	0.99
GREELEY	NE	1.80	1.63	1.52	1.40	1.29	1.17
HALL	NE	1.80	1.64	1.53	1.43	1.32	1.21
HAMILTON	NE	1.80	1.65	1.55	1.45	1.35	1.25
HARLAN	NE	1.80	1.64	1.53	1.41	1.30	1.19
HAYES	NE	1.80	1.62	1.49	1.37	1.24	1.11
HITCHCOCK	NE	1.80	1.63	1.50	1.38	1.25	1.13
HOLT	NE	1.75	1.51	1.40	1.29	1.19	1.08
HOOKER	NE	1.75	1.29	1.22	1.14	1.07	1.00
HOWARD	NE	1.80	1.63	1.52	1.40	1.29	1.17

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
JEFFERSON	NE	1.80	1.67	1.59	1.51	1.43	1.35
JOHNSON	NE	1.85	1.69	1.63	1.57	1.51	1.45
KEARNEY	NE	1.80	1.64	1.53	1.41	1.30	1.19
KEITH	NE	1.80	1.61	1.47	1.32	1.18	1.04
KEYA PAHA	NE	1.75	1.42	1.32	1.22	1.13	1.03
KIMBALL	NE	1.80	1.72	1.55	1.37	1.20	1.02
KNOX	NE	1.75	1.62	1.49	1.36	1.23	1.10
LANCASTER	NE	1.85	1.68	1.61	1.54	1.47	1.40
LINCOLN	NE	1.80	1.61	1.48	1.34	1.21	1.07
LOGAN	NE	1.80	1.32	1.26	1.20	1.15	1.09
LOUP	NE	1.75	1.43	1.35	1.26	1.18	1.10
MADISON	NE	1.80	1.27	1.22	1.16	1.11	1.05
MCPHERSON	NE	1.80	1.64	1.53	1.41	1.30	1.19
MERRICK	NE	1.80	1.65	1.54	1.44	1.33	1.23
MORRILL	NE	1.80	1.72	1.54	1.36	1.18	1.00
NANCE	NE	1.80	1.64	1.54	1.43	1.33	1.22
NEMAHA	NE	1.85	1.70	1.65	1.60	1.55	1.50
NUCKOLLS	NE	1.80	1.65	1.56	1.46	1.37	1.27
OTOE	NE	1.85	1.70	1.65	1.59	1.54	1.49
PAWNEE	NE	1.85	1.69	1.62	1.56	1.49	1.43
PERKINS	NE	1.80	1.61	1.47	1.33	1.19	1.05
PHELPS	NE	1.80	1.63	1.52	1.40	1.29	1.17
PIERCE	NE	1.75	1.57	1.46	1.35	1.24	1.13
PLATTE	NE	1.80	1.65	1.55	1.46	1.36	1.26
POLK	NE	1.80	1.66	1.56	1.47	1.37	1.28
RED WILLOW	NE	1.80	1.63	1.51	1.40	1.28	1.16
RICHARDSON	NE	1.85	1.70	1.64	1.59	1.53	1.48
ROCK	NE	1.75	1.43	1.34	1.24	1.15	1.05
SALINE	NE	1.80	1.67	1.59	1.52	1.44	1.36
SARPY	NE	1.85	1.71	1.67	1.62	1.58	1.54
SAUNDERS	NE	1.85	1.69	1.63	1.56	1.50	1.44
SCOTTS BLUFF	NE	1.80	1.72	1.54	1.37	1.19	1.01
SEWARD	NE	1.80	1.67	1.59	1.51	1.43	1.35
SHERIDAN	NE	1.80	1.71	1.53	1.34	1.16	0.97
SHERMAN	NE	1.80	1.63	1.51	1.39	1.27	1.15
SIOUX	NE	1.80	1.71	1.53	1.34	1.16	0.97
STANTON	NE	1.80	1.65	1.54	1.44	1.33	1.23
THAYER	NE	1.80	1.66	1.58	1.49	1.41	1.32
THOMAS	NE	1.75	1.32	1.24	1.17	1.09	1.02
THURSTON	NE	1.75	1.66	1.57	1.48	1.39	1.30
VALLEY	NE	1.80	1.63	1.51	1.38	1.26	1.14
WASHINGTON	NE	1.85	1.70	1.64	1.59	1.53	1.48
WAYNE	NE	1.75	1.64	1.53	1.42	1.31	1.20
WEBSTER	NE	1.80	1.65	1.55	1.44	1.34	1.24
WHEELER	NE	1.75	1.52	1.42	1.32	1.23	1.13
YORK	NE	1.80	1.66	1.57	1.47	1.38	1.29
BELKNAP	NH	2.80	2.80	2.58	2.36	2.14	1.92
CARROLL	NH	2.80	2.76	2.52	2.29	2.05	1.82
CHESHIRE	NH	2.80	2.82	2.60	2.38	2.16	1.94
COOS	NH	2.60	2.41	2.22	2.02	1.83	1.64
GRAFTON	NH	2.60	2.49	2.31	2.12	1.94	1.76
HILLSBOROUGH	NH	3.00	2.95	2.72	2.50	2.27	2.05
MERRIMACK	NH	3.00	2.86	2.63	2.41	2.18	1.95
ROCKINGHAM	NH	3.00	2.96	2.75	2.54	2.33	2.12
STRAFFORD	NH	3.00	2.86	2.65	2.44	2.23	2.02
SULLIVAN	NH	2.80	2.74	2.51	2.28	2.05	1.82
ATLANTIC	NJ	3.00	2.73	2.53	2.33	2.13	1.93
BERGEN	NJ	3.15	2.92	2.69	2.47	2.24	2.02
BURLINGTON	NJ	3.00	2.82	2.58	2.35	2.11	1.88
CAMDEN	NJ	3.00	2.84	2.59	2.34	2.09	1.84
CAPE MAY	NJ	3.00	2.71	2.52	2.33	2.14	1.95
CUMBERLAND	NJ	3.00	2.72	2.49	2.27	2.04	1.82
ESSEX	NJ	3.15	2.91	2.67	2.44	2.20	1.97
GLOUCESTER	NJ	3.00	2.83	2.57	2.32	2.06	1.80
HUDSON	NJ	3.15	2.92	2.69	2.47	2.24	2.02
HUNTERDON	NJ	3.10	2.82	2.57	2.31	2.06	1.81
MERCER	NJ	3.10	2.86	2.62	2.39	2.15	1.92
MIDDLESEX	NJ	3.10	2.87	2.64	2.42	2.19	1.97
MONMOUTH	NJ	3.10	2.83	2.63	2.42	2.22	2.01
MORRIS	NJ	3.10	2.85	2.62	2.38	2.15	1.91

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
OCEAN	NJ	3.10	2.74	2.56	2.37	2.19	2.00
PASSAIC	NJ	3.15	2.90	2.66	2.43	2.19	1.95
SALEM	NJ	3.00	2.82	2.55	2.29	2.02	1.75
SOMERSET	NJ	3.10	2.84	2.61	2.37	2.14	1.91
SUSSEX	NJ	3.10	2.77	2.53	2.30	2.06	1.83
UNION	NJ	3.15	2.91	2.67	2.44	2.20	1.97
WARREN	NJ	3.10	2.79	2.53	2.28	2.02	1.77
BERNALILLO	NM	2.35	2.25	2.16	2.06	1.97	1.87
CATRON	NM	2.10	2.18	2.01	1.84	1.67	1.50
CHAVES	NM	2.10	2.04	1.89	1.73	1.58	1.42
CIBOLA	NM	1.90	2.23	2.11	1.99	1.87	1.75
COLFAX	NM	2.35	2.24	2.12	2.01	1.89	1.78
CURRY	NM	2.10	2.13	1.92	1.70	1.49	1.27
DE BACA	NM	2.10	2.17	1.99	1.81	1.63	1.45
DONA ANA	NM	2.10	2.15	1.95	1.76	1.56	1.36
EDDY	NM	2.10	2.06	1.92	1.78	1.64	1.50
GRANT	NM	2.10	2.16	1.96	1.77	1.57	1.38
GUADALUPE	NM	2.35	2.21	2.06	1.92	1.77	1.63
HARDING	NM	2.35	2.20	2.05	1.90	1.75	1.60
HIDALGO	NM	2.10	2.15	1.94	1.74	1.53	1.33
LEA	NM	2.10	2.07	1.94	1.80	1.67	1.54
LINCOLN	NM	2.10	2.18	2.01	1.84	1.67	1.50
LOS ALAMOS	NM	2.35	2.29	2.23	2.16	2.10	2.04
LUNA	NM	2.10	2.15	1.95	1.76	1.56	1.36
MCKINLEY	NM	1.90	2.23	2.11	1.99	1.87	1.75
MORA	NM	2.35	2.25	2.16	2.06	1.97	1.87
OTERO	NM	2.10	2.17	1.99	1.80	1.62	1.44
QUAY	NM	2.35	2.17	1.99	1.81	1.63	1.45
RIO ARRIBA	NM	1.90	2.28	2.20	2.13	2.05	1.98
ROOSEVELT	NM	2.10	2.13	1.91	1.69	1.47	1.25
SAN JUAN	NM	2.35	2.27	2.19	2.12	2.04	1.96
SAN MIGUEL	NM	1.90	2.13	2.06	1.98	1.91	1.84
SANDOVAL	NM	2.35	2.26	2.16	2.07	1.97	1.88
SANTA FE	NM	2.35	2.28	2.22	2.15	2.09	2.02
SIERRA	NM	2.10	2.17	1.99	1.82	1.64	1.46
SOCORRO	NM	2.10	2.20	2.05	1.90	1.75	1.60
TAOS	NM	1.90	2.27	2.18	2.10	2.01	1.93
TORRANCE	NM	2.35	2.23	2.11	2.00	1.88	1.76
UNION	NM	2.35	2.19	2.04	1.88	1.73	1.57
VALENCIA	NM	2.35	2.23	2.11	2.00	1.88	1.76
CARSON CITY	NV	1.70	1.16	1.08	0.99	0.91	0.83
CHURCHILL	NV	1.70	1.22	1.14	1.05	0.97	0.88
CLARK	NV	2.00	1.65	1.69	1.74	1.78	1.83
DOUGLAS	NV	1.70	1.15	1.08	1.00	0.93	0.85
ELKO	NV	1.90	1.72	1.54	1.36	1.18	1.00
ESMERALDA	NV	1.60	1.24	1.20	1.15	1.11	1.06
EUREKA	NV	1.70	1.49	1.39	1.28	1.18	1.07
HUMBOLDT	NV	1.70	1.42	1.30	1.19	1.07	0.95
LANDER	NV	1.70	1.43	1.32	1.22	1.11	1.00
LINCOLN	NV	1.60	1.59	1.59	1.58	1.58	1.57
LYON	NV	1.70	0.97	0.94	0.90	0.87	0.84
MINERAL	NV	1.60	1.17	1.10	1.04	0.97	0.90
NYE	NV	1.60	1.47	1.39	1.30	1.22	1.14
PERSHING	NV	1.70	1.39	1.27	1.16	1.04	0.93
STOREY	NV	1.70	1.15	1.06	0.98	0.89	0.81
WASHOE	NV	1.70	1.16	1.09	1.02	0.95	0.88
WHITE PINE	NV	1.90	1.77	1.63	1.50	1.36	1.23
ALBANY	NY	2.60	2.42	2.24	2.06	1.88	1.70
ALLEGANY	NY	2.30	2.08	1.89	1.70	1.51	1.32
BRONX	NY	3.15	2.93	2.71	2.50	2.28	2.07
BROOME	NY	2.60	2.31	2.07	1.84	1.60	1.36
CATTARAUGUS	NY	2.10	1.93	1.77	1.60	1.44	1.27
CAYUGA	NY	2.30	2.14	1.93	1.73	1.52	1.31
CHAUTAUQUA	NY	2.10	1.86	1.70	1.55	1.39	1.23
CHEMUNG	NY	2.40	2.18	1.96	1.74	1.52	1.30
CHENANGO	NY	2.40	2.28	2.06	1.84	1.62	1.40
CLINTON	NY	2.20	2.07	1.94	1.82	1.69	1.56
COLUMBIA	NY	2.80	2.52	2.34	2.17	1.99	1.81
CORTLAND	NY	2.40	2.22	2.00	1.77	1.55	1.32
DELAWARE	NY	2.60	2.35	2.15	1.95	1.75	1.55

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
DUTCHESS	NY	2.80	2.59	2.43	2.26	2.10	1.94
ERIE	NY	2.20	1.93	1.79	1.64	1.50	1.36
ESSEX	NY	2.40	2.17	2.02	1.87	1.72	1.57
FRANKLIN	NY	2.20	2.00	1.88	1.75	1.63	1.51
FULTON	NY	2.60	2.31	2.13	1.94	1.76	1.58
GENESEE	NY	2.20	2.01	1.85	1.70	1.54	1.38
GREENE	NY	2.60	2.51	2.31	2.12	1.92	1.73
HAMILTON	NY	2.40	2.24	2.06	1.89	1.71	1.53
HERKIMER	NY	2.40	2.27	2.07	1.88	1.68	1.48
JEFFERSON	NY	2.20	2.04	1.88	1.73	1.57	1.41
KINGS	NY	3.15	2.92	2.70	2.48	2.26	2.04
LEWIS	NY	2.20	2.14	1.96	1.78	1.60	1.42
LIVINGSTON	NY	2.30	2.01	1.84	1.68	1.51	1.35
MADISON	NY	2.40	2.19	1.99	1.78	1.58	1.37
MONROE	NY	2.30	2.02	1.86	1.71	1.55	1.40
MONTGOMERY	NY	2.60	2.36	2.17	1.97	1.78	1.59
NASSAU	NY	3.15	2.94	2.73	2.53	2.32	2.12
NEW YORK	NY	3.15	2.92	2.70	2.47	2.25	2.03
NIAGARA	NY	2.20	1.94	1.80	1.67	1.53	1.40
ONEIDA	NY	2.40	2.18	1.98	1.79	1.59	1.40
ONONDAGA	NY	2.40	2.14	1.93	1.73	1.52	1.31
ONTARIO	NY	2.30	2.09	1.90	1.72	1.53	1.35
ORANGE	NY	3.00	2.81	2.58	2.34	2.11	1.88
ORLEANS	NY	2.20	2.02	1.86	1.71	1.55	1.40
OSWEGO	NY	2.30	2.11	1.92	1.73	1.54	1.35
OTSEGO	NY	2.60	2.30	2.10	1.91	1.71	1.51
PUTNAM	NY	3.00	2.84	2.64	2.44	2.24	2.04
QUEENS	NY	3.15	2.93	2.71	2.50	2.28	2.07
RENSSELAER	NY	2.60	2.43	2.26	2.09	1.92	1.75
RICHMOND	NY	3.15	2.92	2.69	2.47	2.24	2.02
ROCKLAND	NY	3.15	2.91	2.68	2.46	2.23	2.00
SARATOGA	NY	2.60	2.35	2.17	2.00	1.82	1.65
SCHENECTADY	NY	2.60	2.41	2.22	2.04	1.85	1.66
SCHOHARIE	NY	2.60	2.40	2.20	2.01	1.81	1.61
SCHUYLER	NY	2.30	2.16	1.94	1.73	1.51	1.30
SENECA	NY	2.30	2.08	1.89	1.70	1.51	1.32
ST. LAWRENCE	NY	2.20	1.99	1.85	1.72	1.58	1.45
STEUBEN	NY	2.30	2.12	1.92	1.72	1.52	1.32
SUFFOLK	NY	3.15	2.96	2.79	2.61	2.44	2.26
SULLIVAN	NY	2.80	2.50	2.30	2.10	1.90	1.70
TIOGA	NY	2.40	2.28	2.03	1.79	1.54	1.30
TOMPKINS	NY	2.40	2.24	2.00	1.77	1.53	1.30
ULSTER	NY	2.80	2.56	2.37	2.18	1.99	1.80
WARREN	NY	2.60	2.25	2.09	1.92	1.76	1.59
WASHINGTON	NY	2.60	2.31	2.14	1.98	1.81	1.65
WAYNE	NY	2.30	2.09	1.91	1.72	1.54	1.36
WESTCHESTER	NY	3.15	2.93	2.71	2.50	2.28	2.07
WYOMING	NY	2.20	2.01	1.85	1.68	1.52	1.36
YATES	NY	2.30	2.12	1.92	1.72	1.52	1.32
ADAMS	OH	2.20	2.00	1.89	1.78	1.67	1.56
ALLEN	OH	2.00	1.77	1.65	1.52	1.40	1.27
ASHLAND	OH	2.00	1.88	1.76	1.64	1.52	1.40
ASHTABULA	OH	2.00	1.88	1.77	1.65	1.54	1.42
ATHENS	OH	2.00	2.01	1.91	1.81	1.71	1.61
AUGLAIZE	OH	2.00	1.78	1.66	1.55	1.43	1.31
BELMONT	OH	2.00	1.92	1.84	1.75	1.67	1.59
BROWN	OH	2.20	1.99	1.87	1.75	1.63	1.51
BUTLER	OH	2.00	1.92	1.80	1.69	1.57	1.45
CARROLL	OH	2.00	1.90	1.80	1.70	1.60	1.50
CHAMPAIGN	OH	2.00	1.93	1.81	1.70	1.58	1.47
CLARK	OH	2.00	1.92	1.81	1.69	1.58	1.46
CLERMONT	OH	2.20	1.98	1.86	1.73	1.61	1.48
CLINTON	OH	2.00	1.93	1.82	1.72	1.61	1.50
COLUMBIANA	OH	2.00	1.90	1.80	1.69	1.59	1.49
COSHOCTON	OH	2.00	1.93	1.82	1.70	1.59	1.48
CRAWFORD	OH	2.00	1.80	1.69	1.59	1.48	1.38
CUYAHOGA	OH	2.00	1.91	1.82	1.72	1.63	1.54
DARKE	OH	2.00	1.80	1.70	1.61	1.51	1.41
DEFIANCE	OH	1.80	1.69	1.59	1.48	1.38	1.27
DELAWARE	OH	2.00	1.93	1.82	1.70	1.59	1.48

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
ERIE	OH	2.00	1.73	1.65	1.58	1.50	1.43
FAIRFIELD	OH	2.00	1.95	1.86	1.76	1.67	1.58
FAYETTE	OH	2.00	1.94	1.84	1.74	1.64	1.54
FRANKLIN	OH	2.00	1.95	1.85	1.76	1.66	1.57
FULTON	OH	1.80	1.70	1.61	1.51	1.42	1.32
GALLIA	OH	2.20	2.02	1.93	1.84	1.75	1.66
GEAUGA	OH	2.00	1.90	1.79	1.69	1.58	1.48
GREENE	OH	2.00	1.93	1.82	1.70	1.59	1.48
GUERNSEY	OH	2.00	1.94	1.84	1.73	1.63	1.53
HAMILTON	OH	2.20	1.98	1.85	1.71	1.58	1.45
HANCOCK	OH	2.00	1.69	1.59	1.48	1.38	1.27
HARDIN	OH	2.00	1.79	1.68	1.56	1.45	1.34
HARRISON	OH	2.00	1.91	1.82	1.74	1.65	1.56
HENRY	OH	1.80	1.69	1.58	1.48	1.37	1.26
HIGHLAND	OH	2.20	1.99	1.88	1.76	1.65	1.53
HOCKING	OH	2.00	1.95	1.86	1.78	1.69	1.60
HOLMES	OH	2.00	1.89	1.77	1.66	1.54	1.43
HURON	OH	2.00	1.72	1.64	1.57	1.49	1.41
JACKSON	OH	2.20	2.01	1.91	1.82	1.72	1.62
JEFFERSON	OH	2.00	1.92	1.84	1.76	1.68	1.60
KNOX	OH	2.00	1.92	1.80	1.69	1.57	1.45
LAKE	OH	2.00	1.90	1.80	1.69	1.59	1.49
LAWRENCE	OH	2.20	2.02	1.93	1.85	1.76	1.67
LICKING	OH	2.00	1.94	1.84	1.73	1.63	1.53
LOGAN	OH	2.00	1.80	1.70	1.59	1.49	1.39
LORAIN	OH	2.00	1.89	1.79	1.68	1.58	1.47
LUCAS	OH	1.80	1.72	1.64	1.55	1.47	1.39
MADISON	OH	2.00	1.94	1.83	1.73	1.62	1.52
MAHONING	OH	2.00	1.89	1.79	1.68	1.58	1.47
MARION	OH	2.00	1.80	1.70	1.60	1.50	1.40
MEDINA	OH	2.00	1.89	1.78	1.67	1.56	1.45
MEIGS	OH	2.00	2.02	1.93	1.83	1.74	1.65
MERCER	OH	2.00	1.79	1.68	1.57	1.46	1.35
MIAMI	OH	2.00	1.92	1.79	1.67	1.54	1.42
MONROE	OH	2.00	1.92	1.84	1.75	1.67	1.59
MONTGOMERY	OH	2.00	1.92	1.80	1.69	1.57	1.45
MORGAN	OH	2.00	1.95	1.86	1.76	1.67	1.58
MORROW	OH	2.00	1.80	1.71	1.61	1.52	1.42
MUSKINGUM	OH	2.00	1.94	1.84	1.73	1.63	1.53
NOBLE	OH	2.00	1.94	1.85	1.75	1.66	1.56
OTTAWA	OH	2.00	1.72	1.64	1.56	1.48	1.40
PAULDING	OH	1.80	1.69	1.59	1.48	1.38	1.27
PERRY	OH	2.00	1.95	1.85	1.76	1.66	1.57
PICKAWAY	OH	2.00	1.95	1.85	1.76	1.66	1.57
PIKE	OH	2.20	2.01	1.90	1.80	1.69	1.59
PORTAGE	OH	2.00	1.89	1.78	1.68	1.57	1.46
PREBLE	OH	2.00	1.92	1.80	1.69	1.57	1.45
PUTNAM	OH	1.80	1.68	1.56	1.45	1.33	1.21
RICHLAND	OH	2.00	1.80	1.70	1.59	1.49	1.39
ROSS	OH	2.00	2.00	1.90	1.79	1.69	1.58
SANDUSKY	OH	2.00	1.72	1.63	1.55	1.46	1.38
SCIOTO	OH	2.20	2.01	1.91	1.82	1.72	1.62
SENECA	OH	2.00	1.71	1.62	1.54	1.45	1.36
SHELBY	OH	2.00	1.80	1.69	1.59	1.48	1.38
STARK	OH	2.00	1.88	1.76	1.64	1.52	1.40
SUMMIT	OH	2.00	1.89	1.79	1.68	1.58	1.47
TRUMBULL	OH	2.00	1.89	1.78	1.66	1.55	1.44
TUSCARAWAS	OH	2.00	1.89	1.79	1.68	1.58	1.47
UNION	OH	2.00	1.81	1.71	1.62	1.52	1.43
VAN WERT	OH	1.80	1.78	1.66	1.54	1.42	1.30
VINTON	OH	2.00	2.01	1.91	1.81	1.71	1.61
WARREN	OH	2.00	1.93	1.81	1.70	1.58	1.47
WASHINGTON	OH	2.00	2.01	1.90	1.80	1.69	1.59
WAYNE	OH	2.00	1.88	1.76	1.65	1.53	1.41
WILLIAMS	OH	1.80	1.70	1.59	1.49	1.38	1.28
WOOD	OH	2.00	1.71	1.61	1.52	1.42	1.33
WYANDOT	OH	2.00	1.79	1.68	1.57	1.46	1.35
ADAIR	OK	2.60	2.35	2.11	1.86	1.62	1.38
ALFALFA	OK	2.40	2.35	2.10	1.86	1.61	1.37
ATOKA	OK	2.80	2.69	2.37	2.06	1.74	1.43

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
BEAVER	OK	2.40	2.35	2.11	1.88	1.64	1.40
BECKHAM	OK	2.40	2.37	2.15	1.92	1.70	1.48
BLAINE	OK	2.40	2.36	2.12	1.89	1.65	1.42
BRYAN	OK	2.80	2.68	2.37	2.05	1.74	1.42
CADDO	OK	2.60	2.51	2.25	1.98	1.72	1.46
CANADIAN	OK	2.60	2.51	2.24	1.98	1.71	1.45
CARTER	OK	2.80	2.69	2.37	2.06	1.74	1.43
CHEROKEE	OK	2.60	2.35	2.11	1.88	1.64	1.40
CHOCTAW	OK	2.80	2.69	2.38	2.06	1.75	1.44
CIMARRON	OK	2.40	2.37	2.15	1.92	1.70	1.48
CLEVELAND	OK	2.60	2.51	2.24	1.98	1.71	1.45
COAL	OK	2.80	2.50	2.23	1.97	1.70	1.43
COMANCHE	OK	2.60	2.69	2.38	2.08	1.77	1.46
COTTON	OK	2.80	2.69	2.39	2.08	1.78	1.47
CRAIG	OK	2.40	2.34	2.09	1.84	1.59	1.34
CREEK	OK	2.60	2.36	2.14	1.91	1.69	1.46
CUSTER	OK	2.40	2.36	2.13	1.90	1.67	1.44
DELAWARE	OK	2.40	2.34	2.09	1.83	1.58	1.33
DEWEY	OK	2.40	2.36	2.13	1.89	1.66	1.43
ELLIS	OK	2.40	2.35	2.12	1.88	1.65	1.41
GARFIELD	OK	2.40	2.35	2.11	1.88	1.64	1.40
GARVIN	OK	2.60	2.50	2.24	1.97	1.71	1.44
GRADY	OK	2.60	2.51	2.24	1.98	1.71	1.45
GRANT	OK	2.40	2.34	2.10	1.85	1.61	1.36
GREER	OK	2.60	2.70	2.40	2.09	1.79	1.49
HARMON	OK	2.60	2.70	2.40	2.11	1.81	1.51
HARPER	OK	2.40	2.35	2.11	1.86	1.62	1.38
HASKELL	OK	2.80	2.51	2.25	2.00	1.74	1.48
HUGHES	OK	2.60	2.51	2.24	1.98	1.71	1.45
JACKSON	OK	2.60	2.70	2.40	2.10	1.80	1.50
JEFFERSON	OK	2.80	2.69	2.38	2.07	1.76	1.45
JOHNSTON	OK	2.80	2.68	2.37	2.05	1.74	1.42
KAY	OK	2.40	2.35	2.10	1.86	1.61	1.37
KINGFISHER	OK	2.40	2.36	2.12	1.89	1.65	1.42
KIOWA	OK	2.60	2.70	2.39	2.09	1.78	1.48
LATIMER	OK	2.80	2.51	2.25	2.00	1.74	1.48
LE FLORE	OK	2.80	2.52	2.27	2.03	1.78	1.53
LINCOLN	OK	2.60	2.51	2.24	1.98	1.71	1.45
LOGAN	OK	2.40	2.36	2.13	1.89	1.66	1.43
LOVE	OK	2.80	2.69	2.37	2.06	1.74	1.43
MAJOR	OK	2.60	2.50	2.24	1.97	1.71	1.44
MARSHALL	OK	2.80	2.71	2.42	2.13	1.84	1.55
MAYES	OK	2.60	2.51	2.25	1.98	1.72	1.46
MCCLAIN	OK	2.40	2.35	2.11	1.87	1.63	1.39
MCCURTAIN	OK	2.80	2.68	2.37	2.05	1.74	1.42
MCINTOSH	OK	2.40	2.35	2.11	1.86	1.62	1.38
MURRAY	OK	2.80	2.69	2.37	2.06	1.74	1.43
MUSKOGEE	OK	2.60	2.36	2.13	1.91	1.68	1.45
NOBLE	OK	2.40	2.35	2.12	1.88	1.65	1.41
NOWATA	OK	2.40	2.34	2.10	1.85	1.61	1.36
OKFUSKEE	OK	2.60	2.51	2.24	1.98	1.71	1.45
OKLAHOMA	OK	2.60	2.51	2.24	1.98	1.71	1.45
OKMULGEE	OK	2.60	2.36	2.14	1.91	1.69	1.46
OSAGE	OK	2.40	2.35	2.11	1.88	1.64	1.40
OTTAWA	OK	2.40	2.33	2.07	1.82	1.56	1.30
PAWNEE	OK	2.40	2.36	2.13	1.90	1.67	1.44
PAYNE	OK	2.40	2.36	2.13	1.90	1.67	1.44
PITTSBURG	OK	2.80	2.51	2.25	1.98	1.72	1.46
PONTOTOC	OK	2.80	2.50	2.23	1.97	1.70	1.43
POTTAWATOMIE	OK	2.60	2.51	2.24	1.98	1.71	1.45
PUSHMATAHA	OK	2.80	2.69	2.39	2.08	1.78	1.47
ROGER MILLS	OK	2.40	2.36	2.14	1.91	1.69	1.46
ROGERS	OK	2.40	2.35	2.11	1.88	1.64	1.40
SEMINOLE	OK	2.60	2.51	2.24	1.98	1.71	1.45
SEQUOYAH	OK	2.80	2.51	2.26	2.00	1.75	1.49
STEPHENS	OK	2.80	2.69	2.38	2.07	1.76	1.45
TEXAS	OK	2.40	2.35	2.12	1.88	1.65	1.41
TILLMAN	OK	2.60	2.70	2.40	2.09	1.79	1.49
TULSA	OK	2.60	2.36	2.14	1.91	1.69	1.46
WAGONER	OK	2.60	2.36	2.13	1.89	1.66	1.43

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
WASHINGTON	OK	2.40	2.35	2.11	1.86	1.62	1.38
WASHITA	OK	2.40	2.36	2.14	1.91	1.69	1.46
WOODS	OK	2.40	2.35	2.10	1.86	1.61	1.37
WOODWARD	OK	2.40	2.35	2.11	1.88	1.64	1.40
BAKER	OR	1.60	1.40	1.29	1.19	1.08	0.98
BENTON	OR	1.90	1.73	1.57	1.40	1.24	1.07
CLACKAMAS	OR	1.90	1.71	1.52	1.34	1.15	0.96
CLATSOP	OR	1.90	1.72	1.54	1.35	1.17	0.99
COLUMBIA	OR	1.90	1.71	1.53	1.34	1.16	0.97
COOS	OR	1.90	1.71	1.60	1.50	1.39	1.28
CROOK	OR	1.75	1.61	1.46	1.32	1.17	1.03
CURRY	OR	1.90	1.73	1.64	1.55	1.46	1.37
DESCHUTES	OR	1.75	1.61	1.48	1.34	1.21	1.07
DOUGLAS	OR	1.90	1.77	1.64	1.52	1.39	1.26
GILLIAM	OR	1.75	1.59	1.44	1.28	1.13	0.97
GRANT	OR	1.60	1.40	1.30	1.19	1.09	0.99
HARNEY	OR	1.60	1.40	1.30	1.21	1.11	1.01
HOOD RIVER	OR	1.90	1.71	1.53	1.34	1.16	0.97
JACKSON	OR	1.90	1.73	1.64	1.56	1.47	1.38
JEFFERSON	OR	1.75	1.60	1.46	1.31	1.17	1.02
JOSEPHINE	OR	1.90	1.74	1.65	1.57	1.48	1.40
KLAMATH	OR	1.75	1.65	1.55	1.46	1.36	1.26
LAKE	OR	1.75	1.62	1.50	1.37	1.25	1.12
LANE	OR	1.90	1.75	1.59	1.44	1.28	1.13
LINCOLN	OR	1.90	1.74	1.58	1.41	1.25	1.09
LINN	OR	1.90	1.73	1.56	1.39	1.22	1.05
MALHEUR	OR	1.60	1.39	1.28	1.18	1.07	0.96
MARION	OR	1.90	1.72	1.54	1.36	1.18	1.00
MORROW	OR	1.75	1.59	1.44	1.28	1.13	0.97
MULTNOMAH	OR	1.90	1.71	1.52	1.33	1.14	0.95
POLK	OR	1.90	1.73	1.55	1.38	1.20	1.03
SHERMAN	OR	1.75	1.59	1.44	1.28	1.13	0.97
TILLAMOOK	OR	1.90	1.72	1.54	1.37	1.19	1.01
UMATILLA	OR	1.75	1.59	1.44	1.28	1.13	0.97
UNION	OR	1.60	1.40	1.29	1.19	1.08	0.98
WALLOWA	OR	1.60	1.60	1.45	1.29	1.14	0.99
WASCO	OR	1.75	1.60	1.44	1.29	1.13	0.98
WASHINGTON	OR	1.90	1.71	1.52	1.34	1.15	0.96
WHEELER	OR	1.75	1.60	1.45	1.30	1.15	1.00
YAMHILL	OR	1.90	1.72	1.54	1.36	1.18	1.00
ADAMS	PA	2.80	2.70	2.38	2.05	1.73	1.40
ALLEGHENY	PA	2.10	1.91	1.81	1.72	1.62	1.53
ARMSTRONG	PA	2.30	1.89	1.78	1.67	1.56	1.45
BEAVER	PA	2.10	1.90	1.81	1.71	1.62	1.52
BEDFORD	PA	2.30	2.23	2.05	1.88	1.70	1.52
BERKS	PA	2.80	2.55	2.30	2.05	1.80	1.55
BLAIR	PA	2.30	2.18	2.01	1.83	1.66	1.49
BRADFORD	PA	2.40	2.37	2.11	1.84	1.58	1.32
BUCKS	PA	3.00	2.83	2.57	2.32	2.06	1.80
BUTLER	PA	2.10	1.89	1.78	1.66	1.55	1.44
CAMBRIA	PA	2.30	2.51	2.27	2.04	1.80	1.56
CAMERON	PA	2.30	1.87	1.74	1.62	1.49	1.36
CARBON	PA	2.80	2.55	2.32	2.08	1.85	1.61
CENTRE	PA	2.30	2.14	1.95	1.77	1.58	1.40
CHESTER	PA	3.00	2.80	2.51	2.21	1.92	1.63
CLARION	PA	2.30	1.88	1.75	1.63	1.50	1.38
CLEARFIELD	PA	2.30	2.16	1.98	1.79	1.61	1.42
CLINTON	PA	2.30	2.19	2.01	1.82	1.64	1.45
COLUMBIA	PA	2.60	2.46	2.23	1.99	1.76	1.52
CRAWFORD	PA	2.10	1.87	1.74	1.61	1.48	1.35
CUMBERLAND	PA	2.80	2.71	2.39	2.06	1.74	1.42
DAUPHIN	PA	2.80	2.48	2.23	1.97	1.72	1.47
DELAWARE	PA	3.00	2.81	2.53	2.25	1.97	1.69
ELK	PA	2.30	1.87	1.74	1.61	1.48	1.35
ERIE	PA	2.10	1.87	1.73	1.60	1.46	1.33
FAYETTE	PA	2.30	1.92	1.84	1.77	1.69	1.61
FOREST	PA	2.30	1.86	1.72	1.59	1.45	1.31
FRANKLIN	PA	2.80	2.58	2.26	1.95	1.63	1.31
FULTON	PA	2.60	2.59	2.30	2.01	1.72	1.43
GREENE	PA	2.10	1.92	1.85	1.77	1.70	1.62

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
HUNTINGDON	PA	2.30	2.21	2.02	1.82	1.63	1.44
INDIANA	PA	2.30	2.18	2.01	1.85	1.68	1.51
JEFFERSON	PA	2.30	1.88	1.76	1.65	1.53	1.41
JUNIATA	PA	2.60	2.55	2.27	1.98	1.70	1.41
LACKAWANNA	PA	2.60	2.45	2.22	2.00	1.77	1.55
LANCASTER	PA	2.80	2.61	2.33	2.06	1.78	1.50
LAWRENCE	PA	2.10	1.89	1.78	1.67	1.56	1.45
LEBANON	PA	2.80	2.62	2.34	2.05	1.77	1.49
LEHIGH	PA	2.80	2.80	2.51	2.21	1.92	1.63
LUZERNE	PA	2.60	2.43	2.21	1.98	1.76	1.54
LYCOMING	PA	2.60	2.30	2.11	1.91	1.72	1.53
MCKEAN	PA	2.30	1.98	1.80	1.63	1.45	1.28
MERCER	PA	2.10	1.88	1.75	1.63	1.50	1.38
MIFFLIN	PA	2.60	2.21	2.01	1.80	1.60	1.40
MONROE	PA	2.80	2.73	2.47	2.20	1.94	1.67
MONTGOMERY	PA	3.00	2.81	2.53	2.26	1.98	1.70
MONTOUR	PA	2.60	2.46	2.23	1.99	1.76	1.53
NORTHAMPTON	PA	2.80	2.61	2.38	2.16	1.93	1.70
NORTHUMBERLAND	PA	2.60	2.46	2.22	1.99	1.75	1.51
PERRY	PA	2.60	2.58	2.29	2.01	1.72	1.43
PHILADELPHIA	PA	3.00	2.83	2.56	2.30	2.03	1.77
PIKE	PA	2.80	2.74	2.48	2.23	1.97	1.71
POTTER	PA	2.30	2.09	1.90	1.72	1.53	1.35
SCHUYLKILL	PA	2.80	2.51	2.26	2.02	1.77	1.53
SNYDER	PA	2.60	2.43	2.19	1.96	1.72	1.49
SOMERSET	PA	2.30	2.20	2.05	1.91	1.76	1.61
SULLIVAN	PA	2.60	2.33	2.10	1.88	1.65	1.43
SUSQUEHANNA	PA	2.60	2.44	2.19	1.93	1.68	1.42
TIOGA	PA	2.30	2.16	1.96	1.77	1.57	1.38
UNION	PA	2.60	2.42	2.19	1.97	1.74	1.51
VENANGO	PA	2.10	1.87	1.74	1.62	1.49	1.36
WARREN	PA	2.10	1.85	1.70	1.55	1.40	1.25
WASHINGTON	PA	2.10	1.92	1.84	1.75	1.67	1.59
WAYNE	PA	2.60	2.47	2.25	2.02	1.80	1.57
WESTMORELAND	PA	2.30	1.91	1.83	1.74	1.66	1.57
WYOMING	PA	2.60	2.39	2.16	1.92	1.69	1.46
YORK	PA	2.80	2.72	2.40	2.09	1.77	1.46
BRISTOL	RI	3.25	3.07	2.89	2.72	2.54	2.37
KENT	RI	3.25	3.06	2.89	2.71	2.54	2.36
NEWPORT	RI	3.25	3.07	2.89	2.72	2.54	2.37
PROVIDENCE	RI	3.25	3.06	2.87	2.69	2.50	2.32
WASHINGTON	RI	3.25	3.06	2.88	2.70	2.52	2.34
ABBEVILLE	SC	3.10	2.92	2.75	2.59	2.42	2.26
AIKEN	SC	3.30	3.07	2.90	2.74	2.57	2.41
ALLENDALE	SC	3.30	3.10	2.96	2.83	2.69	2.56
ANDERSON	SC	3.10	2.90	2.73	2.55	2.38	2.20
BAMBERG	SC	3.30	3.09	2.94	2.80	2.65	2.51
BARNWELL	SC	3.30	3.08	2.93	2.78	2.63	2.48
BEAUFORT	SC	3.30	3.14	3.05	2.95	2.86	2.77
BERKELEY	SC	3.30	3.11	2.98	2.86	2.73	2.61
CALHOUN	SC	3.30	3.06	2.90	2.73	2.57	2.40
CHARLESTON	SC	3.30	3.12	3.01	2.89	2.78	2.67
CHEROKEE	SC	3.10	2.86	2.63	2.41	2.18	1.96
CHESTER	SC	3.10	2.88	2.68	2.47	2.27	2.07
CHESTERFIELD	SC	3.30	3.02	2.81	2.61	2.40	2.19
CLARENDON	SC	3.30	3.08	2.92	2.77	2.61	2.46
COLLETON	SC	3.30	3.11	2.99	2.86	2.74	2.62
DARLINGTON	SC	3.30	3.05	2.86	2.68	2.49	2.31
DILLON	SC	3.30	3.06	2.89	2.72	2.55	2.38
DORCHESTER	SC	3.30	3.11	2.98	2.86	2.73	2.61
EDGEFIELD	SC	3.30	3.05	2.87	2.69	2.51	2.33
FAIRFIELD	SC	3.30	3.02	2.81	2.59	2.38	2.17
FLORENCE	SC	3.30	3.07	2.90	2.74	2.57	2.41
GEORGETOWN	SC	3.30	3.11	3.00	2.88	2.77	2.65
GREENVILLE	SC	3.10	2.88	2.68	2.49	2.29	2.09
GREENWOOD	SC	3.10	2.91	2.75	2.58	2.42	2.25
HAMPTON	SC	3.30	3.11	2.99	2.88	2.76	2.64
HORRY	SC	3.30	3.11	2.98	2.86	2.73	2.61
JASPER	SC	3.30	3.13	3.03	2.94	2.84	2.74
KERSHAW	SC	3.30	3.03	2.83	2.62	2.42	2.22

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
LANCASTER	SC	3.10	2.88	2.68	2.48	2.28	2.08
LAURENS	SC	3.10	2.90	2.72	2.53	2.35	2.17
LEE	SC	3.30	3.05	2.87	2.68	2.50	2.32
LEXINGTON	SC	3.30	3.04	2.85	2.66	2.47	2.28
MARION	SC	3.10	2.93	2.78	2.63	2.48	2.33
MARLBORO	SC	3.30	3.08	2.92	2.77	2.61	2.46
MCCORMICK	SC	3.30	3.04	2.84	2.65	2.45	2.26
NEWBERRY	SC	3.30	3.02	2.81	2.61	2.40	2.19
OCONEE	SC	3.10	2.90	2.72	2.55	2.37	2.19
ORANGEBURG	SC	3.30	3.07	2.92	2.76	2.61	2.45
PICKENS	SC	3.10	2.89	2.70	2.51	2.32	2.13
RICHLAND	SC	3.30	3.04	2.85	2.66	2.47	2.28
SALUDA	SC	3.30	3.04	2.85	2.65	2.46	2.27
SPARTANBURG	SC	3.10	2.87	2.66	2.46	2.25	2.04
SUMTER	SC	3.30	3.06	2.89	2.71	2.54	2.37
UNION	SC	3.10	2.88	2.68	2.47	2.27	2.07
WILLIAMSBURG	SC	3.30	3.10	2.96	2.83	2.69	2.56
YORK	SC	3.10	2.86	2.64	2.41	2.19	1.97
AURORA	SD	1.70	1.41	1.32	1.22	1.13	1.04
BEADLE	SD	1.70	1.41	1.31	1.22	1.12	1.03
BENNETT	SD	1.70	1.39	1.27	1.16	1.04	0.93
BON HOMME	SD	1.75	1.42	1.34	1.26	1.18	1.10
BROOKINGS	SD	1.70	1.34	1.28	1.22	1.17	1.11
BROWN	SD	1.70	1.15	1.11	1.06	1.02	0.97
BRULE	SD	1.70	1.40	1.31	1.21	1.12	1.02
BUFFALO	SD	1.70	1.29	1.22	1.15	1.07	1.00
BUTTE	SD	1.65	1.14	1.08	1.03	0.97	0.91
CAMPBELL	SD	1.65	1.08	1.05	1.01	0.98	0.95
CHARLES MIX	SD	1.75	1.41	1.32	1.24	1.15	1.06
CLARK	SD	1.70	1.41	1.31	1.22	1.12	1.03
CLAY	SD	1.75	1.43	1.37	1.30	1.24	1.17
CODINGTON	SD	1.70	1.41	1.32	1.22	1.13	1.04
CORSON	SD	1.65	1.08	1.04	1.01	0.97	0.94
CUSTER	SD	1.80	1.82	1.59	1.36	1.13	0.90
DAVISON	SD	1.70	1.41	1.33	1.24	1.16	1.07
DAY	SD	1.70	1.16	1.12	1.07	1.03	0.99
DEUEL	SD	1.70	1.41	1.32	1.24	1.15	1.06
DEWEY	SD	1.65	1.12	1.08	1.03	0.99	0.94
DOUGLAS	SD	1.75	1.41	1.32	1.24	1.15	1.06
EDMUNDS	SD	1.70	1.15	1.10	1.05	1.00	0.95
FALL RIVER	SD	1.80	1.83	1.60	1.38	1.15	0.93
FAULK	SD	1.70	1.21	1.15	1.09	1.02	0.96
GRANT	SD	1.70	1.16	1.13	1.09	1.06	1.02
GREGORY	SD	1.75	1.40	1.31	1.21	1.12	1.02
HAAKON	SD	1.70	1.11	1.06	1.01	0.97	0.92
HAMLIN	SD	1.70	1.29	1.23	1.18	1.12	1.06
HAND	SD	1.70	1.27	1.20	1.13	1.07	1.00
HANSON	SD	1.70	1.42	1.33	1.25	1.16	1.08
HARDING	SD	1.65	1.71	1.52	1.33	1.14	0.95
HUGHES	SD	1.70	1.20	1.14	1.08	1.02	0.96
HUTCHINSON	SD	1.75	1.42	1.34	1.26	1.18	1.10
HYDE	SD	1.70	1.24	1.18	1.12	1.05	0.99
JACKSON	SD	1.70	1.38	1.27	1.15	1.04	0.92
JERAULD	SD	1.70	1.41	1.31	1.22	1.12	1.03
JONES	SD	1.70	1.21	1.15	1.08	1.02	0.95
KINGSBURY	SD	1.70	1.41	1.33	1.24	1.16	1.07
LAKE	SD	1.70	1.42	1.34	1.27	1.19	1.11
LAWRENCE	SD	1.80	1.82	1.59	1.36	1.13	0.90
LINCOLN	SD	1.75	1.44	1.38	1.31	1.25	1.19
LYMAN	SD	1.70	1.23	1.17	1.10	1.04	0.98
MARSHALL	SD	1.70	1.42	1.35	1.27	1.20	1.12
MCCOOK	SD	1.70	1.15	1.10	1.05	1.00	0.95
MCPHERSON	SD	1.70	1.15	1.10	1.06	1.01	0.96
MEADE	SD	1.65	1.78	1.56	1.33	1.11	0.89
MELLETTE	SD	1.70	1.39	1.28	1.16	1.05	0.94
MINER	SD	1.70	1.42	1.33	1.25	1.16	1.08
MINNEHAHA	SD	1.70	1.44	1.37	1.31	1.24	1.18
MOODY	SD	1.70	1.43	1.36	1.28	1.21	1.14
PENNINGTON	SD	1.80	1.81	1.58	1.34	1.11	0.87
PERKINS	SD	1.65	1.71	1.51	1.32	1.12	0.93

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
POTTER	SD	1.70	1.20	1.14	1.08	1.01	0.95
ROBERTS	SD	1.70	1.15	1.11	1.06	1.02	0.97
SANBORN	SD	1.70	1.41	1.32	1.23	1.14	1.05
SHANNON	SD	1.80	1.82	1.60	1.37	1.15	0.92
SPINK	SD	1.70	1.40	1.30	1.20	1.10	1.00
STANLEY	SD	1.70	1.20	1.13	1.07	1.00	0.94
SULLY	SD	1.70	1.18	1.12	1.07	1.01	0.96
TODD	SD	1.70	1.39	1.28	1.18	1.07	0.96
TRIPP	SD	1.70	1.40	1.30	1.19	1.09	0.99
TURNER	SD	1.75	1.43	1.36	1.30	1.23	1.16
UNION	SD	1.75	1.44	1.38	1.32	1.26	1.20
WALWORTH	SD	1.70	1.15	1.10	1.04	0.99	0.94
YANKTON	SD	1.75	1.42	1.34	1.27	1.19	1.11
ZIEBACH	SD	1.65	1.42	1.30	1.17	1.05	0.92
ANDERSON	TN	2.80	2.58	2.39	2.21	2.02	1.83
BEDFORD	TN	2.60	2.44	2.27	2.11	1.94	1.78
BENTON	TN	2.60	2.46	2.31	2.17	2.02	1.88
BLEDSOE	TN	2.60	2.46	2.32	2.18	2.04	1.90
BLOUNT	TN	2.80	2.61	2.45	2.29	2.13	1.97
BRADLEY	TN	2.80	2.64	2.50	2.37	2.23	2.10
CAMPBELL	TN	2.80	2.56	2.35	2.15	1.94	1.73
CANNON	TN	2.60	2.43	2.26	2.09	1.92	1.75
CARROLL	TN	2.60	2.47	2.34	2.20	2.07	1.94
CARTER	TN	2.80	2.57	2.37	2.17	1.97	1.77
CHEATHAM	TN	2.60	2.37	2.20	2.02	1.85	1.67
CHESTER	TN	2.80	2.49	2.38	2.28	2.17	2.06
CLAIBORNE	TN	2.80	2.57	2.37	2.16	1.96	1.76
CLAY	TN	2.60	2.36	2.17	1.98	1.79	1.60
COCKE	TN	2.80	2.59	2.42	2.24	2.07	1.89
COFFEE	TN	2.60	2.45	2.30	2.14	1.99	1.84
CROCKETT	TN	2.60	2.49	2.38	2.28	2.17	2.06
CUMBERLAND	TN	2.80	2.58	2.39	2.20	2.01	1.82
DAVIDSON	TN	2.60	2.37	2.19	2.01	1.83	1.65
DE KALB	TN	2.60	2.47	2.34	2.22	2.09	1.96
DECATUR	TN	2.60	2.43	2.25	2.08	1.90	1.73
DICKSON	TN	2.60	2.39	2.23	2.06	1.90	1.74
DYER	TN	2.60	2.49	2.38	2.26	2.15	2.04
FAYETTE	TN	2.80	2.67	2.57	2.48	2.38	2.28
FENTRESS	TN	2.60	2.37	2.20	2.02	1.85	1.67
FRANKLIN	TN	2.80	2.59	2.42	2.24	2.07	1.89
GIBSON	TN	2.60	2.48	2.36	2.23	2.11	1.99
GILES	TN	2.80	2.58	2.39	2.21	2.02	1.83
GRAINGER	TN	2.80	2.58	2.39	2.21	2.02	1.83
GREENE	TN	2.80	2.58	2.40	2.21	2.03	1.84
GRUNDY	TN	2.60	2.47	2.33	2.20	2.06	1.93
HAMBLEN	TN	2.80	2.58	2.40	2.21	2.03	1.84
HAMILTON	TN	2.80	2.64	2.50	2.37	2.23	2.10
HANCOCK	TN	2.80	2.57	2.37	2.16	1.96	1.76
HARDEMAN	TN	2.80	2.65	2.53	2.42	2.30	2.18
HARDIN	TN	2.80	2.62	2.47	2.33	2.18	2.03
HAWKINS	TN	2.80	2.58	2.38	2.19	1.99	1.80
HAYWOOD	TN	2.60	2.59	2.48	2.37	2.26	2.15
HENDERSON	TN	2.60	2.48	2.35	2.23	2.10	1.98
HENRY	TN	2.60	2.41	2.27	2.14	2.00	1.86
HICKMAN	TN	2.60	2.44	2.28	2.11	1.95	1.79
HOUSTON	TN	2.60	2.40	2.25	2.09	1.94	1.79
HUMPHREYS	TN	2.60	2.45	2.29	2.14	1.98	1.83
JACKSON	TN	2.60	2.37	2.19	2.00	1.82	1.64
JEFFERSON	TN	2.80	2.59	2.41	2.24	2.06	1.88
JOHNSON	TN	2.80	2.56	2.36	2.15	1.95	1.74
KNOX	TN	2.80	2.59	2.42	2.24	2.07	1.89
LAKE	TN	2.60	2.43	2.31	2.19	2.07	1.95
LAUDERDALE	TN	2.60	2.59	2.48	2.36	2.25	2.14
LAWRENCE	TN	2.80	2.59	2.41	2.24	2.06	1.88
LEWIS	TN	2.60	2.45	2.30	2.14	1.99	1.84
LINCOLN	TN	2.80	2.58	2.39	2.21	2.02	1.83
LOUDON	TN	2.80	2.60	2.44	2.27	2.11	1.94
MACON	TN	2.80	2.62	2.47	2.33	2.18	2.03
MADISON	TN	2.80	2.63	2.50	2.36	2.23	2.09
MARION	TN	2.60	2.36	2.17	1.97	1.78	1.59

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MARSHALL	TN	2.60	2.49	2.39	2.28	2.18	2.07
MAURY	TN	2.80	2.62	2.46	2.31	2.15	2.00
MCMINN	TN	2.60	2.44	2.27	2.11	1.94	1.78
MCNAIRY	TN	2.60	2.44	2.27	2.11	1.94	1.78
MEIGS	TN	2.80	2.61	2.45	2.30	2.14	1.98
MONROE	TN	2.80	2.62	2.47	2.32	2.17	2.02
MONTGOMERY	TN	2.60	2.38	2.21	2.05	1.88	1.71
MOORE	TN	2.80	2.58	2.39	2.21	2.02	1.83
MORGAN	TN	2.80	2.57	2.37	2.18	1.98	1.78
OBION	TN	2.60	2.42	2.30	2.17	2.05	1.92
OVERTON	TN	2.60	2.37	2.20	2.02	1.85	1.67
PERRY	TN	2.60	2.46	2.32	2.18	2.04	1.90
PICKETT	TN	2.60	2.36	2.17	1.97	1.78	1.59
POLK	TN	2.80	2.64	2.51	2.38	2.25	2.12
PUTNAM	TN	2.60	2.42	2.24	2.06	1.88	1.70
RHEA	TN	2.80	2.60	2.44	2.27	2.11	1.94
ROANE	TN	2.80	2.59	2.42	2.24	2.07	1.89
ROBERTSON	TN	2.60	2.37	2.19	2.00	1.82	1.64
RUTHERFORD	TN	2.60	2.42	2.24	2.07	1.89	1.71
SCOTT	TN	2.80	2.41	2.23	2.04	1.86	1.67
SEQUATCHIE	TN	2.80	2.61	2.45	2.29	2.13	1.97
SEVIER	TN	2.80	2.60	2.43	2.27	2.10	1.93
SHELBY	TN	2.80	2.69	2.61	2.54	2.46	2.38
SMITH	TN	2.60	2.37	2.19	2.01	1.83	1.65
STEWART	TN	2.60	2.40	2.25	2.10	1.95	1.80
SULLIVAN	TN	2.80	2.57	2.37	2.16	1.96	1.76
SUMNER	TN	2.60	2.36	2.18	1.99	1.81	1.62
TIPTON	TN	2.80	2.61	2.52	2.42	2.33	2.24
TROUSDALE	TN	2.60	2.36	2.18	1.99	1.81	1.62
UNICOI	TN	2.80	2.58	2.39	2.19	2.00	1.81
UNION	TN	2.80	2.58	2.39	2.19	2.00	1.81
VAN BUREN	TN	2.60	2.45	2.30	2.16	2.01	1.86
WARREN	TN	2.60	2.44	2.28	2.13	1.97	1.81
WASHINGTON	TN	2.80	2.57	2.38	2.18	1.99	1.79
WAYNE	TN	2.80	2.60	2.44	2.27	2.11	1.94
WEAKLEY	TN	2.60	2.42	2.29	2.17	2.04	1.91
WHITE	TN	2.60	2.43	2.27	2.10	1.94	1.77
WILLIAMSON	TN	2.60	2.42	2.24	2.05	1.87	1.69
WILSON	TN	2.60	2.37	2.19	2.02	1.84	1.66
ANDERSON	TX	3.15	3.04	2.77	2.50	2.23	1.96
ANDREWS	TX	2.40	2.70	2.46	2.21	1.97	1.72
ANGELINA	TX	3.15	3.10	2.86	2.61	2.37	2.13
ARANSAS	TX	3.65	3.49	3.29	3.08	2.88	2.68
ARCHER	TX	2.80	2.63	2.35	2.07	1.79	1.51
ARMSTRONG	TX	2.40	2.29	2.10	1.90	1.71	1.51
ATASCOSA	TX	3.45	2.70	2.60	2.51	2.41	2.31
AUSTIN	TX	3.60	3.44	3.18	2.93	2.67	2.41
BAILEY	TX	2.40	2.26	2.03	1.80	1.57	1.34
BANDERA	TX	3.30	2.66	2.52	2.37	2.23	2.09
BASTROP	TX	3.30	3.20	2.93	2.67	2.40	2.14
BAYLOR	TX	2.60	2.64	2.37	2.10	1.83	1.56
BEE	TX	3.65	3.45	3.21	2.98	2.74	2.50
BELL	TX	3.15	3.05	2.79	2.52	2.26	2.00
BEXAR	TX	3.45	3.30	3.03	2.75	2.48	2.20
BLANCO	TX	3.30	2.63	2.46	2.29	2.12	1.95
BORDEN	TX	2.40	2.70	2.45	2.19	1.94	1.69
BOSQUE	TX	3.15	3.02	2.73	2.45	2.16	1.87
BOWIE	TX	3.00	2.79	2.51	2.22	1.94	1.65
BRAZORIA	TX	3.60	3.48	3.26	3.03	2.81	2.59
BRAZOS	TX	3.30	3.16	2.96	2.77	2.57	2.37
BREWSTER	TX	2.40	2.13	2.06	1.99	1.92	1.85
BRISCOE	TX	2.40	2.30	2.11	1.91	1.72	1.53
BROOKS	TX	3.65	3.59	3.36	3.12	2.89	2.66
BROWN	TX	2.80	2.72	2.48	2.25	2.01	1.78
BURLESON	TX	3.30	3.14	2.93	2.71	2.50	2.28
BURNET	TX	3.30	3.15	2.84	2.52	2.21	1.90
CALDWELL	TX	3.45	3.29	3.00	2.70	2.41	2.12
CALHOUN	TX	3.65	3.47	3.25	3.04	2.82	2.60
CALLAHAN	TX	2.80	2.70	2.46	2.21	1.97	1.72
CAMERON	TX	3.65	3.67	3.43	3.19	2.95	2.71

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CAMP	TX	3.00	2.85	2.54	2.23	1.92	1.61
CARSON	TX	2.40	2.29	2.10	1.90	1.71	1.51
CASS	TX	3.00	2.81	2.54	2.27	2.00	1.73
CASTRO	TX	2.40	2.28	2.07	1.85	1.64	1.43
CHAMBERS	TX	3.60	3.46	3.23	2.99	2.76	2.52
CHEROKEE	TX	3.15	3.03	2.76	2.48	2.21	1.93
CHILDRESS	TX	2.40	2.30	2.11	1.91	1.72	1.53
CLAY	TX	2.80	2.62	2.34	2.05	1.77	1.48
COCHRAN	TX	2.40	2.27	2.05	1.83	1.61	1.39
COKE	TX	2.60	2.72	2.48	2.25	2.01	1.78
COLEMAN	TX	2.80	2.72	2.49	2.25	2.02	1.79
COLLIN	TX	3.00	2.84	2.51	2.19	1.86	1.54
COLLINGSWORTH	TX	2.40	2.29	2.10	1.90	1.71	1.51
COLORADO	TX	3.60	3.44	3.18	2.92	2.66	2.40
COMAL	TX	3.45	3.29	2.99	2.70	2.40	2.11
COMANCHE	TX	2.80	3.00	2.69	2.37	2.06	1.75
CONCHO	TX	2.80	2.45	2.29	2.14	1.98	1.83
COOKE	TX	3.00	2.82	2.48	2.13	1.79	1.45
CORYELL	TX	3.15	3.03	2.75	2.47	2.19	1.91
COTTLE	TX	2.40	2.31	2.12	1.94	1.75	1.57
CRANE	TX	2.40	2.13	2.05	1.98	1.90	1.83
CROCKETT	TX	2.60	2.30	2.20	2.11	2.01	1.91
CROSBY	TX	2.40	2.31	2.14	1.96	1.79	1.61
CULBERSON	TX	2.40	2.08	1.95	1.83	1.70	1.58
DALLAM	TX	2.40	2.29	2.10	1.90	1.71	1.51
DALLAS	TX	3.00	2.86	2.57	2.27	1.98	1.68
DAWSON	TX	2.40	2.70	2.45	2.19	1.94	1.69
DE WITT	TX	2.40	2.28	2.07	1.85	1.64	1.43
DEAF SMITH	TX	3.00	2.81	2.46	2.10	1.75	1.40
DELTA	TX	3.00	2.84	2.51	2.19	1.86	1.54
DENTON	TX	3.60	3.34	3.11	2.87	2.64	2.40
DICKENS	TX	2.40	2.34	2.19	2.03	1.88	1.73
DIMMIT	TX	3.45	2.70	2.60	2.49	2.39	2.29
DONLEY	TX	2.40	2.30	2.10	1.91	1.71	1.52
DUVAL	TX	3.65	3.57	3.32	3.08	2.83	2.58
EASTLAND	TX	2.80	2.70	2.45	2.21	1.96	1.71
ECTOR	TX	2.40	2.72	2.49	2.25	2.02	1.79
EDWARDS	TX	2.80	2.49	2.37	2.26	2.14	2.03
EL PASO	TX	3.00	2.89	2.62	2.35	2.08	1.81
ELLIS	TX	2.25	2.15	1.95	1.75	1.55	1.35
ERATH	TX	3.00	2.99	2.68	2.36	2.05	1.73
FALLS	TX	3.15	3.07	2.82	2.58	2.33	2.09
FANNIN	TX	3.00	2.81	2.46	2.12	1.77	1.42
FAYETTE	TX	3.60	3.42	3.14	2.86	2.58	2.30
FISHER	TX	2.60	2.70	2.45	2.21	1.96	1.71
FLOYD	TX	2.40	2.30	2.12	1.93	1.75	1.56
FOARD	TX	2.60	2.67	2.39	2.12	1.84	1.56
FORT BEND	TX	3.60	3.46	3.23	2.99	2.76	2.52
FRANKLIN	TX	3.00	2.83	2.50	2.16	1.83	1.50
FREESTONE	TX	3.15	3.05	2.80	2.54	2.29	2.03
FRIO	TX	3.45	2.70	2.60	2.49	2.39	2.29
GAINES	TX	2.40	2.31	2.13	1.95	1.77	1.59
GALVESTON	TX	3.60	3.48	3.25	3.03	2.80	2.58
GARZA	TX	2.40	2.32	2.16	1.99	1.83	1.66
GILLESPIE	TX	3.30	2.63	2.46	2.30	2.13	1.96
GLASSCOCK	TX	2.60	2.72	2.49	2.27	2.04	1.81
GOLIAD	TX	3.65	3.45	3.21	2.98	2.74	2.50
GONZALES	TX	3.45	3.32	3.06	2.79	2.53	2.27
GRAY	TX	2.40	2.29	2.09	1.90	1.70	1.50
GRAYSON	TX	3.00	2.82	2.47	2.13	1.78	1.44
GREGG	TX	3.00	2.89	2.62	2.34	2.07	1.80
GRIMES	TX	3.30	3.16	2.97	2.77	2.58	2.38
GUADALUPE	TX	3.45	3.29	3.01	2.72	2.44	2.15
HALE	TX	2.40	2.30	2.10	1.91	1.71	1.52
HALL	TX	2.40	2.30	2.11	1.91	1.72	1.53
HAMILTON	TX	3.15	3.01	2.71	2.42	2.12	1.82
HANSFORD	TX	2.40	2.28	2.07	1.87	1.66	1.45
HARDEMAN	TX	2.60	2.63	2.36	2.08	1.81	1.53
HARDIN	TX	3.60	3.44	3.19	2.93	2.68	2.42
HARRIS	TX	3.60	3.46	3.22	2.99	2.75	2.51

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
HARRISON	TX	3.00	2.89	2.63	2.36	2.10	1.83
HARTLEY	TX	2.40	2.29	2.09	1.90	1.70	1.50
HASKELL	TX	2.60	2.68	2.42	2.15	1.89	1.62
HAYS	TX	3.45	3.27	2.95	2.64	2.32	2.01
HEMPHILL	TX	2.40	2.28	2.08	1.87	1.67	1.46
HENDERSON	TX	3.00	3.02	2.73	2.43	2.14	1.85
HIDALGO	TX	3.65	3.66	3.40	3.15	2.89	2.64
HILL	TX	3.15	3.02	2.73	2.45	2.16	1.87
HOCKLEY	TX	2.40	2.29	2.10	1.90	1.71	1.51
HOOD	TX	3.00	2.87	2.58	2.29	2.00	1.71
HOPKINS	TX	3.00	2.81	2.47	2.12	1.78	1.43
HOUSTON	TX	3.15	3.09	2.84	2.58	2.33	2.08
HOWARD	TX	2.40	2.71	2.48	2.24	2.01	1.77
HUDSPETH	TX	2.25	2.18	2.01	1.83	1.66	1.49
HUNT	TX	3.00	2.86	2.56	2.27	1.97	1.67
HUTCHINSON	TX	2.40	2.29	2.09	1.89	1.69	1.49
IRION	TX	2.60	2.29	2.18	2.08	1.97	1.86
JACK	TX	2.80	2.66	2.38	2.09	1.81	1.52
JACKSON	TX	3.60	3.37	3.16	2.95	2.74	2.53
JASPER	TX	3.30	3.14	2.94	2.73	2.53	2.33
JEFF DAVIS	TX	2.40	2.09	1.99	1.88	1.78	1.67
JEFFERSON	TX	3.60	3.46	3.22	2.97	2.73	2.49
JIM HOGG	TX	3.65	2.83	2.76	2.70	2.63	2.56
JIM WELLS	TX	3.65	3.58	3.34	3.09	2.85	2.61
JOHNSON	TX	3.00	2.88	2.60	2.31	2.03	1.75
JONES	TX	2.60	2.69	2.44	2.18	1.93	1.67
KARNES	TX	3.65	3.43	3.17	2.91	2.65	2.39
KAUFMAN	TX	3.00	2.87	2.58	2.29	2.00	1.71
KENDALL	TX	3.30	2.65	2.50	2.35	2.20	2.05
KENEDY	TX	3.65	3.60	3.38	3.16	2.94	2.72
KENT	TX	2.60	2.69	2.43	2.18	1.92	1.66
KERR	TX	3.30	2.64	2.48	2.33	2.17	2.01
KIMBLE	TX	2.80	2.47	2.33	2.20	2.06	1.93
KING	TX	2.60	2.68	2.41	2.14	1.87	1.60
KINNEY	TX	3.30	2.66	2.52	2.37	2.23	2.09
KLEBERG	TX	3.65	3.60	3.38	3.15	2.93	2.71
KNOX	TX	2.60	2.68	2.41	2.13	1.86	1.59
LA SALLE	TX	3.00	2.81	2.46	2.12	1.77	1.42
LAMAR	TX	2.40	2.28	2.07	1.85	1.64	1.43
LAMB	TX	3.15	3.02	2.74	2.45	2.17	1.88
LAMPASAS	TX	3.45	2.71	2.62	2.52	2.43	2.34
LAVACA	TX	3.60	3.34	3.09	2.85	2.60	2.36
LEE	TX	3.30	3.21	2.95	2.70	2.44	2.19
LEON	TX	3.15	3.10	2.86	2.63	2.39	2.15
LIBERTY	TX	3.60	3.45	3.19	2.94	2.68	2.43
LIMESTONE	TX	3.15	3.06	2.81	2.55	2.30	2.05
LIPSCOMB	TX	2.40	2.28	2.07	1.85	1.64	1.43
LIVE OAK	TX	3.65	3.46	3.22	2.99	2.75	2.52
LLANO	TX	3.30	2.62	2.44	2.25	2.07	1.89
LOVING	TX	2.40	2.09	1.98	1.88	1.77	1.66
LUBBOCK	TX	2.40	2.31	2.13	1.96	1.78	1.60
LYNN	TX	2.40	2.32	2.15	1.97	1.80	1.63
MADISON	TX	2.80	2.45	2.29	2.14	1.98	1.83
MARION	TX	3.15	3.05	2.79	2.52	2.26	2.00
MARTIN	TX	3.45	2.72	2.64	2.57	2.49	2.41
MASON	TX	3.30	3.14	2.92	2.69	2.47	2.25
MATAGORDA	TX	3.00	2.88	2.60	2.33	2.05	1.77
MAVERICK	TX	2.40	2.71	2.47	2.24	2.00	1.76
MCCULLOCH	TX	2.80	2.46	2.32	2.18	2.04	1.90
MCLENNAN	TX	3.60	3.38	3.19	2.99	2.80	2.60
MCMULLEN	TX	3.30	2.67	2.55	2.42	2.30	2.17
MEDINA	TX	3.30	2.68	2.56	2.43	2.31	2.19
MENARD	TX	2.80	2.46	2.32	2.17	2.03	1.89
MIDLAND	TX	2.40	2.72	2.49	2.27	2.04	1.81
MILAM	TX	3.30	3.12	2.87	2.63	2.38	2.14
MILLS	TX	2.80	3.01	2.71	2.41	2.11	1.81
MITCHELL	TX	2.60	2.71	2.47	2.23	1.99	1.75
MONTAGUE	TX	2.80	2.62	2.33	2.03	1.74	1.45
MONTGOMERY	TX	3.60	3.45	3.19	2.94	2.68	2.43
MOORE	TX	2.40	2.29	2.09	1.90	1.70	1.50

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MORRIS	TX	3.00	2.85	2.55	2.24	1.94	1.63
MOTLEY	TX	2.40	2.31	2.12	1.94	1.75	1.57
NACOGDOCHES	TX	3.15	3.07	2.81	2.54	2.28	2.01
NAVARRO	TX	3.15	3.03	2.75	2.47	2.19	1.91
NEWTON	TX	3.30	3.14	2.94	2.75	2.55	2.35
NOLAN	TX	2.60	2.71	2.47	2.22	1.98	1.74
NUECES	TX	3.65	3.59	3.37	3.14	2.92	2.69
OCHILTREE	TX	2.40	2.28	2.07	1.86	1.65	1.44
OLDHAM	TX	2.40	2.29	2.09	1.88	1.68	1.48
ORANGE	TX	3.60	3.46	3.22	2.97	2.73	2.49
PALO PINTO	TX	2.80	2.69	2.43	2.16	1.90	1.64
PANOLA	TX	3.00	2.92	2.68	2.43	2.19	1.95
PARKER	TX	3.00	2.85	2.54	2.23	1.92	1.61
PARMER	TX	2.40	2.26	2.03	1.80	1.57	1.34
PECOS	TX	2.40	2.13	2.05	1.98	1.90	1.83
POLK	TX	3.30	3.13	2.92	2.70	2.49	2.28
POTTER	TX	2.40	2.29	2.10	1.90	1.71	1.51
PRESIDIO	TX	2.40	2.11	2.01	1.92	1.82	1.73
RAINS	TX	3.00	2.84	2.52	2.20	1.88	1.56
RANDALL	TX	2.40	2.29	2.09	1.90	1.70	1.50
REAGAN	TX	2.60	2.29	2.18	2.08	1.97	1.86
REAL	TX	3.30	2.65	2.51	2.36	2.22	2.07
RED RIVER	TX	3.00	2.83	2.49	2.16	1.82	1.49
REEVES	TX	2.40	2.09	1.99	1.88	1.78	1.67
REFUGIO	TX	3.65	3.47	3.26	3.04	2.83	2.61
ROBERTS	TX	2.40	2.29	2.09	1.88	1.68	1.48
ROBERTSON	TX	3.30	3.13	2.90	2.68	2.45	2.22
ROCKWALL	TX	3.00	2.85	2.54	2.24	1.93	1.62
RUNNELS	TX	2.80	2.72	2.49	2.25	2.02	1.79
RUSK	TX	3.00	2.91	2.66	2.40	2.15	1.90
SABINE	TX	3.15	3.12	2.89	2.67	2.44	2.22
SAN AUGUSTINE	TX	3.15	3.11	2.87	2.64	2.40	2.17
SAN JACINTO	TX	3.30	3.43	3.15	2.88	2.60	2.33
SAN PATRICIO	TX	3.65	3.58	3.35	3.11	2.88	2.64
SAN SABA	TX	2.80	2.45	2.30	2.14	1.99	1.84
SCHLEICHER	TX	2.80	2.46	2.32	2.17	2.03	1.89
SCURRY	TX	2.60	2.70	2.45	2.20	1.95	1.70
SHACKELFORD	TX	2.80	2.69	2.44	2.18	1.93	1.67
SHELBY	TX	3.15	3.09	2.83	2.58	2.32	2.07
SHERMAN	TX	2.40	2.29	2.08	1.88	1.67	1.47
SMITH	TX	3.00	2.90	2.64	2.38	2.12	1.86
SOMERVELL	TX	3.00	2.88	2.60	2.33	2.05	1.77
STARR	TX	3.65	2.83	2.76	2.70	2.63	2.56
STEPHENS	TX	2.80	2.69	2.43	2.18	1.92	1.66
STERLING	TX	2.60	2.72	2.49	2.27	2.04	1.81
STONEWALL	TX	2.60	2.69	2.43	2.17	1.91	1.65
SUTTON	TX	2.80	2.47	2.33	2.20	2.06	1.93
SWISHER	TX	2.40	2.29	2.09	1.89	1.69	1.49
TARRANT	TX	3.00	2.86	2.57	2.27	1.98	1.68
TAYLOR	TX	2.60	2.71	2.46	2.22	1.97	1.73
TERRELL	TX	2.60	2.30	2.20	2.11	2.01	1.91
TERRY	TX	2.40	2.31	2.13	1.95	1.77	1.59
THROCKMORTON	TX	2.80	2.68	2.41	2.15	1.88	1.61
TITUS	TX	3.00	2.84	2.52	2.20	1.88	1.56
TOM GREEN	TX	2.80	2.73	2.50	2.28	2.05	1.83
TRAVIS	TX	3.30	3.16	2.85	2.55	2.24	1.94
TRINITY	TX	3.30	3.11	2.88	2.64	2.41	2.18
TYLER	TX	3.30	3.13	2.92	2.72	2.51	2.30
UPSHUR	TX	3.00	2.87	2.58	2.29	2.00	1.71
UPTON	TX	2.40	2.13	2.06	2.00	1.93	1.86
UVALDE	TX	3.30	2.66	2.53	2.39	2.26	2.12
VAL VERDE	TX	2.80	2.48	2.36	2.24	2.12	2.00
VAN ZANDT	TX	3.00	2.88	2.59	2.31	2.02	1.74
VICTORIA	TX	3.65	3.46	3.22	2.99	2.75	2.52
WALKER	TX	3.30	3.15	2.94	2.74	2.53	2.32
WALLER	TX	3.60	3.45	3.19	2.94	2.68	2.43
WARD	TX	2.40	2.11	2.02	1.94	1.85	1.76
WASHINGTON	TX	3.30	3.43	3.16	2.90	2.63	2.36
WEBB	TX	3.45	2.73	2.65	2.58	2.50	2.43
WHARTON	TX	3.60	3.37	3.15	2.94	2.72	2.51

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
WHEELER	TX	2.40	2.29	2.09	1.89	1.69	1.49
WICHITA	TX	2.80	2.63	2.35	2.06	1.78	1.50
WILBARGER	TX	2.60	2.63	2.35	2.08	1.80	1.52
WILLACY	TX	3.65	3.67	3.42	3.18	2.93	2.69
WILLIAMSON	TX	3.30	3.16	2.87	2.57	2.28	1.98
WILSON	TX	3.45	3.32	3.06	2.81	2.55	2.29
WINKLER	TX	2.40	2.10	2.01	1.91	1.82	1.72
WISE	TX	3.00	2.83	2.50	2.16	1.83	1.50
WOOD	TX	3.00	2.85	2.54	2.24	1.93	1.62
YOAKUM	TX	2.40	2.30	2.10	1.91	1.71	1.52
YOUNG	TX	2.80	2.67	2.39	2.12	1.84	1.56
ZAPATA	TX	3.65	2.82	2.75	2.67	2.60	2.52
ZAVALA	TX	3.30	2.68	2.56	2.45	2.33	2.21
BEAVER	UT	1.60	1.58	1.56	1.54	1.52	1.50
BOX ELDER	UT	1.90	1.73	1.55	1.38	1.20	1.03
CACHE	UT	1.90	1.73	1.56	1.38	1.21	1.04
CARBON	UT	1.90	1.78	1.66	1.53	1.41	1.29
DAGGETT	UT	1.90	1.77	1.64	1.50	1.37	1.24
DAVIS	UT	1.90	1.74	1.58	1.41	1.25	1.09
DUCHESNE	UT	1.90	1.76	1.62	1.49	1.35	1.21
EMERY	UT	1.90	1.80	1.70	1.59	1.49	1.39
GARFIELD	UT	1.60	1.60	1.60	1.60	1.60	1.60
GRAND	UT	1.90	1.84	1.79	1.73	1.68	1.62
IRON	UT	1.60	1.60	1.61	1.61	1.62	1.62
JUAB	UT	1.90	1.75	1.60	1.46	1.31	1.16
KANE	UT	1.60	1.62	1.63	1.65	1.66	1.68
MILLARD	UT	1.90	1.78	1.67	1.55	1.44	1.32
MORGAN	UT	1.90	1.74	1.57	1.41	1.24	1.08
PIUTE	UT	1.60	1.58	1.56	1.54	1.52	1.50
RICH	UT	1.90	1.73	1.56	1.39	1.22	1.05
SALT LAKE	UT	1.90	1.74	1.57	1.41	1.24	1.08
SAN JUAN	UT	1.60	1.63	1.66	1.68	1.71	1.74
SANPETE	UT	1.90	1.77	1.64	1.52	1.39	1.26
SEVIER	UT	1.90	1.81	1.72	1.62	1.53	1.44
SUMMIT	UT	1.90	1.74	1.58	1.41	1.25	1.09
TOOELE	UT	1.90	1.74	1.57	1.41	1.24	1.08
UINTAH	UT	1.90	1.79	1.68	1.57	1.46	1.35
UTAH	UT	1.90	1.73	1.55	1.38	1.20	1.03
WASATCH	UT	1.90	1.73	1.56	1.39	1.22	1.05
WASHINGTON	UT	1.60	1.63	1.65	1.68	1.70	1.73
WAYNE	UT	1.60	1.59	1.57	1.56	1.54	1.53
WEBER	UT	1.90	1.73	1.57	1.40	1.24	1.07
ACCOMACK	VA	3.00	2.98	2.73	2.49	2.24	1.99
ALBEMARLE	VA	2.80	2.66	2.38	2.11	1.83	1.56
ALEXANDRIA CITY	VA	3.00	2.75	2.46	2.18	1.89	1.61
ALLEGHANY	VA	2.80	2.67	2.41	2.14	1.88	1.62
AMELIA	VA	3.10	2.82	2.56	2.30	2.04	1.78
AMHERST	VA	2.80	2.68	2.43	2.18	1.93	1.68
APPOMATTOX	VA	2.80	2.69	2.45	2.20	1.96	1.72
ARLINGTON	VA	3.00	2.74	2.45	2.17	1.88	1.59
AUGUSTA	VA	2.80	2.66	2.39	2.12	1.85	1.58
BATH	VA	2.80	2.67	2.41	2.14	1.88	1.62
BEDFORD	VA	2.80	2.68	2.43	2.17	1.92	1.67
BEDFORD CITY	VA	2.80	2.68	2.43	2.17	1.92	1.67
BLAND	VA	2.80	2.68	2.43	2.19	1.94	1.69
BOTETOURT	VA	2.80	2.67	2.41	2.14	1.88	1.62
BRISTOL CITY	VA	2.80	2.56	2.35	2.15	1.94	1.73
BRUNSWICK	VA	3.10	2.86	2.64	2.42	2.20	1.98
BUCHANAN	VA	2.80	2.56	2.35	2.13	1.92	1.71
BUCKINGHAM	VA	2.80	2.80	2.52	2.24	1.96	1.68
BUENA VISTA CITY	VA	2.80	2.67	2.41	2.16	1.90	1.64
CAMPBELL	VA	2.80	2.69	2.45	2.20	1.96	1.72
CAROLINE	VA	3.10	2.80	2.53	2.25	1.98	1.70
CARROLL	VA	2.80	2.69	2.45	2.20	1.96	1.72
CHARLES CITY	VA	3.10	2.84	2.60	2.37	2.13	1.89
CHARLOTTE	VA	3.10	2.83	2.57	2.32	2.06	1.81
CHARLOTTESVILLE CITY	VA	2.80	2.66	2.38	2.11	1.83	1.56
CHESAPEAKE CITY	VA	3.20	3.02	2.80	2.59	2.37	2.16
CHESTERFIELD	VA	3.10	2.83	2.58	2.33	2.08	1.83
CLARKE	VA	2.80	2.77	2.46	2.15	1.84	1.53

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CLIFTON FORGE CITY	VA	2.80	2.67	2.41	2.15	1.89	1.63
COLONIAL HEIGHTS CITY	VA	3.10	2.84	2.60	2.35	2.11	1.87
COVINGTON CITY	VA	2.80	2.67	2.41	2.14	1.88	1.62
CRAIG	VA	2.80	2.67	2.41	2.15	1.89	1.63
CULPEPER	VA	2.80	2.78	2.48	2.17	1.87	1.57
CUMBERLAND	VA	2.80	2.80	2.53	2.25	1.98	1.70
DANVILLE CITY	VA	2.80	2.71	2.49	2.26	2.04	1.82
DICKENSON	VA	2.80	2.56	2.35	2.13	1.92	1.71
DINWIDDIE	VA	3.10	2.84	2.61	2.37	2.14	1.90
EMPORIA CITY	VA	3.00	2.87	2.66	2.45	2.24	2.08
ESSEX	VA	3.10	2.94	2.65	2.36	2.07	1.78
FAIRFAX	VA	3.00	2.74	2.45	2.17	1.88	1.59
FAIRFAX CITY	VA	3.00	2.74	2.45	2.16	1.87	1.58
FALLS CHURCH CITY	VA	3.00	2.74	2.45	2.16	1.87	1.58
FAUQUIER	VA	3.00	2.78	2.47	2.17	1.86	1.56
FLOYD	VA	2.80	2.68	2.43	2.19	1.94	1.69
FLUVANNA	VA	2.80	2.79	2.50	2.21	1.92	1.63
FRANKLIN	VA	2.80	2.68	2.43	2.19	1.94	1.69
FRANKLIN CITY	VA	3.00	2.74	2.45	2.16	1.87	1.58
FREDERICK	VA	3.00	2.74	2.45	2.16	1.87	1.58
FREDERICKSBURG CITY	VA	2.80	2.79	2.50	2.22	1.93	1.64
GALAX CITY	VA	2.80	2.69	2.45	2.21	1.97	1.73
GILES	VA	2.80	2.68	2.43	2.17	1.92	1.67
GLOUCESTER	VA	3.20	2.98	2.73	2.48	2.23	1.98
GOOCHLAND	VA	3.10	2.80	2.52	2.25	1.97	1.69
GRAYSON	VA	2.80	2.69	2.45	2.21	1.97	1.73
GREENE	VA	2.80	2.65	2.38	2.10	1.83	1.55
GREENSVILLE	VA	3.10	2.87	2.65	2.44	2.22	2.01
HALIFAX	VA	3.10	2.71	2.49	2.28	2.06	1.84
HAMPTON CITY	VA	3.20	3.00	2.77	2.54	2.31	2.08
HANOVER	VA	3.10	2.82	2.55	2.29	2.02	1.76
HARRISONBURG CITY	VA	2.80	2.65	2.38	2.10	1.83	1.55
HENRICO	VA	3.10	2.82	2.56	2.30	2.04	1.78
HENRY	VA	2.80	2.82	2.55	2.29	2.02	1.76
HIGHLAND	VA	2.80	2.67	2.40	2.14	1.87	1.61
HOPEWELL CITY	VA	3.10	2.84	2.60	2.37	2.13	1.89
ISLE OF WIGHT	VA	3.20	3.00	2.76	2.53	2.29	2.06
JAMES CITY	VA	3.10	2.98	2.72	2.47	2.21	1.96
KING AND QUEEN	VA	3.10	2.95	2.67	2.39	2.11	1.83
KING GEORGE	VA	3.10	2.80	2.53	2.25	1.98	1.70
KING WILLIAM	VA	3.10	2.82	2.56	2.31	2.05	1.79
LANCASTER	VA	3.10	2.96	2.69	2.42	2.15	1.88
LEE	VA	2.80	2.56	2.36	2.15	1.95	1.74
LEXINGTON CITY	VA	2.80	2.67	2.41	2.15	1.89	1.63
LOUDOUN	VA	3.00	2.71	2.41	2.12	1.82	1.53
LOUISA	VA	2.80	2.79	2.50	2.21	1.92	1.63
LUNENBURG	VA	3.10	2.84	2.59	2.35	2.10	1.86
LYNCHBURG CITY	VA	2.80	2.69	2.45	2.20	1.96	1.72
MADISON	VA	2.80	2.77	2.47	2.16	1.86	1.55
MANASSAS CITY	VA	3.00	2.72	2.43	2.15	1.86	1.58
MANASSAS PARK CITY	VA	3.00	2.78	2.48	2.18	1.88	1.58
MARTINSVILLE CITY	VA	2.80	2.70	2.46	2.23	1.99	1.76
MATHEWS	VA	3.20	2.98	2.73	2.48	2.23	1.98
MECKLENBURG	VA	3.10	2.85	2.62	2.38	2.15	1.92
MIDDLESEX	VA	3.10	2.96	2.70	2.43	2.17	1.90
MONTGOMERY	VA	2.80	2.68	2.42	2.17	1.91	1.66
NELSON	VA	2.80	2.67	2.41	2.14	1.88	1.62
NEW KENT	VA	3.10	2.83	2.59	2.34	2.10	1.85
NEWPORT NEWS CITY	VA	3.20	2.99	2.75	2.52	2.28	2.04
NORFOLK CITY	VA	3.20	3.01	2.79	2.56	2.34	2.12
NORTHAMPTON	VA	3.00	2.99	2.75	2.52	2.28	2.04
NORTHUMBERLAND	VA	3.10	2.80	2.57	2.33	2.10	1.87
NORTON CITY	VA	2.80	2.56	2.35	2.15	1.94	1.73
NOTTOWAY	VA	3.10	2.83	2.59	2.34	2.10	1.85
ORANGE	VA	2.80	2.78	2.48	2.18	1.88	1.58
PAGE	VA	2.80	2.77	2.47	2.16	1.86	1.55
PATRICK	VA	2.80	2.69	2.46	2.22	1.99	1.75
PETERSBURG CITY	VA	3.10	2.84	2.61	2.37	2.14	1.90
PITTSYLVANIA	VA	2.80	2.70	2.47	2.24	2.01	3.00
POQUOSON CITY	VA	3.20	2.99	2.75	2.52	2.28	2.04

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
PORTSMOUTH CITY	VA	3.20	3.01	2.79	2.56	2.34	2.12
POWHATAN	VA	3.10	2.81	2.54	2.27	2.00	3.10
PRINCE EDWARD	VA	3.10	2.82	2.55	2.29	2.02	1.76
PRINCE GEORGE	VA	3.10	2.85	2.61	2.38	2.14	1.91
PRINCE WILLIAM	VA	3.00	2.72	2.44	2.15	1.87	1.59
PULASKI	VA	2.80	2.68	2.43	2.18	1.93	1.68
RADFORD CITY	VA	2.80	2.68	2.43	2.17	1.92	1.67
RAPPAHANNOCK	VA	2.80	2.77	2.47	2.16	1.86	1.55
RICHMOND	VA	3.10	2.95	2.66	2.38	2.09	1.81
RICHMOND CITY	VA	3.10	2.82	2.56	2.30	2.04	1.78
ROANOKE	VA	2.80	2.67	2.41	2.14	1.88	1.62
ROANOKE CITY	VA	2.80	2.67	2.41	2.15	1.89	1.63
ROCKBRIDGE	VA	2.80	2.67	2.41	2.15	1.89	1.63
ROCKINGHAM	VA	2.80	2.65	2.38	2.10	1.83	1.55
RUSSELL	VA	2.80	2.56	2.35	2.13	1.92	1.71
SALEM CITY	VA	2.80	2.79	2.50	2.20	1.91	1.62
SCOTT	VA	2.80	2.57	2.37	2.16	1.96	1.76
SHENANDOAH	VA	2.80	2.77	2.47	2.16	1.86	1.55
SMYTH	VA	2.80	2.69	2.44	2.20	1.95	1.71
SOUTH BOSTON CITY	VA	3.10	2.70	2.48	2.25	2.03	1.80
SOUTHAMPTON	VA	3.10	2.88	2.67	2.47	2.26	2.06
SPOTSYLVANIA	VA	2.80	2.79	2.50	2.21	1.92	1.63
STAFFORD	VA	3.00	2.79	2.50	2.21	1.92	1.63
STAUNTON CITY	VA	2.80	2.66	2.39	2.11	1.84	1.57
SUFFOLK CITY	VA	3.20	3.01	2.79	2.56	2.34	2.12
SURRY	VA	3.10	2.86	2.64	2.42	2.20	1.98
SUSSEX	VA	3.10	2.87	2.65	2.44	2.22	2.01
TAZEWELL	VA	2.80	2.56	2.34	2.13	1.91	1.70
VIRGINIA BEACH CITY	VA	3.20	3.01	2.80	2.58	2.37	2.15
WARREN	VA	2.80	2.77	2.46	2.16	1.85	1.54
WASHINGTON	VA	2.80	2.56	2.35	2.14	1.93	1.72
WAYNESBORO CITY	VA	2.80	2.66	2.39	2.11	1.84	1.57
WESTMORELAND	VA	3.10	2.82	2.56	2.29	2.03	1.77
WILLIAMSBURG CITY	VA	3.10	2.86	2.63	2.41	2.18	1.96
WINCHESTER CITY	VA	2.80	2.77	2.46	2.15	1.84	1.53
WISE	VA	2.80	2.56	2.35	2.15	1.94	1.73
WYTHE	VA	2.80	2.68	2.44	2.19	1.95	1.70
YORK	VA	3.20	2.98	2.74	2.49	2.25	2.00
ADDISON	VT	2.60	2.38	2.19	1.99	1.80	1.61
BENNINGTON	VT	2.80	2.52	2.32	2.13	1.93	1.73
CALEDONIA	VT	2.60	2.41	2.22	2.03	1.84	1.65
CHITTENDEN	VT	2.60	2.34	2.16	1.97	1.79	1.61
ESSEX	VT	2.60	2.36	2.18	1.99	1.81	1.62
FRANKLIN	VT	2.40	2.24	2.07	1.91	1.74	1.58
GRAND ISLE	VT	2.40	2.21	2.05	1.90	1.74	1.58
LAMOILLE	VT	2.60	2.34	2.16	1.97	1.79	1.61
ORANGE	VT	2.60	2.42	2.24	2.06	1.88	1.70
ORLEANS	VT	2.40	2.32	2.14	1.95	1.77	1.59
RUTLAND	VT	2.60	2.44	2.24	2.03	1.83	1.62
WASHINGTON	VT	2.60	2.37	2.19	2.01	1.83	1.65
WINDHAM	VT	2.80	2.76	2.53	2.30	2.07	1.84
WINDSOR	VT	2.60	2.69	2.45	2.20	1.96	1.71
ADAMS	WA	1.75	1.58	1.41	1.25	1.08	0.91
ASOTIN	WA	1.75	1.60	1.45	1.29	1.14	0.99
BENTON	WA	1.75	1.59	1.43	1.27	1.11	0.95
CHELAN	WA	1.75	1.58	1.41	1.23	1.06	0.89
CLALLAM	WA	1.90	1.58	1.41	1.24	1.07	0.90
CLARK	WA	1.90	1.71	1.52	1.33	1.14	0.95
COLUMBIA	WA	1.75	1.59	1.43	1.27	1.11	0.95
COWLITZ	WA	1.90	1.71	1.53	1.34	1.16	0.97
DOUGLAS	WA	1.75	1.58	1.40	1.23	1.05	0.88
FERRY	WA	1.90	1.70	1.49	1.29	1.08	0.88
FRANKLIN	WA	1.75	1.59	1.43	1.26	1.10	0.94
GARFIELD	WA	1.75	1.59	1.43	1.28	1.12	0.96
GRANT	WA	1.75	1.58	1.41	1.24	1.07	0.90
GRAYS HARBOR	WA	1.90	1.72	1.53	1.35	1.16	0.98
ISLAND	WA	1.90	1.70	1.50	1.29	1.09	0.89
JEFFERSON	WA	1.90	1.59	1.43	1.27	1.11	0.95
KING	WA	1.90	1.72	1.54	1.36	1.18	1.00
KITSAP	WA	1.90	1.72	1.54	1.36	1.18	1.00

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
KITTITAS	WA	1.75	1.59	1.43	1.26	1.10	0.94
KLICKITAT	WA	1.75	1.59	1.43	1.28	1.12	0.96
LEWIS	WA	1.90	1.72	1.53	1.35	1.16	0.98
LINCOLN	WA	1.90	1.70	1.49	1.29	1.08	0.88
MASON	WA	1.90	1.72	1.54	1.35	1.17	0.99
OKANOGAN	WA	1.75	1.57	1.39	1.22	1.04	0.86
PACIFIC	WA	1.90	1.72	1.54	1.35	1.17	0.99
PEND OREILLE	WA	1.90	1.71	1.51	1.32	1.12	0.93
PIERCE	WA	1.90	1.72	1.54	1.36	1.18	1.00
SAN JUAN	WA	1.90	1.57	1.38	1.20	1.01	0.83
SKAGIT	WA	1.90	1.68	1.46	1.24	1.02	0.80
SKAMANIA	WA	1.90	1.71	1.52	1.34	1.15	0.96
SNOHOMISH	WA	1.90	1.70	1.50	1.31	1.11	0.91
SPOKANE	WA	1.90	1.70	1.50	1.29	1.09	0.89
STEVENS	WA	1.90	1.70	1.50	1.29	1.09	0.89
THURSTON	WA	1.90	1.72	1.54	1.35	1.17	0.99
WAHKIAKUM	WA	1.90	1.72	1.54	1.35	1.17	0.99
WALLA WALLA	WA	1.75	1.59	1.43	1.27	1.11	0.95
WHATCOM	WA	1.90	1.63	1.42	1.21	1.00	0.79
WHITMAN	WA	1.90	1.71	1.52	1.32	1.13	0.94
YAKIMA	WA	1.75	1.59	1.43	1.27	1.11	0.95
ADAMS	WI	1.70	1.11	1.11	1.12	1.12	1.13
ASHLAND	WI	1.70	1.10	1.10	1.10	1.10	1.10
BARRON	WI	1.70	1.11	1.11	1.12	1.12	1.13
BAYFIELD	WI	1.70	1.11	1.12	1.14	1.15	1.16
BROWN	WI	1.75	1.14	1.16	1.19	1.21	1.23
BUFFALO	WI	1.70	1.10	1.11	1.11	1.12	1.12
BURNETT	WI	1.70	1.14	1.15	1.15	1.16	1.16
CALUMET	WI	1.75	1.17	1.20	1.24	1.27	1.30
CHIPPEWA	WI	1.70	1.10	1.10	1.11	1.11	1.11
CLARK	WI	1.70	1.05	1.06	1.08	1.09	1.10
COLUMBIA	WI	1.75	1.15	1.15	1.16	1.16	1.17
CRAWFORD	WI	1.75	1.14	1.14	1.14	1.14	1.14
DANE	WI	1.75	1.20	1.19	1.19	1.18	1.17
DODGE	WI	1.75	1.17	1.21	1.24	1.28	1.31
DOOR	WI	1.75	1.10	1.11	1.11	1.12	1.12
DOUGLAS	WI	1.70	1.16	1.18	1.19	1.21	1.23
DUNN	WI	1.70	1.10	1.10	1.10	1.10	1.10
EAU CLAIRE	WI	1.70	1.10	1.11	1.11	1.12	1.12
FLORENCE	WI	1.70	1.09	1.03	0.98	0.92	0.86
FOND DU LAC	WI	1.75	1.17	1.20	1.24	1.27	1.30
FOREST	WI	1.70	1.07	1.03	1.00	0.96	0.93
GRANT	WI	1.75	1.15	1.15	1.16	1.16	1.17
GREEN	WI	1.75	1.21	1.22	1.22	1.23	1.23
GREEN LAKE	WI	1.70	1.15	1.16	1.18	1.19	1.20
IOWA	WI	1.75	1.14	1.14	1.15	1.15	1.15
IRON	WI	1.70	1.13	1.11	1.09	1.07	1.05
JACKSON	WI	1.70	1.06	1.08	1.10	1.12	1.14
JEFFERSON	WI	1.75	1.31	1.30	1.30	1.29	1.29
JUNEAU	WI	1.70	1.11	1.11	1.12	1.12	1.13
KENOSHA	WI	1.75	1.34	1.38	1.41	1.45	1.48
KEWAUNEE	WI	1.75	1.13	1.16	1.20	1.23	1.26
LA CROSSE	WI	1.70	1.12	1.14	1.15	1.17	1.19
LAFAYETTE	WI	1.75	1.15	1.17	1.18	1.20	1.21
LANGLADE	WI	1.70	1.03	1.02	1.00	0.99	0.98
LINCOLN	WI	1.70	1.03	1.03	1.02	1.02	1.01
MANITOWOC	WI	1.75	1.19	1.24	1.29	1.34	1.39
MARATHON	WI	1.70	1.04	1.05	1.05	1.06	1.06
MARINETTE	WI	1.70	1.04	1.02	1.01	0.99	0.98
MARQUETTE	WI	1.70	1.11	1.12	1.13	1.14	1.15
MENOMINEE	WI	1.70	1.04	1.03	1.03	1.02	1.02
MILWAUKEE	WI	1.75	1.34	1.37	1.41	1.44	1.47
MONROE	WI	1.70	1.11	1.12	1.13	1.14	1.15
OCONTO	WI	1.70	1.04	1.05	1.05	1.06	1.06
ONEIDA	WI	1.70	1.03	1.02	1.00	0.99	0.98
OUTAGAMIE	WI	1.75	1.10	1.11	1.11	1.12	1.12
OZAUKEE	WI	1.75	1.21	1.28	1.35	1.42	1.49
PEPIN	WI	1.70	1.10	1.10	1.10	1.10	1.10
PIERCE	WI	1.70	1.13	1.12	1.12	1.11	1.10
POLK	WI	1.70	1.14	1.14	1.14	1.14	1.14

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
PORTAGE	WI	1.70	1.05	1.06	1.06	1.07	1.08
PRICE	WI	1.70	1.05	1.05	1.06	1.06	1.07
RACINE	WI	1.75	1.34	1.37	1.39	1.42	1.45
RICHLAND	WI	1.75	1.14	1.14	1.14	1.14	1.14
ROCK	WI	1.75	1.30	1.29	1.29	1.28	1.27
RUSK	WI	1.70	1.10	1.10	1.11	1.11	1.11
SAUK	WI	1.75	1.14	1.14	1.13	1.13	1.13
SAWYER	WI	1.70	1.11	1.11	1.12	1.12	1.13
SHAWANO	WI	1.70	1.04	1.04	1.05	1.05	1.05
SHEBOYGAN	WI	1.75	1.21	1.29	1.36	1.44	1.51
ST. CROIX	WI	1.70	1.13	1.13	1.12	1.12	1.11
TAYLOR	WI	1.70	1.05	1.06	1.06	1.07	1.08
TREMPEALEAU	WI	1.70	1.11	1.12	1.13	1.14	1.15
VERNON	WI	1.75	1.14	1.15	1.15	1.16	1.16
VILAS	WI	1.70	1.08	1.05	1.03	1.00	0.98
WALWORTH	WI	1.75	1.32	1.33	1.35	1.36	1.37
WASHBURN	WI	1.70	1.11	1.12	1.14	1.15	1.16
WASHINGTON	WI	1.75	1.19	1.25	1.30	1.36	1.41
WAUKESHA	WI	1.75	1.33	1.34	1.36	1.37	1.39
WAUPACA	WI	1.75	1.10	1.09	1.09	1.08	1.08
WAUSHARA	WI	1.70	1.10	1.11	1.11	1.12	1.12
WINNEBAGO	WI	1.75	1.15	1.16	1.16	1.17	1.18
WOOD	WI	1.70	1.05	1.06	1.08	1.09	1.10
BARBOUR	WV	2.30	1.93	1.86	1.79	1.72	1.65
BERKELEY	WV	2.60	1.85	1.76	1.66	1.57	1.47
BOONE	WV	2.20	2.10	2.01	1.93	1.84	1.75
BRAXTON	WV	2.20	1.94	1.87	1.81	1.74	1.68
BROOKE	WV	2.10	1.92	1.85	1.77	1.70	1.62
CABELL	WV	2.20	2.09	1.99	1.90	1.80	1.70
CALHOUN	WV	2.20	2.02	1.94	1.85	1.77	1.68
CLAY	WV	2.20	2.09	2.00	1.90	1.81	1.71
DODDRIDGE	WV	2.10	1.93	1.86	1.78	1.71	1.64
FAYETTE	WV	2.20	2.09	2.00	1.90	1.81	1.71
GILMER	WV	2.20	2.02	1.93	1.85	1.76	1.67
GRANT	WV	2.60	1.92	1.84	1.76	1.68	1.60
GREENBRIER	WV	2.20	2.55	2.33	2.10	1.88	1.66
HAMPSHIRE	WV	2.60	1.91	1.83	1.74	1.66	1.57
HANCOCK	WV	2.10	1.92	1.84	1.75	1.67	1.59
HARDY	WV	2.60	1.92	1.83	1.75	1.66	1.58
HARRISON	WV	2.10	1.93	1.86	1.79	1.72	1.65
JACKSON	WV	2.20	2.09	1.99	1.88	1.78	1.68
JEFFERSON	WV	2.60	1.90	1.80	1.70	1.60	1.50
KANAWHA	WV	2.20	2.10	2.02	1.93	1.85	1.76
LEWIS	WV	2.10	1.93	1.86	1.80	1.73	1.66
LINCOLN	WV	2.20	2.10	2.01	1.91	1.82	1.73
LOGAN	WV	2.20	2.10	2.00	1.91	1.81	1.72
MARION	WV	2.80	2.56	2.35	2.13	1.92	1.71
MARSHALL	WV	2.10	1.93	1.86	1.78	1.71	1.64
MASON	WV	2.10	1.92	1.85	1.77	1.70	1.62
MCDOWELL	WV	2.20	2.09	1.98	1.88	1.77	1.67
MERCER	WV	2.80	2.55	2.34	2.12	1.91	1.69
MINERAL	WV	2.60	1.92	1.84	1.76	1.68	1.60
MINGO	WV	2.20	2.09	2.00	1.90	1.81	1.71
MONONGALIA	WV	2.10	1.93	1.85	1.78	1.70	1.63
MONROE	WV	2.20	2.55	2.32	2.10	1.87	1.65
MORGAN	WV	2.60	1.82	1.74	1.66	1.58	1.50
NICHOLAS	WV	2.20	2.09	1.99	1.89	1.79	1.69
OHIO	WV	2.10	1.92	1.84	1.77	1.69	1.61
PENDLETON	WV	2.60	1.92	1.84	1.76	1.68	1.60
PLEASANTS	WV	2.20	2.01	1.91	1.80	1.70	1.60
POCAHONTAS	WV	2.20	2.54	2.32	2.09	1.87	1.64
PRESTON	WV	2.30	1.93	1.86	1.78	1.71	1.64
PUTNAM	WV	2.20	2.10	2.01	1.91	1.82	1.73
RALEIGH	WV	2.20	2.09	2.00	1.90	1.81	1.71
RANDOLPH	WV	2.30	1.93	1.85	1.78	1.70	1.63
RITCHIE	WV	2.20	2.01	1.92	1.82	1.73	1.63
ROANE	WV	2.20	2.09	1.99	1.89	1.79	1.69
SUMMERS	WV	2.20	2.55	2.33	2.11	1.89	1.67
TAYLOR	WV	2.30	1.93	1.86	1.79	1.72	1.65
TUCKER	WV	2.30	1.92	1.85	1.77	1.70	1.62

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
TYLER	WV	2.10	1.93	1.85	1.78	1.70	1.63
UPSHUR	WV	2.30	1.93	1.86	1.79	1.72	1.65
WAYNE	WV	2.20	2.09	1.99	1.89	1.79	1.69
WEBSTER	WV	2.20	1.93	1.86	1.80	1.73	1.66
WETZEL	WV	2.10	1.93	1.85	1.78	1.70	1.63
WIRT	WV	2.20	2.02	1.93	1.84	1.75	1.66
WOOD	WV	2.20	2.01	1.91	1.82	1.72	1.62
WYOMING	WV	2.20	2.10	2.00	1.91	1.81	1.72
ALBANY	WY	1.90	1.86	1.68	1.49	1.31	1.12
BIG HORN	WY	1.60	1.65	1.49	1.34	1.18	1.03
CAMPBELL	WY	1.65	1.84	1.63	1.41	1.20	0.99
CARBON	WY	1.90	1.67	1.53	1.40	1.26	1.13
CONVERSE	WY	1.70	1.84	1.63	1.43	1.22	1.01
CROOK	WY	1.65	1.83	1.61	1.38	1.16	0.94
FREMONT	WY	1.60	1.49	1.37	1.26	1.14	1.03
GOSHEN	WY	1.90	1.85	1.64	1.44	1.23	1.03
HOT SPRINGS	WY	1.60	1.48	1.36	1.25	1.13	1.01
JOHNSON	WY	1.65	1.64	1.48	1.33	1.17	1.01
LARAMIE	WY	2.45	1.86	1.67	1.48	1.29	1.10
LINCOLN	WY	1.60	1.49	1.37	1.26	1.14	1.03
NATRONA	WY	1.70	1.65	1.49	1.34	1.18	1.03
NIOBRARA	WY	1.70	1.84	1.62	1.41	1.19	0.98
PARK	WY	1.60	1.47	1.34	1.21	1.08	0.95
PLATTE	WY	1.90	1.85	1.65	1.46	1.26	1.06
SHERIDAN	WY	1.60	1.65	1.50	1.35	1.20	1.05
SUBLETTE	WY	1.60	1.48	1.37	1.25	1.14	1.02
SWEETWATER	WY	1.90	1.51	1.42	1.33	1.24	1.15
TETON	WY	1.60	1.46	1.33	1.19	1.06	0.92
UINTA	WY	1.90	1.50	1.40	1.31	1.21	1.11
WASHAKIE	WY	1.60	1.64	1.49	1.33	1.18	1.02
WESTON	WY	1.70	1.82	1.59	1.36	1.13	0.90

§ 1000.53 Announcement of class prices and component prices.

On or before the 5th day of the month, the market administrator shall announce for each Federal milk marketing order in 7 CFR, chapter X the following applicable prices:

(a) For the following month:

(1) The Class I price;

(2) The Class I skim milk price;

(3) The Class I butterfat price;

(b) For the preceding month:

(1) The Class II price;

(2) The Class III price;

(3) The Class IV price;

(4) The Class II skim milk price;

(5) The Class III skim milk price;

(6) The Class IV skim milk price;

(7) The butterfat price;

(8) The nonfat solids price;

(9) The protein price;

(10) The other solids price; and

(11) The somatic cell adjustment rate.

§ 1000.54 Equivalent price.

If for any reason a price or pricing constituent required for computing class prices or for other purposes is not available as prescribed in any Federal milk order, the market administrator shall use a price or pricing constituent determined by the Deputy Administrator, Dairy Programs, Agricultural Marketing Service, to be equivalent to the price or pricing constituent that is required.

Subpart H—Payments for Milk

§ 1000.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the producer-settlement fund into which the market administrator shall deposit all payments made by handlers pursuant to §§ ____.71, ____.76, and ____.77 of each Federal milk order in 7 CFR, chapter X, and out of which the market administrator shall make all payments pursuant to §§ ____.72 and ____.77 of each Federal milk order in 7 CFR, chapter X. Payments due any handler shall be offset by any payments due from that handler.

§ 1000.71 Payments to the producer-settlement fund.

Each handler shall make a payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the date specified in § ____.71 of each order in 7 CFR, chapter X. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) or (c) of this section:

(a) The total value of milk of the handler for the month as determined pursuant to § ____.60 of the order; and

(b) For orders in 7 CFR, chapter X with component pricing, the sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential, adjusted pursuant to § ____.75 of the order;

(2) An amount obtained by multiplying the pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices, respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § ____.60(i) of the order by the producer price differential as adjusted pursuant to § ____.75 of the order for the location of the plant from which received; or

(c) For orders in 7 CFR, chapter X with skim milk and butterfat pricing, the sum of the value at the uniform prices for skim milk and butterfat, adjusted for plant location, of the

handler's receipts of producer milk; and the value at the uniform price as adjusted pursuant to § ____.75 of the order applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § ____.60(e) of the order.

§ 1000.72 Payments from the producer-settlement fund.

No later than one day after the date of payment receipt required under § 1000.71, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1000.71(b) or (c), as the case may be, exceeds the amount computed pursuant to § 1000.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1000.76 Payments by a handler operating a partially regulated distributing plant.

On or before the 25th day after the end of the month, the operator of a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section or, if the handler submits the information specified in §§ ____.30(b) and ____.31(b) of the order, the handler may elect to pay the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be an amount resulting from the following computations:

(1) From the plant's route disposition in the marketing area:

(i) Subtract receipts of fluid milk products classified as Class I milk from pool plants and plants fully regulated under other Federal orders in 7 CFR, chapter X, except that subtracted under a similar provision of another Federal milk order in 7 CFR, chapter X;

(ii) Subtract receipts of fluid milk products from another nonpool plant that is not a plant fully regulated under another Federal order in 7 CFR, chapter X to the extent that an equivalent amount of fluid milk products disposed of to the nonpool plant by handlers fully regulated under any Federal order in 7 CFR, chapter X is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order; and

(iii) Subtract the pounds of reconstituted milk made from nonfluid milk products which are then disposed of as route disposition in the marketing area;

(2) For orders in 7 CFR, chapter X with multiple component pricing, multiply the remaining pounds by the amount by which the Class I differential price exceeds the producer price differential, both prices to be applicable at the location of the partially regulated distributing plant except that neither the adjusted Class I differential price nor the adjusted producer price differential shall be less than zero;

(3) For orders in 7 CFR, chapter X with skim milk and butterfat pricing, multiply the remaining pounds by the amount by which the Class I price exceeds the uniform price, both prices to be applicable at the location of the partially regulated distributing plant except that neither the adjusted Class I price nor the adjusted uniform price differential shall be less than the lowest announced class price; and

(4) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(1)(iii) of this section by any positive difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 and the Class IV price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the positive difference between the Class I price applicable under the other Federal order in 7 CFR, chapter X at the location of the plant where the nonfluid milk ingredients were processed and the Class IV price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders in 7 CFR, chapter X and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § ____.60 of the order for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the plant from a pool plant or a plant fully regulated under another Federal order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or a plant fully regulated under another Federal order in 7 CFR, chapter X shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be computed to the extent possible to those receipts at the partially regulated distributing plant from the pool plant and plants fully regulated under other Federal orders in 7 CFR, chapter X that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are in Class I and for which a value is computed pursuant to § ____.60 of the order for the partially regulated distributing plant shall be priced at the statistical uniform price or uniform price, whichever is applicable, of the respective order regulating the handling of milk at the receiving plant, with such statistical uniform price or uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest announced class price of the respective order); and

(iii) If the operator of the partially regulated distributing plant so requests, the handler's value of milk determined pursuant to § ____.60 of the order shall include a value of milk determined for each nonpool plant that is not a plant fully regulated under another Federal order in 7 CFR, chapter X which serves as a supply plant for the partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of Section 7(c) of the order, subject to the following conditions:

(A) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ ____.30(b) and ____.31(b) of the order similar reports for each such nonpool supply plant;

(B) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at the plant which are made available if requested by the market administrator for verification purposes; and

(C) The value of milk determined pursuant to § ____.60 for the

unregulated supply plant shall be determined in the same manner prescribed for computing the obligation of the partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of the partially regulated distributing plant for milk received at the plant during the month that would have been producer milk had the plant been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another Federal order in 7 CFR, chapter X under which the plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1000.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the positive difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed and the Class IV price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders in 7 CFR, chapter X and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

§ 1000.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

§ 1000.78 Charges on overdue accounts.

Any unpaid obligation due the market administrator, producers, or cooperative associations from a handler pursuant to the provisions of the order shall be increased 1.0 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each succeeding month until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously computed pursuant to this section. The late charges shall accrue to the administrative assessment fund. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Subpart I—Administrative Assessment and Marketing Service Deduction

§ 1000.85 Assessment for order administration.

On or before the payment receipt date specified under § ____.71 of each Federal milk order in 7 CFR, chapter X, each handler shall pay to the market administrator its pro rata share of the expense of administration of the order at a rate specified by the market administrator that is no more than 5 cents per hundredweight with respect to:

(a) Receipts of producer milk (including the handler's own production) other than such receipts by a handler described in § 1000.9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in § 1000.9(c);

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1000.43(d) and other source milk allocated to Class I pursuant to § 1000.44(a)(3) and (8) and the corresponding steps of § 1000.44(b), except other source milk that is excluded from the computations pursuant to § ____.60(d) and (e) of Parts 1005, 1006, and 1007 or § ____.60(h) and (i) of Parts 1001, 1030, 1032, 1033, 1124, 1126, 1131, and 1134 in 7 CFR, chapter X; and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1000.76(a)(1)(i)and (ii).

§ 1000.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of such handler's own production) pursuant to § ____.73 of each Federal milk order in 7 CFR, chapter X, shall deduct an amount specified by the market administrator that is no more than 7 cents per hundredweight and shall pay the amount deducted to the market administrator not later than the payment receipt date specified under § ____.71 of each Federal milk order in 7 CFR, chapter X. The money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. The services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator;

(b) In the case of producers for whom the market administrator has determined that a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and the producers. On or before the 15th day after the end of the month, such deductions shall be paid to the cooperative association rendering the services accompanied by a statement showing the amount of any deductions and the amount of milk for which the deduction was computed for each producer. These deductions shall be made in lieu of the deduction specified in paragraph (a) of this section.

Subpart J—Miscellaneous Provisions

§ 1000.90 Dates.

If a date required for a report, payment, or announcement contained in a Federal milk order in 7 CFR, chapter X falls on a Saturday, Sunday, or national holiday, such report, payment,

or announcement will be on the next day that the market administrator's office is open for public business.

§§ 1000.91—1000.92 [Reserved]

§ 1000.93 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of Title 44 U.S.C. chapter 35 and have been assigned OMB control number 0581–0032.

PART 1001—MILK IN THE NORTHEAST MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1001.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1001.2 Northeast marketing area.

The marketing area means all the territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont and District of Columbia

All of the States of Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont and the District of Columbia.

Maryland Counties and City

All of the State of Maryland except the counties of Allegany and Garrett.

New York Counties and Cities

All counties within the State of New York except Chautauqua, Allegany (except the township Hume) and Cattaraugus (except the township Yorkshire).

Pennsylvania Counties

Adams, Bucks, Chester, Cumberland, Dauphin, Delaware, Franklin, Fulton, Juniata, Lancaster, Lebanon, Montgomery, Perry, Philadelphia, and York.

Virginia Counties and Cities

Counties of Arlington, Fairfax, Loudoun, and Prince William, and cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

§ 1001.3 Route disposition.

See § 1000.3 of this chapter.

§ 1001.4 Plant.

(a) Except as provided in paragraph (b) of this section, plant means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed, or packaged, including a facility described in paragraph (b)(2) of this section if the facility receives the milk of more than one dairy farmer.

(b) Plant shall not include:

(1) A separate building without stationary storage tanks that is used only as a reload point for transferring bulk milk from one tank truck to another or a separate building used only as a distribution point for storing packaged fluid milk products in transit for route disposition; or

(2) An on-farm facility operated as part of a single dairy farm entity for the separation of cream and skim milk; or

(3) Bulk reload points where milk is transferred from one tank truck to another while en route from a dairy farmer's farms to a plant. If stationary storage tanks are used for transferring milk at the premises, the operator of the facility shall make an advance written request to the market administrator that the facility shall be treated as a reload point. The cooling of milk, collection of samples, and washing and sanitizing of tank trucks at the premises shall not disqualify it as a bulk reload point.

§ 1001.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1001.6 Supply plant.

See § 1000.6 of this chapter.

§ 1001.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (c) and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month total route disposition is equal to 25 percent or more of the total quantity of bulk fluid milk products physically received at the plant; and route disposition in the marketing area is at least 25 percent of total route disposition. For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant,

for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which fluid milk products are transferred or diverted to plants described in paragraph (a) or (b) of this section subject to the following additional conditions:

(1) During the months of August through December, such shipments must equal not less than 10 percent of the total quantity of bulk milk that is physically received at the plant during the month;

(2) During the months of September through November, such shipments must equal not less than 20 percent of the total quantity of bulk milk that is physically received at the plant during the month;

(3) A plant which meets the shipping requirements of this paragraph during each of the months of August through December shall be a pool plant during the following months of January through July unless the milk received at the plant fails to meet the requirements of a duly constituted regulatory agency, the plant fails to meet a shipping requirement instituted pursuant to paragraph (f) of this section, or the plant operator requests nonpool status for the plant. The shipping requirement for any plant which has not met the requirements of paragraphs (c)(1) and (c)(2) of this section must equal not less than 10 percent of the total quantity of bulk milk that is physically received at the plant during each of the months of January through July in order for the plant to be a pool plant in each of those months; and

(4) If milk is delivered directly from producers' farms that are located outside of the states included in the marketing area or outside Maine or West Virginia, such producers must be grouped by state into units and each such unit must independently meet the shipping requirements of this paragraph.

(d) [Reserved]

(e) Two or more plants operated by the same handler and located in the marketing area qualified for pool status as a unit by meeting the total and in-area route distribution requirements specified in paragraph (a) of this section and subject to the following additional requirements:

(1) At least one of the plants in the unit qualifies as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit; and

(3) A written request to form a unit, or to add or remove plants from a unit, or to cancel a unit, must be filed with the market administrator prior to the first day of the month for which unit formation it is to be effective.

(f) Two or more supply plants operated by the same handler, or by one or more cooperative associations, qualified for pooling as a system of supply plants by meeting the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant and subject to the following additional requirements:

(1) A written notification to the market administrator listing the plants to be included in the system prior to the first day of August that a system of supply plants will be effective for the period of September 1 through August 31 of the following year. The listed plants included in the system shall also be in the sequence in which they shall qualify for pool plant status based on the minimum deliveries required. If the deliveries made are insufficient to qualify the entire system for pooling, the last listed plant shall be excluded from the system, followed by the plant next-to-last on the list, and continuing in this sequence until remaining listed plants have met the minimum shipping requirements; and

(2) Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system through the following August unless the plant subsequently fails to qualify for pooling, the handler submits a written notification to the market administrator prior to the first day of the month that the plant be deleted from the system, or that the system be discontinued. Any plant that has been so deleted from the system, or that has failed to qualify as a pool plant in any month, will not be part of the system for the remaining months through August. No plant may be added in any subsequent month through the following August to a system that qualifies in September.

(g) The applicable shipping percentages of paragraphs (c) and (f) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator's own initiative or at the request of interested parties. If the investigation shows that an adjustment of the shipping percentages might be appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section that is located within the marketing area if the plant also meets the pooling requirements of another Federal order and more than 50 percent of its route distribution has been in such other Federal order marketing area for three consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant qualified pursuant to paragraph (a) of this section that is located in another Federal order marketing area if the plant meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a pool plant designated as a ''nonpool plant'' that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must

be requested in writing by the handler and must be approved by the market administrator.

§ 1001.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1001.9 Handler.

See § 1000.9 of this chapter.

§ 1001.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order.

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own-farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1001.7(a) and the farm operated as a producer under § 1001.12.

§ 1001.11 [Reserved]

§ 1001.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1001.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1001.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I;

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order; and

(5) For any month of December through June, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in § 1000.9(c) if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under this order or any other Federal milk order, during the same month, either of the 2 preceding months, or during any of the preceding months of July through November; and

(6) For any month of July through November, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in § 1000.9(c) if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under this order or any other Federal milk order, during the same month.

§ 1001.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or from a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants subject to the following conditions:

(1) The producers whose farms are outside of the states included in the marketing area or outside of Maine or West Virginia shall be organized into state units and each such unit shall be reported separately; and

(2) For pooling purposes, each state unit so reported must satisfy the shipping standards specified for a supply plant pursuant to § 1001.7(c);

(c) Diverted by a proprietary pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or by a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless milk of such dairy farmer was physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) [Reserved]

(3) Diverted milk shall be priced at the location of the plant to which diverted; and

(4) [Reserved]

§ 1001.14 Other source milk.

See § 1000.14 of this chapter.

§ 1001.15 Fluid milk product.

See § 1000.15 of this chapter.

1001.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1001.17 [Reserved]

§ 1001.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1001.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1001.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 9th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) Each pool plant operator and each handler described in § 1000.9(c), shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of nonfat solids other than protein (other solids), and the value of the somatic cell adjustment contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) or (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1001.31 Payroll reports.

(a) On or before the 22nd day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in § 1001.73(e);

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1001.32 Other reports.

In addition to the reports required pursuant to §§ 1001.30 and 1001.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1001.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1001.41 [Reserved]

§ 1001.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1001.43 General classification rules.

See § 1000.43 of this chapter.

§ 1001.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1001.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1001.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1001.51 Class I differential and price.

The Class I differential shall be the differential established for Suffolk County, Massachusetts, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Suffolk County, Massachusetts.

§ 1001.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1001.53 Announcement of class and component prices.

See § 1000.53 of this chapter.

§ 1001.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1001.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) *Class I value.* (1) Multiply the pounds of skim milk in Class I as determined pursuant to § 1000.44(a) by the applicable Class I skim milk price; and

(2) Add an amount obtained by multiplying the total pounds of butterfat in Class I as determined pursuant to § 1000.44 (b) by the Class I butterfat price.

(b) *Class II value.* (1) Add an amount obtained by multiplying the hundredweight of milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiplying the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price.

(c) *Class III value.* (1) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiplying the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiplying the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price.

(d) *Class IV value.* (1) Add an amount obtained by multiplying the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiplying the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price.

(e) Add an adjustment for somatic cell content as determined by multiplying the value reported pursuant to

§ 1001.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c).

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective class skim milk prices and the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plant;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to §§ 1000.43(d) and 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1001.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1001.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1001.60 for all handlers required to file reports prescribed in § 1001.30;

(b) Subtract the total of the values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1001.60 by the protein price, other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1001.60(e);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1001.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1001.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the *producer price differential* for the month.

§ 1001.62 Announcement of producer prices.

On or before the 13th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat, nonfat solids, protein, and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat.

Payments for Milk

§ 1001.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1001.71 Payments to the producer-settlement fund.

The payments to the producer-settlement fund specified in § 1000.71 are due no later than the 15th day after the end of the month.

§ 1001.72 Payments from the producer-settlement fund.

See § 1000.72 of this chapter.

§ 1001.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month for milk received during the first 15 days of the month at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer;

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the day after the payment date required in § 1000.72 in an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1001.75;

(ii) Multiply the pounds of butterfat received times the butterfat price for the month;

(iii) Multiply the pounds of protein received times the protein price for the month;

(iv) Multiply the pounds of other solids received times the other solids price for the month;

(v) Multiply the hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Add the amounts computed in paragraph (a)(2)(i) through (v) of this section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by the lowest announced class price for the preceding month;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk milk/skimmed milk products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* Following the classification of bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be determined as follows:

(i) Multiply the hundredweight of Class I skim milk by the Class I skim milk price for the month;

(ii) Multiply the pounds of Class I butterfat by the Class I butterfat price for the month;

(iii) Multiply the hundredweight of Class II skim milk by the Class II differential price for the month;

(iv) Multiply the pounds of nonfat solids received in Class II and Class IV milk times the nonfat solids price for the month;

(v) Multiply the pounds of butterfat in Class II, III, and IV milk times the butterfat price for the month;

(vi) Multiply the pounds of protein received in Class III milk times the protein price for the month;

(vii) Multiply the pounds of other solids received in Class III milk times the other solids price for the month;

(viii) Multiply the hundredweight of Class II, Class III, and Class IV milk received times the somatic cell adjustment;

(ix) Add together the amounts computed in paragraph (b)(3)(i) through (viii) of this section and from that sum deduct any payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1001.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1001.74 [Reserved]

§ 1001.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price the amount by which the Class I price specified in § 1001.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1001.50, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1001.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1001.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1001.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

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See § 1000.85 of this chapter.

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PART 1005—MILK IN THE APPALACHIAN MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1005.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1005.2 Appalachian marketing area.

The marketing area means all the territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Georgia Counties

Catoosa, Chattooga, Dade, Fannin, Murray, Walker, and Whitfield.

Indiana Counties

Clark, Crawford, Daviess, Dubois, Floyd, Gibson, Greene, Harrison, Knox, Martin, Orange, Perry, Pike, Posey, Scott, Spencer, Sullivan, Vanderburgh, Warrick, and Washington.

Kentucky Counties

Adair, Anderson, Bath, Bell, Bourbon, Boyle, Breathitt, Breckinridge, Bullitt, Butler, Carroll, Carter, Casey, Clark, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Franklin, Gallatin, Garrard, Grayson, Green, Hancock, Hardin, Harlan, Hart, Henderson, Henry, Hopkins, Jackson, Jefferson, Jessamine, Knott, Knox, Larue, Laurel, Lee, Leslie, Letcher, Lincoln, Madison, Marion, McCreary, McLean, Meade, Menifee, Mercer, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Perry, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Spencer, Taylor, Trimble, Union, Washington, Wayne, Webster, Whitley, Wolfe, and Woodford.

North Carolina and South Carolina

All of the States of North Carolina and South Carolina.

Tennessee Counties

Anderson, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, and Washington.

Virginia Counties and Cities

Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, Washington, and Wise, and cities of Bristol and Norton.

West Virginia Counties

McDowell and Mercer.

§ 1005.3 Route disposition.

See § 1000.3 of this chapter.

§ 1005.4 Plant.

See § 1000.4 of this chapter.

§ 1005.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1005.6 Supply plant.

See § 1000.6 of this chapter.

§ 1005.7 Pool plant.

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant from which during the month the total route disposition is equal to 50 percent or more of the total quantity of fluid milk products physically received at such plant and route disposition in the marketing area is at least 10 percent of such receipts. Packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the purpose of determining the transferring plant's pool status under this paragraph.

(b) Any distributing plant located in the marketing area which during the month processed a majority of its milk receipts into aseptically packaged fluid

milk products. If the plant had no route disposition in the marketing area during the month, the plant operator may request nonpool status for the plant.

(c) A supply plant from which 50 percent of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area or in the State of Virginia that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month at least 60 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant.

(e) Two or more plants operated by the same handler and that are located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased up to 10 percentage points by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(5) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this order, or such plant has automatic pooling status under such other order; and

(6) That portion of a pool plant designated as a ''nonpool plant'' that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in writing by the handler and must be approved by the market administrator.

§ 1005.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1005.9 Handler.

See § 1000.9 of this chapter.

§ 1005.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds per month, unless the person requests that the two be operated as separate entities with the distributing plant regulated under § 1005.7(a) and the farm operated as a producer under § 1005.12;

(b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

(c) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production;

(d) Disposes of no fluid milk products using the distribution system of another handler; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing, packaging, and distribution operations, are the producer-handler's own enterprise and are operated at the producer-handler's own risk.

§ 1005.11 [Reserved]

§ 1005.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1005.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1005.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1005.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but

which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month of July through December, not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of January through June, not less than 2 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 25 percent during the months of July through November, January, and February, and 40 percent during the months of December and March through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 25 percent during the months of July through November, January, and February, and 40 percent during the months of December and March through June, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1005.7(d)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c);

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(6) Diverted milk shall be priced at the location of the plant to which diverted; and

(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1005.14 Other source milk.

See § 1000.14 of this chapter.

§ 1005.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1005.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1005.17 [Reserved]

§ 1005.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1005.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1005.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the plant operator to other plants;

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Order 1007, for which a transportation credit is requested pursuant to § 1005.82;

(6) Receipts of producer milk described in § 1005.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

(8) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(9) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts; and

(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1005.82, all of the information required in paragraph (a)(5), (a)(6), and (a)(7) of this section.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1005.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in § 1005.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1005.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to § 1005.30(a)(5), (6), and (7).

(b) In addition to the reports required pursuant to §§ 1005.30, 31, and 32(a), each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1005.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1005.41 [Reserved]

§ 1005.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1005.43 General classification rules.

See § 1000.43 of this chapter.

§ 1005.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1005.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1005.50 Class prices, component prices, Class I differential and price.

Class prices and component prices are described in § 1000.50. The Class I differential shall be the differential established for Meklenburg County, North Carolina, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Meklenburg County, North Carolina.

§ 1005.51 [Reserved]

§ 1005.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1005.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1005.54 Equivalent price.

See § 1000.54 of this chapter.

Uniform Price

§ 1005.60 Handler's value of milk.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(e); and

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1005.61 Computation of uniform price, uniform butterfat price and uniform skim milk price.

(a) *Uniform price.* For each month the market administrator shall compute the uniform price per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1005.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(1) Combine into one total the values computed pursuant to § 1005.60 for all handlers required to file reports prescribed in § 1005.30;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1005.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Add or subtract, as the case may be, to obtain an all-producer milk test of 3.5 percent butterfat, the value of the required pounds of butterfat times the uniform butterfat price computed in paragraph (b) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1005.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the ''uniform price'' for the month.

(b) *Uniform butterfat price.* The uniform butterfat price per pound,

rounded to the nearest one-hundredth cent, shall be obtained by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) and dividing the sum of such values by the total pounds of such butterfat.

(c) *Uniform skim milk price.* The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be the uniform price for the month pursuant to pursuant to paragraph (a) of this section less the uniform butterfat price for the month pursuant to paragraph (b) of this section multiplied by 3.5 pounds of butterfat, with the result divided by .965.

§ 1005.62 Announcement of uniform price, uniform butterfat price and uniform skim milk price.

On or before the 11th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The uniform price pursuant to § 1005.61 for such month;

(b) The uniform butterfat price pursuant to § 1005.61(b) for such month; and

(c) The uniform skim milk price pursuant to § 1005.61(c) for such month.

Payments for Milk

§ 1005.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1005.71 Payments to the producer-settlement fund.

The payments to the producer-settlement fund specified in § 1000.71 are due no later than the 12th day after the end of the month.

§ 1005.72 Payments from the producer-settlement fund.

See § 1000.72 of this chapter.

§ 1005.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month for milk received during the first 15 days of the month at not less than the 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1005.75 and proper deductions authorized in writing by the producer;

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer one day after the payment date required in § 1000.72 an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the uniform price for the month as adjusted pursuant to § 1005.75;

(ii) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;

(iii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;

(iv) Add the amounts computed in paragraph (a)(2)(i), (ii), and (iii) of the section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1005.75;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment shall be the classified value of such milk as determined by multiplying the pounds of milk assigned to each class pursuant to § 1000.44 by the class prices for the month, adjusted for plant location and butterfat value, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1005.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1005.74 [Reserved]

§ 1005.75 Plant location adjustments for producer milk and nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price the amount by which the Class I price specified in § 1005.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1005.50, the difference shall be added to the uniform price; and

(b) The uniform price applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted uniform price shall not be less than the lowest announced class price.

§ 1005.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1005.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1005.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Marketwide Service Payments

§ 1005.80 Transportation credit balancing fund.

The market administrator shall maintain a separate fund known as the *Transportation Credit Balancing Fund* into which shall be deposited the payments made by handlers pursuant to § 1005.81 and out of which shall be made the payments due handlers pursuant to § 1005.82. Payments due a handler shall be offset against payments due from the handler.

§ 1005.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month, each handler operating a pool plant and each handler specified in § 1000.9(a) and (c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1005.44 by $0.065 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June-January period. In the event that during any month of the June-January period the fund balance is insufficient to cover the amount of credits that are due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(b) The market administrator shall announce publicly on or before the 5th day of the month the assessment pursuant to paragraph (a) of this section for the following month.

§ 1005.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 13th day after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1005.30(a)(5), bulk milk transferred from a plant fully regulated under another Federal order as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1005.30(a)(6), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments prorata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section;

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1005.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month;

(3) Transportation credits paid pursuant to paragraph (a)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1000.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section; and

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1005.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (i.e., the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Orders 1007, and allocated to Class I milk pursuant to § 1000.44(a)(12); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by

multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1000.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1000.44;

(ii) The dairy farmer was not a ''producer'' under this order during more than 2 of the immediately preceding months of January through June and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months. However, if January and/or June are months in which transportation credits are disbursed pursuant to paragraph (a) of this section, these months shall not be included in the 2-month limit provided in this paragraph; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing area of Federal Order 1007.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c)(1) and (2) of this section the pounds of bulk milk transferred from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant load until all of the transfers have been offset;

(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;

(ii) Multiply the number of miles so determined by 0.35 cent;

(iii) Subtract the other order's Class I price applicable at the shipping plant's location from the Class I price applicable at the receiving plant as specified in § 1005.53;

(iv) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the hundredweight of milk described in paragraph (d)(2) of this section.

(3) For the remaining milk described in paragraph (c)(2) of this section after computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine an origination point for each load of milk by locating the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant. Alternatively, the milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may establish an origination point following the last farm pickup by stopping at the nearest independently-operated truck stop with a certified truck scale and obtaining a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop;

(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Subtract 85 miles from the mileage so determined;

(iv) Multiply the remaining miles so computed by 0.35 cent;

(v) If the origination point determined pursuant to paragraph (d)(3)(i) of this section is in a Federal order marketing area, subtract the Class I price applicable at the origination point pursuant to the provisions of such other order (as if the origination point were a plant location) from the Class I price applicable at the distributing plant receiving the milk. If the origination point is not in any Federal order marketing area, determine the Class I price at the origination point based upon the provisions of this order and subtract this price from the Class I price applicable at the distributing plant receiving the milk;

(vi) Subtract any positive difference computed in paragraph (d)(3)(v) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and

(vii) Multiply the remainder computed in paragraph (d)(3)(vi) by the hundredweight of milk described in paragraph (d)(3) of this section.

Administrative Assessment and Marketing Service Deduction

§ 1005.85 Assessment for order administration.

See § 1000.85 of this chapter.

§ 1005.86 Deduction for marketing services.

See § 1000.86 of this chapter.

PART 1006—MILK IN THE FLORIDA MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1006.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1006.2 Florida marketing area.

The marketing area means all the territory within the State of Florida, except the counties of Escambia, Okaloosa, Santa Rosa, and Walton., including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions.

§ 1006.3 Route disposition.

See § 1000.3 of this chapter.

§ 1006.4 Plant.

See § 1000.4 of this chapter.

§ 1006.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1006.6 Supply plant.

See § 1000.6 of this chapter.

§ 1006.7 Pool plant.

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant from which during the month the total route disposition is equal to 50 percent or more of the total quantity of fluid milk products physically received at such plant and route disposition in the marketing area is at least 10 percent of such receipts. Packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the purpose of determining the transferring plant's pool status under this paragraph.

(b) Any distributing plant located in the marketing area which during the month processed a majority of its milk receipts into aseptically packaged fluid milk products. If the plant had no route disposition in the marketing area during the month, the plant operator may request nonpool status for the plant.

(c) A supply plant from which 60 percent of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month 60 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant.

(e) Two or more plants operated by the same handler and that are located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased up to 10 percentage points by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area; and

(5) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this order, or such plant has automatic pooling status under such other order.

§ 1006.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1006.9 Handler.

See § 1000.9 of this chapter.

§ 1006.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds per month, unless the person requests that the two be operated as separate entities with the distributing plant regulated under § 1006.7(a) and the farm operated as a producer under § 1006.12;

(b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

(c) Disposes of no other source milk as Class I milk except by increasing the

nonfat milk solids content of the fluid milk products received from own farm production;

(d) Disposes of no fluid milk products using the distribution system of another handler; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing, packaging, and distribution operations, are the producer-handler's own enterprise and are operated at the producer-handler's own risk.

§ 1006.11 [Reserved]

§ 1006.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1006.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1006.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1006.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month, not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 20 percent during the months of July through November, 25 percent during the months of December through February, and 40 percent during all other months, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 20 percent during the months of July through November, 25 percent during the months of December through February, and 40 percent during all other months, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1006.7(d)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c);

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(5) Diverted milk shall be priced at the location of the plant to which diverted; and

(6) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (3) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1006.14 Other source milk.

See § 1000.14 of this chapter.

§ 1006.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1006.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1006.17 [Reserved]

§ 1006.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1006.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1006.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the plant operator to other plants;

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(6) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been

fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1006.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9 (a) and (c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in § 1006.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1006.32 Other reports.

(a) In addition to the reports required pursuant to §§ 1006.30 and 1006.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

(b) [Reserved]

Classification of Milk

§ 1006.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1006.41 [Reserved]

§ 1006.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1006.43 General classification rules.

See § 1000.43 of this chapter.

§ 1006.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1006.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1006.50 Class prices, component prices, Class I differential and price.

Class prices and component prices are described in § 1000.50.

The Class I differential shall be the differential established for Hillsborough County, Florida, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Hillsborough County, Florida.

§ 1006.51 [Reserved]

§ 1006.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1006.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1006.54 Equivalent price.

See § 1000.54 of this chapter.

Uniform Price

§ 1006.60 Handler's value of milk.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) **by the applicable skim milk and butterfat prices, and add the resulting amounts;**

(b) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43 (b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3) (i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(e); and

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1006.61 Computation of uniform price, uniform butterfat price and uniform skim milk price.

(a) *Uniform price.* For each month the market administrator shall compute the uniform price per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1006.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market

administrator shall compute the uniform price in the following manner:

(1) Combine into one total the values computed pursuant to § 1006.60 for all handlers required to file reports prescribed in § 1006.30;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1006.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Add or subtract, as the case may be, to obtain an all-producer milk test of 3.5 percent butterfat, the value of the required pounds of butterfat times the uniform butterfat price computed in paragraph (b) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1006.60(f); and

(6) Subtract not less than 4 cents not more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the ''uniform price'' for the month.

(b) *Uniform butterfat price.* The uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be obtained by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) and dividing the sum of such values by the total pounds of such butterfat.

(c) *Uniform skim milk price.* The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be the uniform price for the month pursuant to pursuant to paragraph (a) of this section less the uniform butterfat price for the month pursuant to paragraph (b) of this section multiplied by 3.5 pounds of butterfat, with the result divided by .965.

§ 1006.62 Announcement of uniform price, uniform butterfat price and uniform skim milk price.

On or before the 11th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The uniform price pursuant to § 1006.61 for such month;

(b) The uniform butterfat price pursuant to § 1006.61(b) for such month; and

(c) The uniform skim milk price pursuant to § 1006.61(c) for such month.

Payments for Milk

§ 1006.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1006.71 Payments to the producer-settlement fund.

The payments to the producer-settlement fund specified in § 1000.71 are due no later than the 12th day after the end of the month.

§ 1006.72 Payments from the producer-settlement fund.

See § 1000.72 of this chapter.

§ 1006.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) *Partial payments.* (i) For each producer who has not discontinued shipments as of the 15th day of the month, payment shall be made so that it is received by the producer on or before the 20th day of the month for milk received during the first 15 days of the month at not less than the 85 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1006.75 and proper deductions authorized in writing by the producer; and

(ii) For each producer who has not discontinued shipments as of the last day of the month, payment shall be made so that it is received by the producer on or before the 5th day of the following month for milk received from the 16th to the last day of the month at not less than the 85 percent of the preceding month's uniform price, adjusted for plant location pursuant to 1006.75 and proper deductions authorized in writing by the producer.

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer one day after the payment date required in § 1000.72 an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the uniform price for the month as adjusted pursuant to § 1006.75;

(ii) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;

(iii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;

(iv) Add the amounts computed in paragraph (a)(2)(i), (ii), and (iii) of the section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1006.75;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment shall be the classified value of such milk as determined by multiplying the pounds of milk assigned to each class pursuant to § 1000.44 by the class prices for the month, adjusted for plant location and butterfat value, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator

pursuant to § 1006.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1006.74 [Reserved]

§ 1006.75 Plant location adjustments for producer milk and nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price the amount by which the Class I price specified in § 1006.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1006.50, the difference shall be added to the uniform price; and

(b) The uniform price applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted uniform price shall not be less than the lowest announced class price.

§ 1006.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1006.77 Adjustment of accounts.

See § 1000.77 of this chapter.

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See § 1000.78 of this chapter.

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PART 1007—MILK IN THE SOUTHEAST MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1007.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1007.2 Southeast marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part

thereof is within any of the listed states or political subdivisions:

Alabama, Arkansas, Louisiana, and Mississippi

All of the States of Alabama, Arkansas, Louisiana, and Mississippi.

Florida Counties

Escambia, Okaloosa, Santa Rosa, and Walton.

Georgia Counties

All of the State of Georgia except for the counties of Catoosa, Chattooga, Dade, Fannin, Murray, Walker, and Whitfield.

Kentucky Counties

Allen, Ballard, Barren, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Hickman, Livingston, Logan, Lyon, Marshall, McCracken, Metcalfe, Monroe, Simpson, Todd, Trigg, and Warren.

Missouri Counties

Barry, Barton, Bollinger, Butler, Cape Girardeau, Carter, Cedar, Christian, Crawford, Dade, Dallas, Dent, Douglas, Dunklin, Greene, Howell, Iron, Jasper, Laclede, Lawrence, Madsion, McDonald, Mississippi, New Madrid, Newton, Oregon, Ozark, Pemiscot, Perry, Polk, Pulaski, Reynolds, Ripley, Scott, Shannon, St. Francois, Stoddard, Stone, Taney, Texas, Vernon, Washington, Wayne, Webster, and Wright.

Tennessee Counties

All of the State of Tennessee except for the counties of Anderson, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, and Washington.

§ 1007.3 Route disposition.

See § 1000.3 of this chapter.

§ 1007.4 Plant.

See § 1000.4 of this chapter.

§ 1007.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1007.6 Supply plant.

See § 1000.6 of this chapter.

§ 1007.7 Pool plant.

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant from which during the month the total route disposition is equal to 50 percent or more of the total quantity of fluid milk products physically received at such plant and route disposition in the marketing area is at least 10 percent of such receipts. Packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the purpose of determining the transferring plant's pool status under this paragraph.

(b) Any distributing plant located in the marketing area which during the month processed a majority of its milk receipts into aseptically packaged fluid milk products. If the plant had no route disposition in the marketing area during the month, the plant operator may request nonpool status for the plant.

(c) A supply plant from which 50 percent of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month at least 60 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant.

(e) Two or more plants operated by the same handler and located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased up to 10 percentage points by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area; and

(5) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this order, or such plant has automatic pooling status under such other order.

§ 1007.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1007.9 Handler.

See § 1000.9 of this chapter.

§ 1007.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds per month, unless the person requests that the two be operated as separate entities with the distributing plant regulated under § 1007.7(a) and

the farm operated as a producer under § 1007.12;

(b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

(c) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production;

(d) Disposes of no fluid milk products using the distribution system of another handler; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing, packaging, and distribution operations, are the producer-handler's own enterprise and are operated at the producer-handler's own risk.

§ 1007.11 [Reserved]

§ 1007.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1007.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1007.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1007.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month of January through June, not less than 4 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of July through December, not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 33 percent during the months of July through December, and 50 percent during the months of January through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 33 percent during the months of July through December, or 50 percent during the months of January through June, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1007.7(e)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c);

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(6) Diverted milk shall be priced at the location of the plant to which diverted; and

(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1007.14 Other source milk.

See § 1000.14 of this chapter.

§ 1007.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1007.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1007.17 [Reserved]

§ 1007.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1007.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1007.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the plant operator to other plants;

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Receipts of bulk milk from a plant regulated under another Federal order,

except Federal Order 1005, for which a transportation credit is requested pursuant to § 1007.82;

(6) Receipts of producer milk described in § 1007.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

(8) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(9) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a)(1), (a)(2), (a)(3), (a)(4), and (a)(8) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts; and

(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1007.82, all of the information required in paragraph (a)(5), (a)(6), and (a)(7) of this section.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1007.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in § 1007.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1007.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to § 1007.30(a)(5), (6), and (7).

(b) In addition to the reports required pursuant to §§ 1007.30, 31, and 32(a), each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1007.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1007.41 [Reserved]

§ 1007.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1007.43 General classification rules.

See § 1000.43 of this chapter.

§ 1007.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1007.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1007.50 Class prices, component prices, Class I differential and price.

Class prices and component prices are described in § 1000.50. The Class I differential shall be the differential established for Fulton County, Georgia, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Fulton County, Georgia.

§ 1007.51 [Reserved]

§ 1007.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1007.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1007.54 Equivalent price.

See § 1000.54 of this chapter.

Uniform Price

§ 1007.60 Handler's value of milk.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk

products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(e); and

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1007.61 Computation of uniform price, uniform butterfat price and uniform skim milk price.

(a) *Uniform price.* For each month the market administrator shall compute the uniform price per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1007.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(1) Combine into one total the values computed pursuant to § 1007.60 for all handlers required to file reports prescribed in § 1007.30;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1007.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Add or subtract, as the case may be, to obtain an all-producer milk test of 3.5 percent butterfat, the value of the required pounds of butterfat times the uniform butterfat price computed in paragraph (b) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1007.60(f); and

(6) Subtract not less than 4 cents not more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the ''uniform price'' for the month.

(b) *Uniform butterfat price.* The uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be obtained by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) and dividing the sum of such values by the total pounds of such butterfat.

(c) *Uniform skim milk price.* The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be the uniform price for the month pursuant to paragraph (a) of this section less the uniform butterfat price for the month pursuant to paragraph (b) of this section multiplied by 3.5 pounds of butterfat, with the result divided by .965.

§ 1007.62 Announcement of uniform price, uniform butterfat price and uniform skim milk price.

On or before the 11th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The uniform price pursuant to § 1007.61 for such month;

(b) The uniform butterfat price pursuant to § 1007.61(b) for such month; and

(c) The uniform skim milk price pursuant to § 1007.61(c) for such month.

Payments for Milk

§ 1007.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1007.71 Payments to the producer-settlement fund.

The payments to the producer-settlement fund specified in § 1000.71 are due no later than the 12th day after the end of the month.

§ 1007.72 Payments from the producer-settlement fund.

See § 1000.72 of this chapter.

§ 1007.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month for milk received during the first 15 days of the month at not less than the 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1007.75 and proper deductions authorized in writing by the producer;

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer one day after the payment date required in § 1000.72 an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the uniform price for the month as adjusted pursuant to § 1007.75;

(ii) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;

(iii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;

(iv) Add the amounts computed in paragraph (a)(2)(i), (ii), and (iii) of the section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1007.75;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final

payment shall be the classified value of such milk as determined by multiplying the pounds of milk assigned to each class pursuant to § 1000.44 by the class prices for the month, adjusted for plant location and butterfat value, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1007.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a handler described in § 1000.9 (a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1007.74 [Reserved]

§ 1007.75 Plant location adjustments for producer milk and nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price the amount by which the Class I price specified in § 1007.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1007.50, the difference shall be added to the uniform price; and

(b) The uniform price applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted uniform price shall not be less than the lowest announced class price.

§ 1007.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1007.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1007.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Marketwide Service Payments

§ 1007.80 Transportation credit balancing fund.

The market administrator shall maintain a separate fund known as the *Transportation Credit Balancing Fund* into which shall be deposited the payments made by handlers pursuant to § 1007.81 and out of which shall be made the payments due handlers pursuant to § 1007.82. Payments due a handler shall be offset against payments due from the handler.

§ 1007.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month, each handler operating a pool plant and each handler specified in § 1000.9 (a) and (c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1000.44 by $0.07 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June–January period. In the event that during any month of the June–January period the fund balance is insufficient to cover the amount of credits that are due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(b) The market administrator shall announce publicly on or before the 5th day of the month the assessment pursuant to paragraph (a) of this section for the following month.

§ 1007.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 13th day after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1007.30(a)(5), bulk milk transferred from a plant fully regulated under another Federal order as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1007.30(a)(6), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments prorata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section;

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1007.32(a). After

such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month;

(3) Transportation credits paid pursuant to paragraphs (a)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1000.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section; and

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1007.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (*i.e.*, the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Orders 1005, and allocated to Class I milk pursuant to § 1000.44(a)(12); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1000.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1000.44;

(ii) The dairy farmer was not a ''producer'' under this order during more than 2 of the immediately preceding months of January through June and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months. However, if January and/or June are months in which transportation credits are disbursed pursuant to paragraph (a) of this section, these months shall not be included in the 2-month limit provided in this paragraph; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing area of Federal Order 1005.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c)(1) and (2) of this section the pounds of bulk milk transferred from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant load until all of the transfers have been offset;

(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;

(ii) Multiply the number of miles so determined by 0.35 cent;

(iii) Subtract the other order's Class I price applicable at the shipping plant's location from the Class I price applicable at the receiving plant as specified in § 1007.53;

(iv) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the hundredweight of milk described in paragraph (d)(2) of this section.

(3) For the remaining milk described in paragraph (c)(2) of this section after computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine an origination point for each load of milk by locating the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant. Alternatively, the milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may establish an origination point following the last farm pickup by stopping at the nearest independently-operated truck stop with a certified truck scale and obtaining a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop;

(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Subtract 85 miles from the mileage so determined;

(iv) Multiply the remaining miles so computed by 0.35 cent;

(v) If the origination point determined pursuant to paragraph (d)(3)(i) of this section is in a Federal order marketing area, subtract the Class I price applicable at the origination point pursuant to the provisions of such other order (as if the origination point were a plant location) from the Class I price applicable at the distributing plant receiving the milk. If the origination point is not in any Federal order marketing area, determine the Class I price at the origination point based upon the provisions of this order and subtract this price from the Class I price applicable at the distributing plant receiving the milk;

(vi) Subtract any positive difference computed in paragraph (d)(3)(v) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and

(vii) Multiply the remainder computed in paragraph (d)(3)(vi) by the hundredweight of milk described in paragraph (d)(3) of this section.

Administrative Assessment and Marketing Service Deduction

§ 1007.85 Assessment for order administration.

See § 1000.85 of this chapter.

§ 1007.86 Deduction for marketing services.

See § 1000.86 of this chapter.

PART 1030—MILK IN THE UPPER MIDWEST MARKETING AREA

Subpart—Order Regulating Handling

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Administrative Assessment and Marketing Service Deduction

1030.85 Assessment for order administration.
1030.86 Deduction for marketing services.

Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1030.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1030.2 Upper Midwest marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Illinois Counties

Boone, Carroll, Cook, De Kalb, Du Page, Jo Daviess (except the city of East Dubuque), Kane, Kendall, Lake, Lee, McHenry, Ogle, Stephenson, Whiteside (the townships of Caloma, Hahnaman, Hopkins, Hume, Jordan, Montmorency, Sterling, and Tampico only), Will, and Winnebago.

Iowa Counties

Howard, Kossuth, Mitchell (except the city of Osage), Winnebago, Winneshiek, and Worth.

Michigan Counties

Delta, Dickinson, Gogebic, Iron, Menominee, and Ontonagon.

Minnesota

All counties except Lincoln, Nobles, Pipestone, and Rock.

North Dakota Counties

Barnes, Cass, Cavalier, Dickey, Grand Forks, Griggs, La Moure, Nelson, Pembina, Ramsey, Ransom, Richland, Sargent, Steele, Traill, and Walsh.

South Dakota Counties

Brown, Day, Edmunds, Grant, Marshall, McPherson, Roberts, and Walworth.

Wisconsin Counties

All counties except Crawford and Grant.

§ 1030.3 Route disposition.

See § 1000.3 of this chapter.

§ 1030.4 Plant.

See § 1000.4 of this chapter.

§ 1030.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1000.6 Supply plant.

See § 1000.6 of this chapter.

§ 1030.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (a), (c), (d), (e), and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month:

(1) Total route disposition is equal to 15 percent of more of the total quantity of bulk fluid milk products physically received at the plant;

(2) Route disposition in the marketing area is at least 15 percent of total route disposition; and

(3) For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which the quantity of bulk fluid milk products shipped to, received at, and physically unloaded into plants described in paragraph (a) or (b) of this section as a percent of the Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1000.9(c), as reported in § 1030.30(a), is not less than 10 percent of the milk received from dairy farmers, including milk diverted pursuant to § 1030.13, subject to the following conditions:

(1) Qualifying shipments pursuant to this paragraph may be made to the following plants, except whenever the authority provided in paragraph (g) of this section is applied to increase the shipping requirements specified in this section, only shipments to pool plants described in § 1030.7(a) and (b), and units described in § 1030.7(e) shall count as qualifying shipments for the purpose of meeting the increased shipments:

(i) Pool plants described in § 1030.7(a), (b) and (e);

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk classified as Class I at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for shipments to such plants shall be limited to the quantity shipped to pool distributing plants during the month and credits for shipments to other order plants shall not include any such shipments made on the basis of agreed-upon Class II, Class III, or Class IV utilization.

(2) The operator of a supply plant may include as qualifying shipments deliveries to pool distributing plants and deliveries to plants described in § 1030.7(e) directly from farms of producers pursuant to § 1030.13(c).

(d) [Reserved]

(e) Two or more plants operated by the same handler and located in the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements of a pool distributing plant specified in paragraph (a) of this section and subject to the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products; and

(3) The operator of the unit has filed a written request with the market administrator prior to the first day of the month for which such status is desired to be effective. The unit shall continue from month-to-month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change of the unit is desired.

(f) A system of supply plants may be qualified for pooling by the association of two or more supply plants operated by one or more handlers by meeting the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant and subject to the following additional requirements:

(1) Each plant in the system is located within the marketing area, or was a pool supply plant pursuant to § 1068.7(b) for each of the three months immediately preceding the effective date of this paragraph so long as it continues to maintain pool status. Cooperative associations may not use shipments pursuant to § 1000.9(c) to qualify plants located outside the marketing area;

(2) The handler(s) establishing the system submits a written request to the market administrator on or before July 15 requesting that such plants qualify as a system for the period of August through July of the following year. Such request will contain a list of the plants participating in the system in the order, beginning with the last plant, in which the plants will be dropped from the system if the system fails to qualify. Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system through the following July unless the handler(s) establishing the system submits a written request to the market administrator that the plant be deleted from the system or that the system be discontinued. Any plant that has been so deleted from a system, or that has failed to qualify in any month, will not be part of any system for the remaining months through July. The handler(s) that established a system may add a plant operated by such handler(s) to a system, if such plant has been a pool plant each of the six prior months and would otherwise be eligible to be in a system, upon written request to the market administrator no later than the 15th day of the prior month. In the event of an ownership change or business failure of a handler that is a participant in a system, the system may be reorganized to reflect such changes by submitting a written request to file a new marketing agreement with the market administrator; and

(3) If a system fails to qualify under the requirements of this paragraph, the handler responsible for qualifying the system shall notify the market administrator which plant or plants will be deleted from the system so that the remaining plants may be pooled as a system. If the handler fails to do so, the market administrator shall exclude one or more plants, beginning at the bottom of the list of plants in the system and continuing up the list as necessary until the deliveries are sufficient to qualify the remaining plants in the system.

(g) The performance standards of paragraphs (a), (c), (d), (e) and (f) of this section may be increased or decreased, for part or all of the marketing area, by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding that a change is necessary the market administrator shall investigate the need for revision, either on such person's own initiative or at the request of interested persons. If such investigation shows that a revision might be appropriate, a notice shall be issued stating that a revision is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) or (e) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months;

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

(i) Any plant that qualifies as a pool plant in each of the immediately preceding three months pursuant to paragraph (a) of this section or the shipping percentages in paragraph (c) of

this section that is unable to meet such performance standards for the current month because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than two consecutive months.

§ 1030.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1030.9 Handler.

See § 1000.9 of this chapter.

§ 1030.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1030.7(a) and the farm operated as a producer under § 1030.12.

§ 1030.11 [Reserved]

§ 1030.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1030.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1030.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1030.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's production of such dairy farmer is physically received as producer milk at a pool plant during the first month the dairy farmer is a producer. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval or as a result of the handler of the dairy farmer's milk failing to pool the milk under any order), the dairy farmer's milk shall not be eligible for diversion unless at least one day's production of the dairy farmer has been physically received as producer milk at a pool plant during the first month the dairy farmer is re-associated with the market;

(2) The quantity of milk delivered to plants described in § 1030.7(c)(1) as a percentage of the total milk accounted for by the cooperative association described in § 1000.9(c) must be at least 10 percent, subject to § 1030.7(g);

(3) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1030.14 Other source milk.

See § 1000.14 of this chapter.

§ 1030.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1030.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1030.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1030.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1030.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 9th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to § 1030.7 and each handler described in § 1000.9(c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1030.31 Payroll reports.

(a) On or before the 22nd day after the end of each month, each handler that operates a pool plant pursuant to § 1030.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1030.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1030.32 Other reports.

In addition to the reports required pursuant to §§ 1030.30 and 1030.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1030.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1030.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1000.43 General classification rules.

See § 1000.43 of this chapter.

§ 1000.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1000.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1030.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1030.51 Class I differential and price.

The Class I differential shall be the differential established for Cook County, Illinois, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Cook County, Illinois.

§ 1030.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1030.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1030.54 Equivalent price.

See § 1000.54 of this chapter.

§ 1030.55 Transfer credits and assembly credits on Class I milk.

(a) For bulk milk transferred from a pool plant to a pool distributing plant, and which is classified as Class I milk, the shipping handler shall receive a transportation credit computed by multiplying the pounds of Class I milk by the product of .0028 times the number of miles between the transferor plant and the transferee plant.

(b) For each handler who transfers or diverts bulk fluid milk from a pool plant to a pool distributing plant a procurement credit shall be determined by multiplying the hundredweight of milk classified as Class I at the pool plant by 8 cents.

(c) For each handler described in § 1000.9(c), a procurement credit for bulk fluid milk received as producer milk at a pool distributing plant shall be determined by prorating the producer milk classified as Class I at the pool distributing plant, and multiplying by 8 cents per hundredweight.

(d) For each handler operating a pool distributing plant pursuant to § 1030.7(a) or (b), a procurement credit for bulk fluid milk received shall be calculated by multiplying the producer milk classified as Class I at the pool distributing plant by 8 cents per hundredweight.

(e) For purposes of this section, the distances to be computed shall be determined by the market administrator using the shortest available state and/or Federal highway mileage. Mileage determinations are subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of such redetermination within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any periods prior to the redetermination by the market administrator.

Producer Price Differential

§ 1030.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1000.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price;

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiply the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) Add an adjustment for somatic cell content of producer milk determined by multiplying the value reported pursuant to § 1030.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract an amount equal to any credits applicable pursuant to § 1030.55;

(k) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(l) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1030.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1030.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1030.60 for all handlers required to file reports prescribed in § 1030.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1030.60 by the protein price, the other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1030.30(a)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1030.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1030.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1030.62 Announcement of producer prices.

On or before the 13th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat, protein and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1030.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1030.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the

funds by the market administrator no later than the 15th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1030.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1030.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1030.60(i) by the producer price differential as adjusted pursuant to § 1030.75 for the location of the plant from which received.

§ 1030.72 Payments from the producer-settlement fund.

No later than the 16th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1030.71(b) exceeds the amount computed pursuant to § 1030.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1030.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th day of the month for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the 17th day after the end of the month in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1030.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions for marketing services pursuant to § 1000.86.

(b) *Payments for milk received from cooperative association members.* On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section, each handler shall pay to a cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraphs (a)(1) and (a)(2) of this section.

(c) *Payment for milk received from cooperative association pool plants or from cooperatives as handlers pursuant to § 1000.9(c).* On or before the day prior to the dates specified in paragraph (a)(1) and (a)(2) of this section, each handler who receives fluid milk products at its plant from a cooperative association in its capacity as the operator of a pool plant or who receives milk from a cooperative association in its capacity as a handler pursuant to § 1000.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, shall pay the cooperative for such milk as follows:

(1) For bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant and for milk received from a cooperative association in its capacity as a handler pursuant to § 1000.9(c) during the first 15 days of the month, at not less than the lowest announced class price per hundredweight for the preceding month;

(2) For the total quantity of bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant, at not less than the total value of such products received from the association's pool plants, as determined by multiplying the respective quantities assigned to each class under § 1000.44, as follows:

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I price to be used shall be that price effective at the location of the shipping plant;

(ii) The hundredweight of Class II skim milk times $ .70;

(iii) The pounds of nonfat solids received in Class II and Class IV milk times the nonfat solids price for the month;

(iv) The pounds of butterfat received in Class II, Class III, and Class IV milk times the butterfat price for the month;

(v) The pounds of protein received in Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class III milk times the other solids price for the month;

(vii) The hundredweight of Class II, Class III, and Class IV milk received times the somatic cell adjustment; and

(viii) Add together the amounts computed in paragraphs (c)(2)(i) through (vii) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(3) For the total quantity of milk received during the month from a cooperative association in its capacity as a handler under § 1000.9(c) as follows:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1030.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month; and

(vi) Add together the amounts computed in paragraphs (c)(3)(i) through (v) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(d) If a handler has not received full payment from the market administrator pursuant to § 1030.72 by the payment date specified in paragraph (a), (b) or (c)(2) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association (with respect to receipts described in paragraph (b), prorating the underpayment to the volume of milk received from the cooperative association in proportion to the total milk received from producers by the handler), but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1030.74 [Reserved]

§ 1030.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1030.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1030.51, the difference shall be added to the producer price differential price; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1030.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1030.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1030.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

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See § 1000.85 of this chapter.

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See § 1000.86 of this chapter.

PART 1032—MILK IN THE CENTRAL MARKETING AREA

Subpart—Order Regulating Handling

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Administrative Assessment and Marketing Service Deduction

1032.85 Assessment for order administration.
1032.86 Deduction for marketing services.

Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1032.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1032.2 Central marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations,

installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

(a) In the State of Colorado, the counties of: Adams, Arapahoe, Baca, Bent, Boulder, Clear Creek, Cheyenne, Crowley, Custer, Denver, Douglas, El Paso, Elbert, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Larimer, Las Animas, Lincoln, Logan, Morgan, Otero, Park, Phillips, Prowers, Pueblo, Sedgwick, Teller, Washington, Weld, and Yuma.

(b) In the State of Illinois, the counties of:

(1) Adams, Alexander, Bond, Brown, Bureau, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, De Witt, Douglas, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Johnson, Kankakee, Knox, La Salle, Lawrence, Livingston, Logan, McDonough, McLean, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, Saline, Sangamon, Schuyler, Scott, Shelby, St. Clair, Stark, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Williamson, and Woodford;

(2) In Jo Daviess County, the city of East Dubuque; and

(3) In Whiteside County, the townships of Fulton, Ustick, Clyde, Genesee, Mount Pleasant, Union Grove, Garden Plain, Lyndon, Fenton, Newton, Prophetstown, Portland, and Erie.

(c) In the State of Iowa:

(1) All of the counties except: Howard, Kossuth, Mitchell (except the city of Osage), Winnebago, Winneshiek, and Worth; and

(2) In Mitchell County the city of Osage.

(d) All of the State of Kansas.

(e) In the State of Minnesota, the counties of: Lincoln, Nobles, Pipestone, and Rock.

(f) In the State of Missouri: (1) The counties of:

Andrew, Atchison, Bates, Buchanan, Caldwell, Carroll, Cass, Clark, Clay, Clinton, Daviess, De Kalb, Franklin, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Jackson, Jefferson, Johnson, Knox, Lafayette, Lewis, Lincoln, Livingston, Marion, Mercer, Nodaway, Pettis, Platte, Putnam, Ray, Saline, Schuyler, Scotland, Shelby, St. Charles, St. Clair, Ste. Genevieve, St. Louis, Sullivan, Warren, and Worth; and

(2) The city of St. Louis.

(g) In the State of Nebraska, the counties of: Adams, Antelope, Boone, Buffalo, Burt, Butler, Cass, Cedar, Chase, Clay, Colfax, Cuming, Custer, Dakota, Dawson, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Howard, Jefferson, Johnson, Kearney, Keith, Knox, Lancaster, Lincoln, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Saline, Sarpy, Saunders, Seward, Sherman, Stanton, Thayer, Thurston, Valley, Washington, Wayne, Webster, and York.

(h) All of the State of Oklahoma.

(i) In the State of South Dakota, the counties of: Aurora, Beadle, Bon Homme, Brookings, Clark, Clay, Codington, Davison, Deuel, Douglas, Hamlin, Hanson, Hutchinson, Jerauld, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Spink, Turner, Union, and Yankton.

(j) In the State of Wisconsin, the counties of: Crawford and Grant.

§ 1032.3 Route disposition.

See § 1000.3 of this chapter.

§ 1032.4 Plant.

See § 1000.4 of this chapter.

§ 1032.5 Distributing plant.

§ 1000.5 of this chapter.

§ 1032.6 Supply plant.

§ 1000.6 of this chapter.

§ 1032.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (a), (c), (d), (e), and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month:

(1) Total route disposition is equal to 25 percent of more of the total quantity of bulk fluid milk products physically received at the plant; and

(2) Route disposition in the marketing area is at least 15 percent of total route disposition.

(3) For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which the quantity of bulk fluid milk products transferred or diverted to plants described in paragraph (a) or (b) of this section during each of the months of September through November and January is 35 percent or more of the total Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1032.12(b)) and handlers described in § 1000.9(c), including milk diverted by the plant operator, and 25 percent for all other months, subject to the following conditions:

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of August through April shall continue to so qualify in each of the following months of May through July, unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of milk shipments;

(2) A pool plant operator may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1032.13(c);

(3) The operator of a supply plant may include as qualifying shipments transfers of fluid milk products to distributing plants regulated under any other Federal order, except that credit for such transfers shall be limited to the amount of milk, including milk shipped directly from producers' farms, delivered to distributing plants qualified as pool plants pursuant to paragraphs (a) or (b) of this section;

(4) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (g) of this section unless it has been a pool supply plant during each of the immediately preceding three months.

(d) A plant located in the marketing area and operated by a cooperative association if, during the month or the immediately preceding 12-month period, 35 percent or more of the producer milk of members of the association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received in the form of bulk fluid milk products at

plants specified in paragraph (a) or (b) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b) or (c) of this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(e) Two or more plants operated by the same handler and located in the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements of a pool distributing plant specified in paragraph (a) of this section and subject to the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products, and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) The operator of the unit has filed a written request with the market administrator prior to the first day of the month for which such status is desired to be effective. The unit shall continue from month to month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change of the unit is desired.

(f) A system of supply plants may be qualified for pooling by the association of two or more supply plants operated by one or more handlers by meeting the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant, subject to the following additional requirements:

(1) Each plant in the system is located within the marketing area;

(2) The handler(s) establishing the system submits a written request to the market administrator on or before September 1 requesting that such plants qualify as a system for the period of September through August of the following year. Such request will contain a list of the plants participating in the system.

(3) Each plant included within a pool supply plant system shall continue each month as a plant in the system through the following August unless the handler(s) establishing the system submits a written request to the market administrator that the plant be deleted from the system or that the system be discontinued. Any plant that has been so deleted from a system, or that has failed to qualify in any month, will not be part of any system for the remaining months through August. No plant may be added in any subsequent month through the following August to a system that qualifies in September.

(4) If a system fails to qualify under the requirements of this paragraph, the handler responsible for qualifying the system shall notify the market administrator which plant or plants will be deleted from the system so that the remaining plants may be pooled as a system. If the handler fails to do so, the market administrator shall exclude one or more plants, beginning at the bottom of the list of plants in the system and continuing up the list as necessary until the deliveries are sufficient to qualify the remaining plants in the system;

(g) The applicable shipping percentages of paragraphs (a), (c), (d), and (f) of this section may be increased or decreased by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding that a change is necessary the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested persons. If such investigation shows that a revision might be appropriate, a notice shall be issued stating that a revision is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) or (e) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the market administrator is to be effective, the market administrator may determine that the route disposition in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

§ 1032.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1032.9 Handler.

See § 1000.9 of this chapter.

§ 1032.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants

fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1032.7(a) and the farm operated as a producer under § 1032.12.

§ 1032.11 [Reserved]

§ 1032.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1032.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1032.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1032.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's production of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 65 percent during the months of September through November and January, and not more than 75 percent during the months of February through August and December;

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in (d)(2) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk; and

(5) The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1032.14 Other source milk.

See § 1000.14 of this chapter.

§ 1032.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1032.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1032.17 [Reserved]

§ 1032.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1032.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1032.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to § 1032.7 and each handler described in § 1000.9(c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of

solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1032.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler that operates a pool plant pursuant to § 1032.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1032.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1032.32 Other reports.

In addition to the reports required pursuant to §§ 1032.30 and 1032.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1032.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1032.41 [Reserved]

§ 1032.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1032.43 General classification rules.

See § 1000.43 of this chapter.

§ 1032.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1032.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1032.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1032.51 Class I differential and price.

The Class I differential shall be the differential established for Jackson County, Missouri, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Jackson County, Missouri.

§ 1032.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1032.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1032.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1032.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1000.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiply the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) Add an adjustment for somatic cell content of producer milk determined by multiplying the value reported pursuant to § 1032.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the

Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1032.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1032.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1032.60 for all handlers required to file reports prescribed in § 1032.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1032.60 by the protein price, the other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1032.30(a)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1032.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1032.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1032.62 Announcement of producer prices.

On or before the 11th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat, protein and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1032.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1032.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 14th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1032.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1032.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1032.60(i) by the producer price differential as adjusted pursuant to § 1032.75 for the location of the plant from which received.

§ 1032.72 Payments from the producer-settlement fund.

No later than the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1032.71(b) exceeds the amount computed pursuant to § 1032.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1032.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th day of the month for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the 17th day after the end of the month in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1032.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions for marketing services pursuant to § 1000.86.

(b) *Payments for milk received from cooperative association members.* On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section, each handler shall pay to a cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraphs (a)(1) and (a)(2) of this section.

(c) *Payment for milk received from cooperative association pool plants or from cooperatives as handlers pursuant to § 1000.9(c).* On or before the day prior to the dates specified in paragraph (a)(1) and (a)(2) of this section, each handler who receives fluid milk products at its plant from a cooperative association in its capacity as the operator of a pool plant or who receives milk from a cooperative association in its capacity as a handler pursuant to § 1000.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, shall pay the cooperative for such milk as follows:

(1) For bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant and for milk received from a cooperative association in its capacity as a handler pursuant to § 1000.9(c) during the first 15 days of the month, at not less than the lowest announced class price per hundredweight for the preceding month;

(2) For the total quantity of bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant, at not less than the total value of such products received from the association's pool plants, as determined by multiplying the respective quantities assigned to each class under § 1000.44, as follows:

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I price to be used shall be that price effective at the location of the shipping plant;

(ii) The hundredweight of Class II skim milk times $.70;

(iii) The pounds of nonfat solids received in Class II and Class IV milk times the nonfat solids price for the month;

(iv) The pounds of butterfat received in Class II, Class III, and Class IV milk times the butterfat price for the month;

(v) The pounds of protein received in Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class III milk times the other solids price for the month;

(vii) The hundredweight of Class II, Class III, and Class IV milk received times the somatic cell adjustment; and

(viii) Add together the amounts computed in paragraphs (c)(2)(i) through (vii) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(3) For the total quantity of milk received during the month from a cooperative association in its capacity as a handler under § 1000.9(c) as follows:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1032.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month; and

(vi) Add together the amounts computed in paragraphs (c)(3)(i) through (v) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(d) If a handler has not received full payment from the market administrator pursuant to § 1032.72 by the payment date specified in paragraph (a), (b) or (c) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association (with respect to receipts described in paragraph (b), prorating the underpayment to the volume of milk received from the cooperative association in proportion to the total milk received from producers by the handler), but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1032.74 [Reserved]

§ 1032.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1032.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1032.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1032.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1032.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1032.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

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See § 1000.86 of this chapter.

PART 1033—MILK IN THE MIDEAST MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1033.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1033.2 Mideast marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Ohio

All of the State of Ohio.

Indiana Counties

Adams, Allen, Bartholomew, Benton, Blackford, Boone, Brown, Carroll, Cass, Clay, Clinton, Dearborn, Decatur, De Kalb, Delaware, Elkhart, Fayette, Fountain, Franklin, Fulton, Grant, Hamilton, Hancock, Hendricks, Henry, Howard, Huntington, Jackson, Jasper, Jay, Jefferson, Jennings, Johnson, Kosciusko, Lagrange, Lake, La Porte, Lawrence, Madison, Marion, Marshall, Miami, Monroe, Montgomery, Morgan, Newton, Noble, Ohio, Owen, Parke, Porter, Pulaski, Putnam, Randolph, Ripley, Rush, Shelby, St. Joseph, Starke, Steuben, Switzerland, Tippecanoe, Tipton, Union, Vermillion, Vigo, Wabash, Warren, Wayne, Wells, White, and Whitley.

Kentucky Counties

Boone, Boyd, Bracken, Campbell, Floyd, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Pendleton, Pike, and Robertson.

Michigan Counties

All counties except Delta, Dickinson, Gogebic, Iron, Menominee, and Ontonagon.

Pennsylvania Counties

Allegheny, Armstrong, Beaver, Butler, Crawford, Erie, Fayette, Greene, Lawrence, Mercer, Venango, and Washington.

In Clarion County only the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby.

All of Westmoreland County except the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair, and the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward.

West Virginia Counties

Barbour, Boone, Brooke, Cabell, Calhoun, Doddridge, Fayette, Gilmer, Hancock, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, Mingo, Monongalia, Ohio, Pleasants, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wayne, Wetzel, Wirt, Wood, and Wyoming.

§ 1033.3 Route disposition.

See § 1000.3 of this chapter.

§ 1033.4 Plant.

See § 1000.4 of this chapter.

§ 1033.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1033.6 Supply plant.

See § 1000.6 of this chapter.

§ 1033.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (a), (c), (d), (e), and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month:

(1) Total route disposition is equal to 30 percent or more of the total quantity of bulk fluid milk products physically received at the plant;

(2) Route disposition in the marketing area is at least 30 percent of total route disposition.

(3) For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which the quantity of bulk fluid milk products shipped to, received at, and physically unloaded into plants described in paragraph (a) or (b) of this section as a percent of the Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1033.12(b)) and handlers described in § 1033.9(c), as reported in § 1033.30(a), is not less than 30 percent of the milk received from dairy farmers, including milk diverted pursuant to § 1033.13, subject to the following conditions:

(1) Qualifying shipments pursuant to this paragraph may be made to the following plants, except whenever the authority provided in paragraph (g) of this section is applied to increase the shipping requirements specified in this section, only shipments to pool plants described in § 1033.7(a) and (b), and units described in § 1033.7(e) shall count as qualifying shipments for the purpose of meeting the increased shipments:

(i) Pool plants described in § 1033.7(a), (b) and (e);

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk classified as Class I at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for transfers to such plants shall be limited to the quantity shipped to pool distributing plants during the month. Qualifying transfers to other order plants shall not include transfers made on the basis of agreed-upon Class II, Class III, or Class IV utilization.

(2) The operator of a supply plant may include deliveries to pool distributing plants directly from farms of producers pursuant to § 1033.13(c) as up to 90 percent of the supply plant's qualifying shipments;

(3) A supply plant that meets the shipping requirements of this paragraph during each of the immediately preceding months of September through February shall be a pool plant during the following months of March through August unless the milk received at the plant fails to meet the requirements of a duly constituted regulatory agency, the plant fails to meet a shipping requirement instituted pursuant to paragraph (f) of this section, or the plant operator requests nonpool status for the plant. Such nonpool status shall be effective on the first day of the month following the receipts of such request and thereafter until the plant again qualifies as a pool plant on the basis of its deliveries to a pool distributing plant(s).

The automatic pool qualification of a plant can be waived if the handler or cooperative requests in writing to the market administrator the nonpool status of such plant. The request must be made prior to the beginning of any month during the March through August period. The plant shall be a nonpool plant for such month and thereafter until it requalifies under paragraph (c) of this section on the basis of actual shipments therefrom. To requalify as a pool plant under paragraph (d), (e) or (f) of this section, such plant must first have met the percentage shipping requirements of paragraph (c) of this section for 6 consecutive months; and

(4) A supply plant that does not meet the minimum delivery requirements specified in this paragraph to qualify for pool status in the current month because a distributing plant to which the supply plant delivered its fluid milk products during such month failed to qualify as a pool plant pursuant to paragraph (a) or (b) of this section shall continue to be a pool plant for the current month if such supply plant qualified as a pool plant in the three immediately preceding months.

(d) A plant operated by a cooperative association if, during the month, 35 percent or more of the producer milk of members of the association is delivered to a distributing pool plant(s) or to a nonpool plant(s), and classification other than Class I is not requested. Deliveries for qualification purposes may be made directly from the farm or by transfer from such association's plant, subject to the following conditions:

(1) The cooperative requests pool status for such plant;

(2) The 35-percent delivery requirement may be met for the current month or it may be met on the basis of deliveries during the preceding 12-month period ending with the current month;

(3) The plant is approved by a duly constituted regulatory authority to handle milk for fluid consumption; and

(4) The plant does not qualify as a pool plant under (a), (b), or (c) of this section or under the similar provisions of another Federal order applicable to a distributing plant or supply plant.

(e) A plant located inside the marketing area which has been a pool plant under this order or its predecessor orders for twelve consecutive months, but is not otherwise qualified under this paragraph, if it has a marketing agreement with a cooperative association and it fulfills the following conditions:

(1) The aggregate monthly quantity supplied by all parties to such an agreement as a percentage of the producer milk receipts included in the unit during the month is not less than 35 percent; and

(2) Shipments for qualification purposes shall include both transfers from supply plants to plants described in paragraph (c)(1) of this section, and deliveries made direct from the farm to plants qualified under paragraph (a) of this section.

(f) A system of supply plants may be qualified for pooling by the association of two or more supply plants operated

by one or more handlers by meeting the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant and subject to the following additional requirements:

(1) Each plant in the system is located within the marketing area, or was a pool supply plant for each of the three months immediately preceding the effective date of this paragraph so long as it continues to maintain pool status. Cooperative associations may not use shipments pursuant to § 1033.9(c) to qualify plants located outside the marketing area;

(2) A written notification to the market administrator listing the plants to be included in the system and the handler that is responsible for meeting the performance requirements of this paragraph under a marketing agreement certified to the market administrator by the designated handler and any others included in the system, and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the fifth working day following the month to which the notice applies. The listed plants included in the system shall also be in the sequence in which they shall qualify for pool plant status based on the minimum deliveries required. If the deliveries made are insufficient to qualify the entire system for pooling, the last listed plant shall be excluded from the system, followed by the plant next-to-last on the list, and continuing in this sequence until remaining listed plants have met the minimum shipping requirements; and

(3) Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system unless the plant subsequently fails to qualify for pooling, or the responsible handler submits a written notification to the market administrator prior to the first day of the month that the plant is to be deleted from the system, or that the system is to be discontinued. In any month of March through August, a system shall not contain any plant which was not qualified under this paragraph, either individually or as a member of a system, during the previous September through February.

(g) The performance standards of paragraphs (a), (c), (d), (e) and (f) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested persons. If such investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that a revision is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months;

(4) A plant located outside any Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) or (d) of this section that also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

(i) Any plant that qualifies as a pool plant in each of the immediately preceding three months pursuant to paragraph (a) of this section or the shipping percentages in paragraph (c) of this section that is unable to meet such performance standards for the current month because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than two consecutive months.

§ 1033.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1033.9 Handler.

See § 1000.9 of this chapter.

§ 1033.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-

handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1033.7(a) and the farm operated as a producer under § 1033.12.

§ 1033.11 [Reserved]

§ 1033.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1033.13; or

(2) Received by a handler described in § 1033.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1033.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1033.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or by a cooperative association described in § 1033.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) The equivalent of at least one day's production is caused by the handler to be physically received at a pool plant in each of the months of September through November;

(3) Of the total quantity of producer milk received during the month (including diversions but excluding the quantity of producer milk received from a handler described in § 1000.9(c)), the handler diverted to nonpool plants not more than 60 percent during the months of September through February;

(4) Diverted milk shall be priced at the location of the plant to which diverted;

(5) Any milk diverted in excess of the limits set forth in paragraph (d)(3) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that shall not be producer milk. If the handler fails to designate the dairy farmer deliveries which are ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler; and

(6) The delivery day requirements and the diversion percentages in paragraphs (d)(2) and (d)(3) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1033.14 Other source milk.

See § 1000.14 of this chapter.

§ 1033.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1033.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1033.17 [Reserved]

§ 1033.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1033.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1033.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to § 1033.7 and each handler described in § 1000.9(c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and somatic cell information as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been

producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1033.31 Payroll reports.

(a) On or before the 22nd day after the end of each month, each handler that operates a pool plant pursuant to § 1033.7 and each handler described in § 1033.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1033.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1033.32 Other reports.

In addition to the reports required pursuant to §§ 1033.30 and 1033.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1033.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1033.41 [Reserved]

§ 1033.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1033.43 General classification rules.

See § 1000.43 of this chapter.

§ 1033.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1033.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1033.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1033.51 Class I differential and price.

The Class I differential shall be the differential established for Cuyahoga County, Ohio which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Cuyahoga County, Ohio.

§ 1033.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1033.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1033.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1033.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1033.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location;

(b) Add the Class II value computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by subtracting from the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) the pounds of protein determined in § 1033.60(c)(1) and multiplying the resulting pounds of fluid carrier by a price determined by multiplying 5.7 times the other solids price and dividing the result by 91 (the resulting price, rounded to the 4th decimal place, shall be known as the fluid carrier price); and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) Add an adjustment for the somatic cell content of producer milk determined by multiplying the value reported pursuant to § 1033.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from plants regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1033.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1033.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1033.60 for all handlers required to file reports prescribed in § 1033.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, fluid carrier, and butterfat contained in the milk for which an obligation was computed pursuant to § 1033.60 by the protein price, the fluid carrier price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1033.30(a)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1033.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1033.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1033.62 Announcement of producer prices.

On or before the 13th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The fluid carrier price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat and protein content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1033.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1033.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 15th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1033.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1033.75;

(2) An amount obtained by multiplying the total pounds of protein and butterfat contained in producer milk by the protein and butterfat prices, respectively;

(3) An amount obtained by multiplying the total hundredweight of fluid carrier contained in producer milk by the fluid carrier price computed pursuant to § 1033.60(c)(2);

(4) The total value of the somatic cell adjustment to producer milk; and

(5) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1033.60(i) by the producer price differential as adjusted pursuant to § 1033.75 for the location of the plant from which received.

§ 1033.72 Payments from the producer-settlement fund.

No later than the 16th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1033.71(b) exceeds the amount computed pursuant to § 1033.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1033.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th day of the month for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be

made so that it is received by each producer no later than the 17th day after the end of the month in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1033.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The hundredweight of fluid carrier received times the fluid carrier price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions for marketing services pursuant to § 1000.86.

(b) *Payments for milk received from cooperative associations.* On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section, each handler shall pay to a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk fluid milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the partial payment shall be equal to the hundredweight of milk received multiplied by the lowest announced class price for the preceding month;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk milk/skimmed milk products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* Following the classification of bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be not less than an amount computed by multiplying the respective quantities assigned to each class under § 1000.44 by the value calculated pursuant to § 1033.60(a) and location adjustments pursuant to § 1033.75, minus the amount of the payment made to the association pursuant to paragraph (a)(1) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1033.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(e) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and fluid carrier contained in the producer's milk;

(4) The average somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1033.74 [Reserved]

§ 1033.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1033.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1033.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1033.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

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See § 1000.77 of this chapter.

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See § 1000.78 of this chapter.

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See § 1000.86 of this chapter.

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1124.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1124.2 Pacific Northwest marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Washington

All of the State of Washington.

Idaho Counties

Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone.

Oregon Counties

Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, Wheeler, and Yamhill.

§ 1124.3 Route disposition.

See § 1000.3 of this chapter.

§ 1124.4 Plant.

See § 1000.4 of this chapter.

§ 1124.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1124.6 Supply plant.

See § 1000.6 of this chapter.

§ 1124.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (a), (c), (d), (e), and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month:

(1) Total route disposition is equal to 25 percent of more of the total quantity of bulk fluid milk products physically received at the plant; and

(2) Route disposition in the marketing area is at least 15 percent of total route disposition.

(3) For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which during any month not less than 20 percent of the total quantity of milk that is physically received at such plant from dairy farmers eligible to be producers pursuant to § 1124.12 (excluding milk received at such plant as diverted milk from another plant, which milk is classified in Class III under this order and is subject to the pricing and pooling provisions of this or another order issued pursuant to the Act) or diverted as producer milk to another plant pursuant to § 1124.13, is shipped in the form of a fluid milk product to a pool distributing plant or is a route disposition in the marketing area of fluid milk products processed and packaged at such plant;

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of September through February shall continue to so qualify in each of the following months of March through August, unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of milk shipments;

(2) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1000.9(c);

(3) A pool plant operator may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1124.13(c);

(4) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (g) of this section unless it has been a pool supply plant during each of the immediately preceding three months.

(d)–(f) [Reserved]

(g) The applicable shipping percentages of paragraphs (a) and (c) of this section may be increased or decreased by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding that a change is necessary the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested persons. If such

investigation shows that a revision might be appropriate, a notice shall be issued stating that a revision is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months;

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area; and

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order.

§ 1124.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1124.9 Handler.

See § 1000.9 of this chapter.

§ 1124.10 Producer-handler.

Except as provided in paragraph (f) of this section, *producer-handler* means a person who operates a dairy farm and a distributing plant from which there is monthly route disposition within the marketing area in excess of 150,000 pounds during the month and who has been so designated by the market administrator upon determination that all of the requirements of this section have been met, providing that none of the conditions therein for cancellation of such designation exists.

(a) *Requirements for designation.* The producer-handler provides proof satisfactory to the market administrator that:

(1) In its capacity as a dairy farmer, the care and management of the dairy animals and other resources and facilities (designated as such pursuant to paragraph (b)(1) of this section) necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order); and

(2) In its capacity as a handler, the plant operation at which it processes and packages and from which it distributes its own milk production (designated as such pursuant to paragraph (b)(2) of this section) are under the complete and exclusive control and management of the producer-handler and are at its own enterprise and at its sole risk.

(3) The producer-handler neither receives at its designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of its designated milk handling, processing or distributing resources and facilities other source milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than:

(i) Its designated milk production resources and facilities (own farm production);

(ii) Pool handlers and plants regulated under any Federal order within the limitation specified in paragraph (c)(2) of this section; or

(iii) nonfat milk solids which are used to fortify fluid milk products.

(4) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(5) Designation of any person as a producer-handler following a cancellation of its prior designation shall be preceded by performance in accordance with paragraph (a)(1) through (4) of this section for a period of 1 month.

(b) *Designation of resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities. All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement; and

(iii) Which are directly, indirectly or partially owned, operated or controlled by any partner or stockholder of the producer-handler. However, for purposes of this paragraph, any such milk production resources and facilities which the producer-handler proves to the satisfaction of the market administrator do not constitute an actual or potential source of milk supply for the producer-handler's operation as such shall not be considered a part of the producer-handler's milk production resources and facilities.

(2) As milk handling, processing and distributing resources and facilities. All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler; or

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(3) All designations shall remain in effect until canceled pursuant to paragraph (c) of this section.

(c) *Cancellation.* The designation as a producer-handler shall be canceled upon determination by the market administrator that any of the requirements of paragraph (a)(1) through (4) of this section are not continuing to be met, or under any of the following conditions:

(1) Milk from the milk production resources and facilities of the producer-handler, designated in paragraph (b)(1) of this section is delivered in the name of another person as producer milk to another handler;

(2) The producer-handler handles fluid milk products derived from sources other than the milk production facilities and resources designated in paragraph (b)(1) of this section, except that it may receive at its plant or acquire for route disposition fluid milk products from fully regulated plants and handlers

under any Federal order if such receipts do not exceed 150,000 pounds monthly. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month; or

(3) The producer-handler disposes of fluid milk products using the distribution system of another handler, except for direct deliveries by the producer-handler to retail outlets or to a pool handler's plant.

(4) Cancellation of a producer-handler's status pursuant to this paragraph shall be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handlers, of those whose designations have been canceled, and the effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.5 that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

(f) *Producer-handler* shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated pursuant to § 1124.7(a) and the farm operated as a producer pursuant to § 1124.12.

§ 1124.11 Cooperative reserve supply unit.

Cooperative reserve supply unit means any cooperative association or its agent that is a handler pursuant to § 1000.9(c) that does not own or operate a plant, if such cooperative has been qualified to receive payments pursuant to § 1124.73 and has been a handler of producer milk under this or its predecessor order during each of the 12 previous months, and if a majority of the cooperative's member producers are located within 125 miles of a pool distributing plant. A cooperative reserve supply unit shall be subject to the following conditions:

(a) The cooperative shall file a request with the market administrator for cooperative reserve supply unit status at least 15 days prior to the first day of the month in which such status is desired to be effective. Once qualified as a cooperative reserve supply unit pursuant to this paragraph, such status shall continue to be effective unless the cooperative requests termination prior to the first day of the month that change of status is requested, or the cooperative fails to meet all of the conditions of this section;

(b) The cooperative reserve supply unit supplies fluid milk products to pool distributing plants located within 125 miles of a majority of the cooperative's member producers in compliance with any announcement by the market administrator requesting a minimum level of shipments as further provided below:

(1) The market administrator may require such supplies of bulk fluid milk from cooperative reserve supply units whenever the market administrator finds that milk supplies for Class I use are needed for plants defined in § 1124.7(a) or (b). Before making such a finding, the market administrator shall investigate the need for such shipments either on the market administrator's own initiative or at the request of interested persons. If the market administrator's investigation shows that such shipments might be appropriate, the market administrator shall issue a notice stating that a shipping announcement is being considered and inviting data, views and arguments with respect to the proposed shipping announcement.

(2) Failure of a cooperative reserve supply unit to comply with any announced shipping requirements, including making any significant change in the unit's marketing operation that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of cooperative reserve supply unit status until such time as the unit has been a handler pursuant to § 1000.9(c) for at least 12 consecutive months.

§ 1124.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1124.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1124.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I;

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order; and

(5) A dairy farmer whose milk, at any time during the month, has been pooled under a State milk order.

§ 1124.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 65 percent during the months of

September through November and January, and not more than 75 percent during the months of February through August and December;

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk; and

(5) The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments.

Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1124.14 Other source milk.

See § 1000.14 of this chapter.

§ 1124.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1124.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1124.17 [Reserved]

§ 1124.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1124.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1124.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 9th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to § 1124.7 and each handler described in § 1000.9(c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, and pounds of solids-not-fat other than protein (other solids) contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and other nonfat solids, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1124.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler that operates a pool plant pursuant to § 1124.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1124.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1124.32 Other reports.

In addition to the reports required pursuant to §§ 1124.30 and 1124.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1124.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1124.41 [Reserved]

§ 1124.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1124.43 General classification rules.

See § 1000.43 of this chapter.

§ 1124.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1124.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1124.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1124.51 Class I differential and price.

The Class I differential shall be the differential established for King County, Washington, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for King County, Washington.

§ 1124.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1124.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1124.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1124.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1000.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in

Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price;

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiply the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(f) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(g) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(h) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(i) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicale at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(j) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1124.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1124.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1124.60 for all handlers required to file reports prescribed in § 1124.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1124.60 by the protein price, the other solids price, and the butterfat price, respectively;

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1124.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1124.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1124.62 Announcement of producer prices.

On or before the 14th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The average butterfat, protein and other solids content of producer milk; and

(f) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payment for Milk

§ 1124.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1124.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 16th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1124.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1124.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively; and

(3) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1124.60(i) by the producer price differential as adjusted pursuant to § 1124.75 for the location of the plant from which received.

§ 1124.72 Payments from the producer-settlement fund.

No later than the 18th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1124.71(b) exceeds the amount computed pursuant to § 1124.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1124.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 18th day of the month, partial payment shall be made so that it is received by each producer on or before the last day of the month for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the 19th day after the end of the month in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1124.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) Less any payment made pursuant to paragraph (a)(1) of this section;

(vi) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(vii) Less deductions for marketing services pursuant to § 1000.86.

(b) *Payments for milk received from cooperative association members.* On or before the 2nd day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section, each handler shall pay to a cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraphs (a)(1) and (a)(2) of this section.

(c) *Payment for milk received from cooperative association pool plants or from cooperatives as handlers pursuant to § 1000.9(c).* On or before the 2nd day prior to the dates specified in paragraph (a)(1) and (a)(2) of this section, each handler who receives fluid milk products at its plant from a cooperative association in its capacity as the operator of a pool plant or who receives milk from a cooperative association in its capacity as a handler pursuant to § 1000.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, shall pay the cooperative for such milk as follows:

(1) For bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant and for milk received from a cooperative association in its capacity as a handler pursuant to § 1000.9(c) during the first 15 days of the month, at not less than the lowest announced class price per hundredweight for the preceding month;

(2) For the total quantity of bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant, at not less than the total value of such products received from the association's pool plants, as determined by multiplying the respective quantities assigned to each class under § 1000.44, as follows:

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I price to be used shall be that price effective at the location of the shipping plant;

(ii) The hundredweight of Class II skim milk times $ .70;

(iii) The pounds of nonfat solids received in Class II and Class IV milk times the nonfat solids price for the month;

(iv) The pounds of butterfat received in Class II, Class III, and Class IV milk times the butterfat price for the month;

(v) The pounds of protein received in Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class III milk times the other solids price for the month; and

(vii) Add together the amounts computed in paragraphs (c)(2)(i) through (vi) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(3) For the total quantity of milk received during the month from a cooperative association in its capacity as a handler under § 1000.9(c) as follows:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1124.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month; and

(v) Add together the amounts computed in paragraphs (c)(3)(i) through (iv) of this section and from that sum deduct any payment made

pursuant to paragraph (c)(1) of this section.

(d) If a handler has not received full payment from the market administrator pursuant to § 1124.72 by the payment date specified in paragraph (a), (b) or (c) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association (with respect to receipts described in paragraph (b), prorating the underpayment to the volume of milk received from the cooperative association in proportion to the total milk received from producers by the handler), but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1124.74 [Reserved]

§ 1124.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1124.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1124.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1124.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1124.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1124.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

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§ 1124.85 Assessment for order administration.

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See § 1000.86 of this chapter.

PART 1126—MILK IN THE SOUTHWEST MARKETING AREA

Subpart—Order Regulating Handling

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1126.85 Assessment for order administration.
1126.86 Deduction for marketing services.

Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1126.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1126.2 Southwest marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part

thereof is within any of the listed states or political subdivisions:

New Mexico and Texas

All of the States of New Mexico and Texas.

Colorado Counties

Archuleta, LaPlata, and Montezuma.

§ 1126.3 Route disposition.

See § 1000.3 of this chapter.

§ 1126.4 Plant.

See § 1000.4 of this chapter.

§ 1126.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1126.6 Supply plant.

See § 1000.6 of this chapter.

§ 1126.7 Pool plant.

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant from which during the month the total route disposition is equal to 25 percent or more of the total quantity of fluid milk products physically received at such plant and route disposition in the marketing area is at least 15 percent of total route distribution. Packaged fluid milk products that are transferred to a distributing plant and which are classified as Class I milk shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of determining the transferring plant's pool status under this paragraph.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool status for the plant for the month.

(c) A supply plant from which 50 percent of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month at least 30 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant.

(e) Two or more plants operated by the same handler and located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased up to 10 percentage points by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section that is located within the marketing area if the plant also meets the pooling requirements of another Federal order, and more than 50 percent of its route distribution has been in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant qualified pursuant to paragraph (a) of this section that is located in another Federal order marketing area if the plant meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) or (d) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a pool plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in writing by the handler and must be approved by the market administrator.

§ 1126.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1126.9 Handler.

See § 1000.9 of this chapter.

§ 1126.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order.

(c) Receives no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order, including such products received at a location other than the producer-handler's processing plant for distribution on routes. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1126.7(a) and the farm operated as a producer under § 1126.12.

§ 1126.11 [Reserved]

§ 1126.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1126.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1126.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and the milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1126.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator for the account of the handler operating such plant to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a producer whose dairy farm is located outside the marketing area shall not be eligible for diversion unless at least 15% of the producer's milk is physically received at a pool plant during the month;

(2) The total quantity of milk so diverted during the month by a cooperative association shall not exceed the total quantity of producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to this paragraph. The total quantity of milk so diverted during the month shall not exceed the total quantity of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1126.7(e)) during the month;

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d)(2) and (3) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(5) Diverted milk shall be priced at the location of the plant to which diverted; and

(6) The delivery day requirements in paragraph (d)(1) and the diversion percentages in paragraphs (d)(2) and (3) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1126.14 Other source milk.

See § 1000.14 of this chapter.

§ 1126.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1126.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1126.17 [Reserved]

§ 1126.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1126.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1126.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 8th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) Each pool plant operator and each handler described in § 1000.9(c), shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of nonfat solids other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p) contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) or (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1126.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler that operates a pool plant pursuant to § 1126.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information specified in § 1126.73(e);

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1126.32 Other reports.

In addition to the reports required pursuant to §§ 1126.30 and 1126.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1126.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1126.41 [Reserved]

§ 1126.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1126.43 General classification rules.

See § 1000.43 of this chapter.

§ 1126.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1126.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1126.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1126.51 Class I differential and price.

The Class I differential shall be the differential established for Dallas County, Texas, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Dallas County, Texas.

§ 1126.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1126.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1126.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1126.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the total pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiplying the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price.

(c) Add the Class III value, computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiplying the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price.

(d) Add the Class IV value, computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price.

(e) Add an adjustment for somatic cell content of producer milk as determined by multiplying the value reported pursuant to § 1126.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c).

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1126.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1126.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers required to file reports prescribed in § 1126.30;

(b) Subtract the total of the values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1126.60 by the protein price, other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1126.30(a)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1126.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1126.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1126.62 Announcement of producer prices.

On or before the 13th day after the end of each month, the market administrator shall announce the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat, nonfat solids, protein, and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1126.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1126.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 16th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1126.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1126.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1126.60(i) by the producer price differential as adjusted pursuant to § 1126.75 for the location of the plant from which received.

§ 1126.72 Payments from the producer-settlement fund.

No later than the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1126.71(b) exceeds the amount computed pursuant to § 1126.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1126.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 23rd day of the

month, payment shall be made so that it is received by the producer on or before the 26th day of the month for milk received during the first 15 days of the month at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the 18th day after the end of the month in an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1126.75;

(ii) Multiply the pounds of butterfat received times the butterfat price for the month;

(iii) Multiply the pounds of protein received times the protein price for the month;

(iv) Multiply the pounds of other solids received times the other solids price for the month;

(v) Multiply the hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Add the amounts computed in paragraph (a)(2)(i) through (v) of this section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) On or before the day prior to the dates specified for partial and final payments pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by the lowest announced class price for the preceding month;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk milk/skimmed milk products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* Following the classification of bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be determined as follows:

(i) Multiply the hundredweight of Class I skim milk by the Class I skim milk price for the month applicable at the location of the shipping plant;

(ii) Multiply the pounds of Class I butterfat by the Class I butterfat price for the month applicable at the location of the shipping plant;

(iii) Multiply the hundredweight of Class II skim milk by $.70;

(iv) Multiply the pounds of nonfat solids received in Class II and Class IV milk by the nonfat solids price for the month;

(v) Multiply the hundredweight of butterfat in Class II, III, and IV milk by the butterfat price for the month;

(vi) Multiply the pounds of protein received in Class III milk by the protein price for the month;

(vii) Multiply the pounds of other solids received in Class III milk by the other solids price for the month;

(viii) Multiply the hundredweight of Class II, Class III, and Class IV milk received times the somatic cell adjustment;

(ix) Add together the amounts computed in paragraph (b)(3)(i) through (viii) of this section and from that sum deduct any payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1126.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce pro rata its payments to producers or to cooperative associations pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1126.74 [Reserved]

§ 1126.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1126.51 exceeds the Class I price at the plant's location. If the

Class I price at the plant location exceeds the Class I price specified in § 1126.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1126.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1126.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1126.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

§ 1126.85 Assessment for order administration.

See § 1000.85 of this chapter.

§ 1126.86 Deduction for marketing services.

See § 1000.86 of this chapter.

PART 1131—MILK IN ARIZONA-LAS VEGAS MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601—674.

Subpart—Order Regulating Handling

General Provisions

§ 1131.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1131.2 Arizona-Las Vegas marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Arizona

All of the State of Arizona.

Nevada Counties

Clark.

§ 1131.3 Route disposition.

See § 1000.3 of this chapter.

§ 1131.4 Plant.

See § 1000.4 of this chapter.

§ 1131.5 Distributing Plant.

See § 1000.5 of this chapter.

§ 1131.6 Supply Plant.

See § 1000.6 of this chapter.

§ 1131.7 Pool plant.

Pool Plant means a plant or unit of plants specified in paragraphs (a) through (e) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section.

(a) A distributing plant from which during the month there is route disposition equal to 25 percent or more of the total quantity of bulk fluid milk products physically received at such plant; and route disposition in the marketing area of at least 15 percent of total route disposition. For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area which during the month processes a majority of its receipts of milk products into aseptically packaged fluid milk products. If during the month the plant had no route disposition into any federal milk order the plant operator may request nonpool status for such plant for the month.

(c) A supply plant from which 50% or more of the total quantity of milk that is physically received at such plant from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area and operated by a cooperative association if, during the month, or the immediately preceding 12-month period, 35 percent or more of the producer milk of members of the association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received in the form of bulk fluid milk products at plants specified in paragraph (a) or (b) of this section either directly from farms or by transfer from supply plants operated by the cooperative association

and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b) or (c) or this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(e) Two or more plants operated by the same handler and located in the marketing area may qualify for pool plant status as a unit by together meeting the requirements specified in paragraph (a) of this section and subject to all of the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products, and must be located in a pricing zone providing the same or lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section;

(3) A written request to form a unit must be filed by the handler with the market administrator prior to the first day of the month for which such status is desired to be effective. The unit shall continue from month to month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change of the unit is desired.

(f) The applicable percentages in paragraphs (a), (b), (c), and (d) of this section may be increased or decreased by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested parties. If such investigation shows that a revision might be appropriate, a notice shall be issued stating that a revision adjustment is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e).

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) or (e) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months.

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order or a State order providing for marketwide pooling, and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

§ 1131.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1131.9 Handler.

See § 1000.9 of this chapter.

§ 1131.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Does not distribute fluid milk products to a wholesale customer who also is serviced by a handler described in § 1000.9(a) or (d) that supplied the same product in the same-sized package with a similar label to the wholesale customer during the month;

(g) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(h) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1131.7(a) and the farm operated as a producer under § 1131.12.

§ 1131.11 [Reserved]

§ 1131.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1131.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1131.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I;

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order; and

(5) A dairy farmer whose milk is received at a pool plant if during the month milk from the same farm is received at a nonpool plant (except a nonpool plant that has no utilization or milk products in any class other than Class III or Class IV) other than as a diversion under this or some other Federal order.

§ 1131.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of the pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it was picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received.

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants.

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's production of such dairy farmer is physically received at a pool plant during the month;

(2) The total quantity of milk diverted by a handler in any month shall not exceed 20 percent of the total producer milk caused by the handler to be received at pool plants or diverted;

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in (d)(2) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk. In the event some of the milk of any producer is determined not to be producer milk pursuant to this paragraph, other milk delivered by such producer as producer milk during the month will not be subject to § 1131.12(b)(5); and

(5) The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1131.14 Other source milk.

See § 1000.14 of this chapter.

§ 1131.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1131.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1131.17 [Reserved]

§ 1131.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1131.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1131.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office received the report on or before the 7th day after the end of the month, in the detail and on the forms prescribed by the market administrator, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the plant operator to other plants;

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(6) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler described in § 1131.10 shall report:

(1) The pounds of milk received from each of the handler's own-farm production units, showing separately the production of each farm unit and the number of dairy cows in production at each farm unit;

(2) Fluid milk products and bulk fluid cream products received at its plant or acquired for route disposition from pool plants, other order plants, and handlers described in § 1000.9(c);

(3) Receipts of other source milk not reported pursuant to paragraph (d)(2) of this section;

(4) Inventories at the beginning and end of the month of fluid milk products and fluid cream products; and

(5) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(e) Each handler not specified in paragraphs (a) through (d) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1131.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler

described in § 1000.9(a) and (c) shall report to the market administrator its producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) The producer's name and address;

(2) The total pounds of milk received from the producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1131.32 Other reports.

In addition to the reports required pursuant to § 1131.30 and § 1131.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1131.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1131.41 [Reserved]

§ 1131.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1131.43 General classification rules.

See § 1000.43 of this chapter.

§ 1131.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1131.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1131.50 Class prices, component prices, Class I differential and price.

Class prices and component prices are described in § 1000.50. The Class I differential shall be the differential established for Maricopa County, Arizona, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Maricopa County, Arizona.

§ 1131.51 [Reserved]

§ 1131.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1131.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1131.54 Equivalent price.

See § 1000.54 of this chapter.

Uniform Price

§ 1131.60 Handler's value of milk.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii), and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding steps of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d);

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1131.61 Computation of uniform price, uniform butterfat price and uniform skim milk price.

(a) For each month the market administrator shall compute the uniform price per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than two cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1131.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(1) Combine into one total the values computed pursuant to § 1131.60 for all handlers required to file reports prescribed in § 1131.30;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1131.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Add or subtract, as the case may be, to obtain an all-producer milk test of 3.5% butterfat, the value of the required pounds of butterfat times the uniform

butterfat price computed pursuant to paragraph (b) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk;

(ii) The total hundredweight for which a value is computed pursuant to § 1131.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the uniform price for milk received from producers during the month.

(b) *Uniform butterfat price*. The Uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be obtained by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) and dividing the sum of such values by the total pounds of such butterfat.

(c) *Uniform skim milk price*. The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be the uniform price for the month computed pursuant to paragraph (a) of this section, less the uniform butterfat price for the month computed pursuant to paragraph (b) of this section multiplied by 3.5, with the result divided by .965.

§ 1131.62 Announcement of uniform price, uniform butterfat price and uniform skim milk price.

On or before the 11th day after the end of each month, the market administrator shall announce the following prices and information:

(a) The uniform price computed pursuant to § 1131.61 for such month;

(b) The uniform butterfat price computed pursuant to § 1131.61(b) for such month; and

(c) The uniform skim milk price computed pursuant to § 1131.61(c) for such month.

Payments for Milk

§ 1131.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1131.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 13th day after the end of the month. Payments due the market administrator shall be deemed not to have been made until the money owed has been received at the market administrator's office, or deposited into the market administrator's bank account. Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1131.60.

(b) The sum of:

(1) The value at the uniform prices for skim milk and butterfat, adjusted for plant location, of the handler's receipts of producer milk; and

(2) The value at the uniform price as adjusted pursuant to § 1131.75 applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1131.60(e).

§ 1131.72 Payments from the producer-settlement fund.

No later than the 14th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1131.71(b) exceeds the amount computed pursuant to § 1131.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1131.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraphs (b) and (c) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) *Partial Payment.* For each producer who has not discontinued shipments as of the 25th day of the month, payment shall be made so that it is received by the producer on or before the 27th day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, for milk received from such producer during the first 15 days of the month at not less than 1.3 times the lowest class price for the preceding month, adjusted for plant location pursuant to § 1131.75 and proper deductions authorized in writing by the producer; and

(2) *Final Payment.* On or before the 15th day of the following month, not less than an amount computed by the sum of the following:

(i) The hundredweight of producer milk received times the uniform price for the month as adjusted pursuant to § 1131.75;

(ii) The hundredweight of producer skim milk received times the uniform skim milk price for the month;

(iii) The pounds of producer butterfat received times the uniform butterfat price for the month;

(iv) Less payments made pursuant to paragraph (a) of this section;

(v) Less deductions made for marketing service pursuant to § 1000.86;

(vi) Plus or minus adjustments for errors made in previous payments to such producer; and

(vii) Less proper deductions authorized in writing by such producer.

(b) Two days prior to the dates on which partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* On or before the 25th day of the month each handler shall pay to a cooperative association that the market administrator determines is authorized by its members to collect payment for their milk, an amount not less than 1.3 times the lowest class price for the preceding month multiplied by the hundredweight of milk received during the first 15 days of the month from such cooperative association, including the milk of producers not members of such cooperative association who the market administrator determines have authorized the cooperative association to collect payment for their milk;

(2) *Final Payment to a cooperative association.* On or before the 13th day of the following month, each handler shall pay to a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk not less than an amount computed pursuant to paragraph (a)(2) of this section for milk received from such cooperative association during the month, including the milk of producers not members of such cooperative association who the market administrator determines have authorized the cooperative association to collect payment for their milk;

(c) If a handler has not received full payment from the market administrator pursuant to § 1131.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce pro rata his payments pursuant to such paragraphs, but by not more than the amount of such underpayment. Payments to producers shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made

because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund. In the event the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or the lawful claimant, as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month, and identity of the producer;

(2) The daily and total pounds and the total pounds of butterfat content of producer milk;

(3) The minimum rate at which payment to the producer is required pursuant to this order;

(4) The rate used in making payments if the rate is other than the applicable minimum rate;

(5) The amount, rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to the producer.

§ 1131.74 [Reserved]

§ 1131.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was first physically received by subtracting from the price the amount by which the Class I price specified in § 1131.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1131.50, the difference shall be added to the uniform price; and

(b) The uniform price applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted uniform price shall not be less than the lowest announced class price.

§ 1131.76 Payments by handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1131.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1131.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

§ 1131.85 Assessment for order administration.

See § 1000.85 of this chapter.

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See § 1000.86 of this chapter.

PART 1134—MILK IN THE WESTERN MARKETING AREA

Subpart—Order Regulating Handling

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Administrative Assessment and Marketing Service Deduction

1134.85 Assessment for order administration.
1134.86 Deduction for marketing services.

Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1134.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1134.2 Western marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Utah

All of the State of Utah.

Colorado Counties

Delta, Garfield, Mesa, and Montrose.

Idaho Counties

Ada, Adams, Bannock, Bear Lake, Bingham, Blaine, Boise, Bonneville, Camas, Canyon, Caribou, Cassia, Elmore, Franklin, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Twin Falls, Valley, and Washington.

Nevada Counties

Elko, Lincoln, and White Pine.

Oregon Counties

Baker, Grant, Harney, Malheur, and Union.

Wyoming Counties

Lincoln and Uinta.

§ 1134.3 Route disposition.

See § 1000.3 of this chapter.

§ 1134.4 Plant.

See § 1000.4 of this chapter.

§ 1134.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1134.6 Supply plant.

See § 1000.6 of this chapter.

§ 1134.7 Pool plant.

Pool Plant means a plant or unit of plants specified in paragraphs (a) through (e) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section.

(a) A distributing plant from which during the month there is route disposition equal to 25 percent or more of the total quantity of bulk fluid milk products physically received at such plant and there is route disposition in the marketing area of at least 15 percent of total route disposition. For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of determining the pool status of the transferring plant under this section.

(b) A distributing plant located in the marketing area which during the month processes a majority of its receipts of milk products into aseptically packaged fluid milk products. If during the month the plant had no route disposition into any federal milk order the plant operator may request nonpool status for such plant for the month.

(c) A supply plant from which during the month the quantity of bulk fluid milk products transferred or diverted to plants described in paragraph (a) or (b) of this section is 35 percent of more of the total Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1134.12(b)) and handlers described in § 1000.9(c), including milk diverted by the plant operator, subject to the following conditions:

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of September through February shall continue to so qualify in each of the following months of March through August unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request. A plant withdrawn from pool supply plant status may not be reinstated for any subsequent month of the March through July period unless it qualifies as a pool plant on the basis of milk shipments;

(2) A pool plant operator may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1134.13(c);

(3) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (f) of this section unless it has been a pool supply plant during each of the immediately preceding three months.

(d) A milk manufacturing plant located within the marketing area that is operated by a cooperative association if, during the month or the immediately preceding 12-month period ending with the current month, 35% or more of such cooperative's member producer milk (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received in the form of bulk fluid milk products at plants specified in paragraph (a) or (b) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b) or (c) of this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(e) Two or more plants located in the marketing area and operated by the same handler may qualify for pool plant status as a unit by together meeting the requirements specified in paragraph (a) of this section and subject to the following additional requirements:

(1) At least one of the plants in the unit must individually qualify as a pool plant pursuant to paragraph (a) of this section.

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products, and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit must be filed by the handler with the market administrator prior to the first day of the month for which such status is to be effective. The unit shall continue from month to month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change of the unit is desired.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding that a change is necessary, the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested persons. If such investigation shows that a revision might be appropriate, a notice shall be issued stating that such a revision is being considered and inviting written data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in 1000.8(e).

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) or (e) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months;

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant

has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

§ 1134.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1134.9 Handler.

See § 1000.9 of this chapter.

§ 1134.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1134.7(a) and the farm operated as a producer under § 1134.12.

§ 1134.11 Proprietary bulk tank handler.

(a) Any person, except a cooperative association, with respect to milk that it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such person and which is delivered during the month for the account of such person to the pool plant of another handler or diverted pursuant to § 1134.13, subject to the following conditions:

(1) Such person (who, if qualified pursuant to this paragraph, shall be known as a *proprietary bulk tank handler*) must operate a plant located in the marketing area at which milk is processed only into Class II, Class III, or Class IV products; and

(2) Prior to operating as a handler pursuant to this paragraph, such person must submit to the marker administrator a statement signed by the applicant and the operator of the pool plant to which the milk will be delivered specifying that the applicant will be the responsible handler for the milk.

§ 1134.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1134.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is delivered to an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1134.13(d);

(3) A dairy farmer whose milk is diverted to a pool plant by a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

(5) A dairy farmer whose milk was received at a pool plant if during the month milk from the same farm was received at a nonpool plant (except a nonpool plant that has no utilization of milk products in any Class other than Class III or Class IV) other than as a diversion under this or some other Federal order.

§ 1134.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer, by a handler described in § 1000.9(c), or by a handler described in § 1134.11. Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of the pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it was picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) or in § 1134.11 in excess of the quantity delivered to pool plants.

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant, a cooperative association described in § 1000.9(c), or a proprietary bulk tank handler described in § 1134.11, to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's milk production of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) Of the quantity of producer milk received during the month (including diversions) the handler diverts to nonpool plants not more than 80 percent;

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in (d)(2) of this section shall not be producer milk. If the diverting handler, cooperative association, or proprietary bulk tank handler fails to designate the dairy farmers' deliveries that are not to be

producer milk, no milk diverted by the handler, cooperative association, or proprietary bulk tank handler during the month to a nonpool plant shall be producer milk. In the event some of the milk of any producer is determined not to be producer milk pursuant to this paragraph, other milk delivered by such producer as producer milk during the month will not be subject to § 1134.12(b)(5); and

(5) The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1134.14 Other source milk.

See § 1000.14 of this chapter.

§ 1134.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1134.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1134.17 [Reserved]

§ 1134.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1134.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1134.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator receives the report on or before the 7th day after the end of each month, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler that operates a pool plant pursuant to § 1134.7, and each handler described in § 1000.9(c) or in § 1134.11, shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, nd pounds of solids-not-fat other than protein (other solids), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and other nonfat solids, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1134.31 Payroll reports.

(a) On or before the 21st day after the end of each month, each handler that operates a pool plant pursuant to § 1134.7 and each handler described in § 1000.9(c) and in § 1134.11 shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1134.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1134.32 Other reports.

In addition to the reports required pursuant to §§ 1134.30 and 1134.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1134.40 Classes of utilization.

See § 1134.40 of this chapter.

§ 1134.41 [Reserved]

§ 1134.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1134.43 General classification rules.

See § 1000.43 of this chapter.

§ 1134.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1134.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1134.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1134.51 Class I differential and price.

The Class I differential shall be the differential established at Salt Lake County, Utah, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Salt Lake County, Utah.

§ 1134.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1134.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1134.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1134.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1000.9(c) and § 1134.11 as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiply the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) [Reserved]

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1134.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1134.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1134.60 for all handlers required to file reports prescribed in § 1134.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1134.60 by the protein price, the other solids price, and the butterfat price, respectively;

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1134.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1134.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1134.62 Announcement of producer prices.

On or before the 12th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) [Reserved]

(f) The average butterfat, protein and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1134.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1134.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 14th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1134.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1134.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) [Reserved]

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1134.60(i) by the producer price differential as adjusted pursuant to § 1134.75 for the location of the plant from which received.

§ 1134.72 Payments from the producer-settlement fund.

No later than the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1134.71(b) exceeds the amount computed pursuant to § 1134.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1134.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) and (c) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) *Partial Payment.* On or before the 25th day of each month to each producer an amount not less than 1.2 times the lowest class price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph; and

(2) *Final Payment.* On or before the 17th day of the following month, not less than an amount computed by the sum of the following:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1134.75;

(ii) The pounds of butterfat in producer milk received times the butterfat price for the month;

(iii) The pounds of protein in producer milk received times the protein price for the month;

(iv) The pounds of other solids in producer milk received times the other solids price for the month;

(v) [Reserved]

(vi) Less any payments made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions made for marketing service pursuant to § 1000.86;

(b) *Partial payment to a cooperative association.* On or before the 24th day of each month each handler shall pay to a cooperative association, which the market administrator determines is authorized by its members to collect payment for their milk, an amount not less than 1.2 times the lowest class price for the preceding month multiplied by the hundredweight of milk received during the first 15 days of the month from such cooperative association, including the milk of producers not members of such cooperative association who the market administrator determines have authorized the cooperative association to collect payment for their milk;

(c) *Final Payment to a cooperative association.* On or before the 16th day of the following month, each handler shall pay to a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk not less than an amount computed pursuant to paragraph (a)(2) of this section for milk received from such cooperative association during the month, including the milk of producers not members of such cooperative association who the market administrator determines have authorized the cooperative association to collect payment for their milk;

(d) If a handler has not received full payment from the market administrator pursuant to § 1134.72 by the payment date specified in paragraph (a), (b), or (c) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association by not more than the amount of such underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer settlement fund, and in the event the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) [Reserved];

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pounds of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1134.74 [Reserved]

§ 1134.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at

which the milk was first physically received by subtracting from the price differential the amount by which the Class I price specified in § 1134.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1134.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1134.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1134.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1134.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

§ 1134.85 Assessment for order administration.

See § 1000.85 of this chapter.

§ 1134.86 Deduction for marketing services.

See § 1000.86 of this chapter.

Dated: January 21, 1998.

Michael V. Dunn,

Assistant Secretary for Marketing and Regulatory Programs.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix A: Summary of Preliminary Suggested Order Consolidation Report

Ten marketing areas are suggested in the preliminary consolidation report. As a means of determining where interrelationships among the current marketing areas are strongest, data relating to the receipts and distribution of fluid milk products by distributing plants were gathered for all known distributing plants located in the 47 contiguous States, not including the State of California, for the month of October 1995. At this time, California is not included as a suggested order area. The 1996 Farm Bill allows for the inclusion of a California Federal milk order if California producers petition for and approve an order. If a California order were included in the suggested Federal order structure at a later time, it would encompass the entire State and would include no area outside the State of California. Although interest in a Federal order has been expressed by some California producer groups, no definite action has been taken.

An analysis of the distribution and procurement patterns of the fluid processing plants, along with other factors, was used to determine which order areas were most closely related. Proposals submitted by the public were also taken into account. The primary criteria used in determining which markets exhibit a sufficient degree of association in terms of sales, procurement, and structural relationships to warrant consolidation were:

1. Overlapping route disposition.
2. Overlapping areas of milk supply.
3. Number of handlers within a market.
4. Natural boundaries.
5. Cooperative association service areas.
6. Features common to existing orders, such as similar multiple component pricing payment plans.
7. Milk utilization in common dairy products.

The requirement to consolidate existing marketing areas does not specify expansion of regulation to previously nonfederally regulated areas where such expansion would have the effect of regulating handlers not currently regulated. However, a number of the current marketing areas enclose unregulated areas. These ''pockets'' are included in the suggested merged marketing areas only if their inclusion does not change the current regulatory status of a plant. In the process of consolidating marketing areas, some handlers who currently are partially regulated may become fully regulated because their sales in a combined marketing area will likely meet the pooling standards of a suggested consolidated order. Further expansion of the marketing areas, which would result in regulating additional handlers, is an issue that should be addressed by the industry. Proposals to take such action should be accompanied by supporting data, views, and arguments concerning the need and basis for any such expansion.

The 10 suggested consolidated marketing areas and the major reasons for consolidation are:

1. Northeast

Current marketing areas of the New England, New York-New Jersey, and Middle Atlantic Federal milk orders. Reasons for consolidation include the existence of overlapping sales and procurement areas between New England and New York-New Jersey and between New York-New Jersey and Middle Atlantic. The orders are also surrounded by nonfederally regulated territory. A further measure of association is evident by industry efforts to study and pursue consolidation of the three Federal orders, as well as some of the nonfederally regulated territory, prior to the 1996 Farm Bill.

2. Appalachian

Current marketing areas of the Carolina and Tennessee Valley Federal milk orders, and a portion of the Louisville-Lexington-Evansville Federal milk order. Overlapping sales and procurement areas between these marketing areas are major factors for supporting such a consolidation.

3. Florida

Current marketing areas of the Upper Florida, Tampa Bay, and Southeastern Florida Federal milk orders. Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders.

4. Southeast

Current marketing area of the Southeast Federal milk order, plus 1 county from the Louisville-Lexington-Evansville Federal milk order marketing area, 15 currently unregulated Kentucky counties, and 2 currently unregulated northeast Texas counties. Major reasons for this consolidation include sales and procurement area overlaps between the Southeast order and the Kentucky and Texas counties suggested for inclusion. There is minimal sales area overlap with handlers regulated under other Federal orders.

5. Mideast

Current marketing areas of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, and Indiana Federal milk orders, plus most of the current marketing area of the Louisville-Lexington-Evansville Federal milk order, Zone 2 of the Michigan Upper Peninsula Federal milk order, and 12 counties of the Southern Illinois-Eastern Missouri Federal milk order. Major criteria suggesting this consolidation include the overlap of fluid sales in the Ohio Valley marketing area by handlers from the other areas suggested to be consolidated. With the consolidation, most route disposition by handlers located within the suggested Mideast order would be within the marketing area. Also, nearly all milk produced within the area would be pooled under the consolidated order. The portion of the Michigan Upper Peninsula marketing area suggested to be included in the Mideast consolidated area has sales and milk procurement areas in common with the Southern Michigan area and has minimal association with the western end of the current Michigan Upper Peninsula marketing area.

6. Upper Midwest

Current marketing areas of the Chicago Regional and Upper Midwest Federal milk orders, plus Zones I and I(a) of the Michigan Upper Peninsula Federal milk order and seven unregulated or partly unregulated Wisconsin counties. Major consolidation criteria include an overlapping procurement area between the Chicago Regional and Upper Midwest orders, overlapping procurement and route disposition area between the western end of the Michigan Upper Peninsula order and the Chicago Regional order, natural boundary limitations, and the prevalence of cheese as a major manufactured product for the substantial reserve milk supplies that exceed fluid milk needs.

7. Central

Current marketing areas of the Southern Illinois-Eastern Missouri (less 12 counties included in the suggested Mideast marketing area), Central Illinois, Greater Kansas City, Nebraska-Western Iowa (less 11 currently-regulated counties suggested to be unregulated), Eastern South Dakota, Iowa, Southwest Plains, and Eastern Colorado Federal milk orders, plus 63 currently-unregulated counties in seven of the states. Major criteria suggesting this consolidation include the overlapping procurement and route disposition between the current orders. The suggested consolidation would result in a concentration of both the sales and supplies of milk within the consolidated marketing area. The suggested consolidation would combine several relatively small orders and provide for the release of market data without revealing proprietary information. In addition, most of the producers in these areas share membership in several common cooperatives.

8. Southwest

Current marketing areas of the Texas, New Mexico-West Texas, and Central Arizona Federal milk orders. Major criteria suggesting consolidation include sales and procurement area overlaps and common cooperative association membership between the Texas and New Mexico-West Texas marketing areas, and similar marketing concerns with respect to trade with Mexico for all three orders. In addition, there is some route disposition by Central Arizona handlers into the New Mexico-West Texas marketing area, and the Central Arizona market contains a small number of handlers.

9. Western

Current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon, and Great Basin Federal milk orders. Major criteria suggesting consolidation include overlapping sales between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in five Idaho counties. The two orders also share a similar multiple component pricing plan. The Western Colorado order is included because it is a small market where data cannot be released without revealing confidential information unless combined with the adjacent Great Basin order.

10. Pacific Northwest

Current marketing area of the Pacific Northwest Federal milk order plus 1 currently-unregulated county in Oregon. The degree of association with other marketing areas is insufficient to warrant consolidation.

Following is a table summarizing relevant data for the consolidated markets:

CONSOLIDATED MARKET SUMMARY

[Based on October 1995 data]

Consolidated order	Total producer milk (1,000 lbs.)	Number of fully regulated distributing plants	Combined class I utilization (percent)
Northeast	1,934,833	85	46.7
Appalachian	320,198	25	82.5
Florida	200,397	18	88.3
Southeast	443,921	38	84.3
Mideast	[1] 1,140,952	68	57.8
Upper Midwest	[2] 1,046,539	[4] 27	34.2
Central	[3] 932,929	42	50.6
Southwest	861,307	31	48.3
Western	304,793	14	[5] 31.7
Pacific Northwest	501,257	23	36.3
Total	7,687,126	371	n/a

[1] Producer milk for F.O. 44 is included. Producer milk for a F.O. 32 handler who would be pooled under the suggested Mideast market is included in the Central consolidated market.

[2] Producer milk for F.O. 30 and F.O. 68 only.

[3] Producer milk for a F.O. 32 handler that would be in the Mideast consolidated market is included.

[4] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 15.3% combined Class I utilization.

[5] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 21.8% combined Class I utilization.

Appendix B: Summary of Pricing Options

Several options for modifying Class I pricing under the Federal milk market order program, representing a spectrum of views, are discussed in this summary report. The accompanying technical report summarizes all of the comments and proposals received by the Department related to Class I pricing under Federal orders.

Most Class I pricing concepts that were suggested would continue to employ a market-driven basic formula price (BFP) with an added differential. Differentials are a composite of one or more of the following elements: (1) A fixed component, (2) a location adjustment, (3) an adjustor relating to utilization, or (4) the cost of balancing the market. Based on the pricing concepts received, the following options were developed:

Option 1A: Location-Specific Differential

$1.60 per hundredweight fixed differential for three surplus regions (Upper Midwest, West, and Southwest) within a nine-zone national price surface, plus for the other six zones an added component that reflects regional differences in the value of fluid and manufacturing milk.

Option 1B: Modified Location-Specific Differential Option

$1.00 per hundredweight fixed differential plus an added component that reflects the cost of moving bulk milk to deficit markets.

Option 2: Relative Use Differential

$1.60 per hundredweight fixed differential plus a formula-based differential driven by the ratio of Class I milk to all other uses of milk.

Option 3A: Flat Differential Option

$1.60 per hundredweight flat differential, uniformly applied across all orders to generate an identical minimum Class I price.

Option 3B: Flat Differential Modified by Class I Use—

$2.00 per hundredweight differential in markets where Class I utilization is less than 70 percent on an annual basis and a differential equal to $2.00 + $0.075(Class I use %—70%) in markets where the Class I utilization is equal to or exceeds 70 percent.

Option 4: Demand-Based Differential—

$1.00 per hundredweight fixed differential plus a transportation credit based on location of reserve milk supplies.

Estimated Class I differentials are presented for each option to provide a preliminary basis for determining impacts that may occur. The report provides estimated differentials for the suggested 10

consolidated orders and for the current 32 Federal milk marketing orders.

The report concludes by soliciting comments on the options presented and poses a series of questions for the public to address when submitting comments back to the Department on the issue of Class I pricing.

Appendix C: Summary of Classification Report

The Agricultural Marketing Agreement Act of 1937 provides that all milk should be classified ''in accordance with the form in which or the purpose for which it is used.'' This has resulted in a system of uniform classification provisions that places milk used for fluid purposes in the highest use class, Class I, and other manufactured products in lower classes, Classes II, III, and III–A.

Currently products packaged for fluid consumption such as whole milk, skim milk, buttermilk, and flavored milk drinks are classified as Class I products. Class II products include ice cream, yogurt, cottage cheese, and cream. Class III and Class III–A products include cheese, butter, and nonfat dry milk.

Among the changes in classification recommended in the technical report are the following:

- Eggnog would be reclassified from Class II to Class I.
- Any fluid beverage having less than 6.5 percent nonfat milk solids would be reclassified from Class II to Class I.
- Cream cheese would be reclassified from Class III to Class II.

The technical report recommends changing the classification of milk used in nonfat dry milk from Class III–A to Class III. The report recommends that if Class III–A pricing is not eliminated, the following four alternatives be considered:

- Place a floor beneath the Class III–A price;
- Restrict III–A pricing to certain months or to certain markets;
- Provide an up-charge for nonfat dry milk used in higher-valued products; or
- Provide for a combination of these options.

Maintaining the classification of milk used to make nonfat dry milk in Class III–A is also an option, although not discussed in the technical report.

The technical report addresses Class III–A pricing because of industry concerns about the substitution of nonfat dry milk for fluid milk in Class II and III uses when the Class III–A price is substantially below the Class III price.

Appendix D: Summary of Identical Provisions Report

Federal milk marketing orders contain numerous provisions that establish the regulations for the operation of the orders. Over the years, the orders have been individualized to account for specific situations associated with a given marketing area. However, there are several provisions within the orders that are similar or that could be similar and still provide for efficient and orderly marketing of milk.

The technical report does the following:

- Suggests a model for establishing the consolidated orders and provides suggestions on the order language that can be adopted uniformly throughout all orders.
- Reviewed, simplified, modified, and eliminated differences in order provisions that:
- Define various terms used in the orders
- Establish regulatory standards for plants and handlers
- Provide for uniform reporting dates of milk receipts and utilization
- Provide for uniform dates for payment of milk
- Provide for computation of a uniform price
- Reduces performance standards to make it easier for producers to associate with a market.

At this time, it is impossible to determine if there would be any financial impact on producers, handlers, or consumers as a result of any of these suggested provision revisions. It is projected that there will be little impact on the overall program because the changes primarily provide for uniformity. There may be minimal impact on selected individual producers, handlers, or consumers, but this cannot be determined until more specific information is developed regarding the orders (i.e., marketing area and pricing). The suggested identical provisions will be applied to each of the suggested consolidated orders and determinations will be based on the marketing conditions of the given region.

One suggested change in the report that may stimulate some debate is the definition of a producer-handler. The technical report suggests applying the most liberal standard to the producer-handler definition to prevent any producer-handler from becoming regulated as a result of milk order reform. Producer-handlers have been exempt from full regulation because they assume the full risks associated with being a producer and a distributor of milk produced with only occasional and small volumes of milk being purchased from other dairy farmers.

Appendix E: Summary of Basic Formula Price Report

The basic formula price (BFP) is used to determine Federal order prices for milk used in manufactured products and, with the addition of differentials, to determine minimum Class I and II prices for milk pooled under the Federal orders. The current BFP is based on a survey of prices paid for manufacturing grade (Grade B) milk by plants in Minnesota and Wisconsin, updated by month-to-month changes in commodity prices (especially cheese). The continuing decline in the volume of Grade B milk produced in the upper Midwest and nationally is an indication that, in the near future, the M–W price series may not be statistically reliable as an indicator of the value of milk used in manufactured products.

The BFP Committee has received input provided during a public BFP Forum held in Madison, Wisconsin, and from over 200 written public comments, and conducted a survey of transaction prices for manufactured dairy products. The Committee also has sponsored analysis by a group of university researchers, and conducted extensive study and analysis of its own. The BFP Committee evaluated alternatives to the BFP against the criteria of stability, predictability, simplicity, uniformity, transparency, sound economics and reduced regulation. Options identified by the Committee were grouped into the following categories:

Options Considered: Economic formulas, Product price and component formulas, Futures markets, California pricing, Cost of production, Informal rulemaking, Competitive pay price, Pooling differentials only.

At this time, the Committee has identified four options for further discussion and debate:

- A four-class, multiple component pricing plan to price butterfat, protein and lactose used in cheese (Class III), and butterfat and nonfat solids used in butter/powder (Class IV).
- A three-class, multiple component pricing plan to price protein used in cheese, butterfat used in butter, and other nonfat solids used in powder (Class III—one manufacturing class).
- A product price formula computed from the butter, powder and cheese shares of U.S. production, using seasonal product yields and a California cost-based make allowance; and
- A competitive pay price series using a national weighted average price paid for Grade A milk used in manufactured products, updated by a product price formula. The price series would contain an adjuster to attempt to remove the effect of current regulation and to reduce it to a level more comparable to the current BFP.

As a basis for Class I prices, the BFP could be made more stable by using an economic formula or using a moving average of a manufacturing price. Class II prices could be based on components or continue to include a differential from the manufacturing price level.

The BFP Committee is continuing to study and analyze alternatives in response to public comments.

Appendix F: Summary of Revised Preliminary Suggested Order Consolidation Report

The ten marketing areas suggested in the initial preliminary consolidation report have increased to eleven and been modified to some extent in this revised preliminary report. Several of the initially suggested marketing areas were the subjects of numerous comments containing information that indicated that the boundaries of those areas should be re-evaluated. In addition, shifts in regulation and distributing plant distribution areas were known to have occurred. As a result, more detailed and updated (January 1997) data was obtained relating to the receipts of producer milk and distribution of fluid milk products by distributing plants in a number of the initially-suggested order marketing areas. As a result, changes were made in the suggested marketing areas of the Northeast, Appalachian, Southeast, Mideast, Upper Midwest, Central, Southwest, and Western

regions, and a new Arizona-Las Vegas area was added.

An analysis of the distribution and procurement patterns of the fluid processing plants, along with other factors, was used to determine which order areas were most closely related. Proposals submitted by the public were also taken into account. The primary criteria used in determining which markets exhibit a sufficient degree of association in terms of sales, procurement, and structural relationships to warrant consolidation continued to be:

1. Overlapping route disposition.
2. Overlapping areas of milk supply.
3. Number of handlers within a market.
4. Natural boundaries.
5. Cooperative association service areas.
6. Features common to existing orders, such as similar multiple component pricing plans.
7. Milk utilization in common dairy products.

In the initial preliminary report, it was observed that the Farm Bill requirement to consolidate existing marketing areas does not specify expansion of regulation to previously non-Federally regulated areas where such expansion would have the effect of regulating handlers not currently regulated. This revised preliminary report suggests that some currently non-Federally regulated area be added on the basis of comments supported by data, views and arguments filed by interested persons. Specifically, unregulated areas contiguous to the initial suggested consolidated Northeast and Mideast marketing areas are suggested for inclusion in those suggested order areas. Some handlers currently not subject to full Federal order regulation would become pool plants if the suggested areas are added. Handlers who would be affected will be notified of the possible change in their status, and encouraged to comment.

As in the initial preliminary report, ''pockets'' of unregulated areas enclosed in the current marketing areas are included in the suggested consolidated marketing areas if their inclusion does not change the current regulatory status of a plant. However, in the process of consolidating marketing areas, some handlers who currently are partially regulated may become fully regulated because their sales in a combined marketing area will meet the pooling standards of a suggested consolidated order area. As a result, this report suggests that some unregulated areas contiguous to currently-regulated areas be added to Federal order areas where additional handlers would be affected.

The 11 modified suggested marketing areas (with those modified from the initial preliminary report, and the modifications, marked by *) and the major reasons for consolidation are:

***1. Northeast**

Current marketing areas of the New England, New York-New Jersey, and Middle Atlantic Federal milk orders, **with the addition of:* contiguous unregulated areas of New Hampshire, Vermont and New York; the western non-Federally regulated portion of Massachusetts, the Western New York State order area, and Pennsylvania Milk Marketing Board Areas 2 and 3 in northeastern Pennsylvania.

Reasons for consolidation include the existence of overlapping sales and procurement areas between New England and New York-New Jersey and between New York-New Jersey and Middle Atlantic. In several cases, handlers who would become regulated because their total sales in the combined areas would meet pooling standards are located in areas where they compete with handlers who would not be similarly regulated. Handler equity suggests that these handlers, too, should become regulated. Another important measure of association is evidenced by industry efforts to study and pursue consolidation of the three Federal orders, as well as some of the nonfederally regulated territory, prior to the 1996 Farm Bill.

Sixteen additional distributing plants would be pooled as a result of the expansion of the consolidated area. Nine of these plants currently are partially regulated.

***2. Appalachian**

Current marketing areas of the Carolina and Tennessee Valley Federal milk orders, **with the addition of:* all of the Louisville-Lexington-Evansville Federal order area (except one county—in the suggested Southeast area) and 26 currently-unregulated counties in Indiana and Kentucky.

More detailed and updated data showing overlapping sales and procurement areas between these marketing areas are major factors for supporting such a consolidation.

3. Florida

Current marketing areas of the Upper Florida, Tampa Bay, and Southeastern Florida Federal milk orders.

Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders.

***4. Southeast**

Current marketing area of the Southeast Federal milk order, plus 1 county from the Louisville-Lexington-Evansville Federal milk order marketing area, plus 15 currently-unregulated Kentucky counties, **minus* 2 currently-unregulated counties in northeast Texas (in the suggested Southwest area).

Major reasons for this consolidation include sales and procurement area overlaps between the Southeast order and this county. There is minimal sales area overlap with handlers regulated under other Federal orders. Collection of additional data showed greater disposition in the two Texas counties from Texas handlers than from Southeast handlers. There are no handlers in these two counties that would be affected.

***5. Mideast**

Current marketing areas of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, and Indiana Federal milk orders, plus Zone 2 of the Michigan Upper Peninsula Federal milk order, and currently-unregulated counties in Michigan, Indiana, and Ohio **with the addition of:* Pennsylvania Milk Marketing Board Area 6 (in western/central Pennsylvania) and 2 currently-unregulated counties in New York, and **minus* the Louisville-Lexington-Evansville order area, 12 counties in Illinois, and unregulated counties in Indiana and Kentucky that are being suggested for inclusion in the Appalachian area.

Major criteria suggesting this consolidation include the overlap of fluid sales in the Ohio Valley marketing area by handlers from the other areas suggested to be consolidated. With the consolidation, most route disposition by handlers located within the suggested Mideast order would be within the marketing area. Also, nearly all milk produced within the area would be pooled under the consolidated order. The portion of the Michigan Upper Peninsula marketing area suggested to be included in the Mideast consolidated area has sales and milk procurement areas in common with the Southern Michigan area and has minimal association with the western end of the current Michigan Upper Peninsula marketing area.

Collection of additional data and recent changes in marketing patterns indicate that the relationship between the Louisville-Lexington-Evansville (L-L-E) area and the order areas initially included in the suggested Appalachian area is closer than relationship between L-L-E and the Mideast area.

Seven distributing plants that would not have been pool plants as a result of the initially-suggested consolidation would become pool plants due to the suggested expansion of the consolidated area into Pennsylvania and New York. The number of pool plants also is affected by a shift of pool plants from one consolidated area to another because of the shift of territory from the initially-suggested Mideast area to the revised suggested Appalachian area.

***6. Upper Midwest**

Current marketing areas of the Chicago Regional, Upper Midwest, Zones I and I(a) of the Michigan Upper Peninsula Federal milk orders, and unregulated portions of Wisconsin, **with the addition of:* the Iowa, Eastern South Dakota, and most of the Nebraska-Western Iowa Federal order areas, plus currently-unregulated counties in Iowa and Nebraska.

Major consolidation criteria include an overlapping procurement area between the Chicago Regional and Upper Midwest orders and overlapping procurement and route disposition area between the western end of the Michigan Upper Peninsula order and the Chicago Regional order. More-detailed and updated information revealed more significant overlapping procurement and route disposition areas between the Iowa, Eastern South Dakota and Nebraska-Western orders and Chicago Regional and Upper Midwest orders than had been observed in the initial study. In addition, a common pricing plan for producers, natural boundary

limitations, and the prevalence of cheese as a major manufactured product for the substantial reserve milk supplies that exceed fluid milk needs exist in these orders. Some of the western Nebraska area is more closely associated with the Eastern Colorado area, however, and is suggested to remain with the Central consolidated area.

Eleven additional handlers that would have been pooled under the consolidated Central order in the initial Preliminary Report would be pooled under a consolidated Upper Midwest order under this revised report.

***7. Central**

Current marketing areas of the Southern Illinois-Eastern Missouri, Central Illinois, Greater Kansas City, Southwest Plains, and Eastern Colorado Federal milk orders, 10 counties currently in the Nebraska-Western Iowa Federal order area, plus 55 currently-unregulated counties in Kansas, Missouri, Illinois, Nebraska and Colorado, **plus* the 12 counties in the current Southern Illinois-Eastern Missouri area that initially were suggested as part of the consolidated Mideast area, **minus* the Eastern South Dakota, Iowa and most of the Nebraska-Western Iowa Federal order marketing areas.

Major criteria suggesting this consolidation include the overlapping procurement and route disposition between the current orders. The suggested consolidation would result in a concentration of both the sales and supplies of milk within the consolidated marketing area. The suggested consolidation would combine several relatively small orders and provide for the release of market data without revealing proprietary information. In addition, most of the producers in these areas share membership in several common cooperatives.

***8. Southwest**

Current marketing areas of Texas and New Mexico-West Texas Federal milk orders, **with the addition of:* two northeast Texas counties previously suggested to be added to the Southeast marketing area, and 47 currently-unregulated counties in southwest Texas, and **minus* the Central Arizona marketing area.

Major criteria suggesting consolidation include sales and procurement area overlaps and common cooperative association membership between the Texas and New Mexico-West Texas marketing areas, and similar marketing concerns with respect to trade with Mexico for both orders. Addition of the currently-unregulated Texas counties will result in the regulation of no additional handlers, and will reduce handlers' recordkeeping and reporting burden and the market administrator's administrative costs. In the initial consolidation report, the Central Arizona area was found to have a minimal association with the New Mexico-West Texas and Texas order areas. Further analysis showed that it has a much more significant degree of association with the Clark County, Nevada, portion of the current Great Basin order area.

The revised suggested consolidated Southwest area would include 4 fewer fully regulated pool plants as a result of the removal of the Central Arizona area.

***9. Arizona-Las Vegas**

*An eleventh marketing area composed of the current marketing area of the Central Arizona order and the Clark County, Nevada, portion of the current Great Basin marketing area, plus eight currently-unregulated Arizona counties.

The major criterion suggesting consolidation is sales overlap between the sole Las Vegas, Nevada, handler and handlers regulated under the Central Arizona order in both Clark County, Nevada, and unregulated portions of northern Arizona. In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California.

The suggested Arizona-Las Vegas marketing area would include five fully regulated handlers, with no additional handlers regulated because of the addition of the currently-unregulated northern Arizona area.

***10. Western**

Current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon, and Great Basin Federal milk orders, **minus* Clark County, Nevada. Major criteria suggesting consolidation include overlapping sales between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in five Idaho counties. The two orders also share a similar multiple component pricing plan. The Western Colorado order is included because it is a small market where data cannot be released without revealing confidential information unless combined with the adjacent Great Basin order.

Collection of more-detailed data indicates that the strength of earlier relationships between the former Great Basin and Lake Mead orders that justified their 1988 merger have dwindled significantly, with the Las Vegas area now more closely related to southern California and competing most heavily with Central Arizona handlers.

11. Pacific Northwest

Current marketing area of the Pacific Northwest Federal milk order plus 1 currently-unregulated county in Oregon. The degree of association with other marketing areas is insufficient to warrant consolidation.

Following is a table summarizing relevant data for the consolidated markets.

CONSOLIDATED MARKET SUMMARY
[Based on October 1995 Data]

Consolidated order	Number of fully regulated distributing plants		Total producer milk (1000 lbs.)		Combined class I use (percent)		Weighted average utilization value	
	Initial report	Revised report	Initial report	Revised report [1]	Initial report	Revised report	Initial report	Revised report
Northeast	85	92	1,934,833	2,102,620	46.7	49.0	$13.44	$13.49
Appalachian	25	29	320,198	[2] 412,813	82.5	81.5	$14.11	$13.94
Florida	18	16	[3] 200,397	204,541	88.3	88.3	$15.05	$15.05
Southeast	38	40	[4] 443,921	442,705	84.3	84.3	$14.26	$14.25
Mideast	68	68	[5] 1,140,952	1,103,366	57.8	57.2	$12.96	$12.94
Upper Midwest	27	39	[6] 1,046,539	1,354,209	[7] 34.2	[8] 37.6	$12.59	$12.62
Central	42	30	[9] 932,929	599,334	50.6	53.5	$13.15	$13.21
Southwest	31	26	861,307	680,232	48.3	48.1	$13.36	$13.39
Arizona—Las Vegas	N/A	7	N/A	[10] 181,075	N/A	48.9	N/A	$13.26
Western	14	11	304,793	293,714	[11] 31.7	[12] 29.6	$12.79	$12.78
Pacific Northwest	23	21	501,257	493,207	36.3	35.6	$12.45	$12.44
Total	371	379	7,687,126	7,867,816	N/A	N/A	N/A	N/A

[1] Initial report producer deliveries, adjusted to include only those handlers who would be fully regulated (i.e. Status = 1) in the revised suggested marketing area, unless otherwise noted. When applicable, producer deliveries for currently non-Federally regulated plants which would be fully regulated in a revised suggested consolidated order are included in the appropriate suggested consolidated order.

[2] Includes producer milk for one currently fully regulated plant which would be exempt (i.e. Status = 3B) in the Appalachian market in the revised preliminary report.

[3] Excludes producer milk for one currently fully regulated F.O. 7 plant which would be regulated in the Florida market in the initial preliminary report.

[4] Includes producer milk for one currently fully regulated F.O. 7 plant which would be regulated in the Florida market in the initial preliminary report.

[5] Producer milk for F.O. 44 is included. Producer milk for a F.O. 32 handler who would be pooled under the initially-suggested Mideast market is included in the initially-suggested Central market.

[6] Producer milk for F.O. 30 and F.O. 68 only.

[7] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 15.3% combined Class I utilization.

[8] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 19.7% combined Class I utilization.

[9] Includes producer milk for a F.O. 32 handler that would be in the initially-suggested Mideast market.

[10] Excludes producer milk for one currently fully regulated F.O. 139 plant and one currently unregulated plant which would be regulated in the Arizona-Las Vegas market in the revised preliminary report.

[11] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 21.8% combined Class I utilization.

[12] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 21.6% combined Class I utilization.

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Part III

Department of State

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates; Final Rule

DEPARTMENT OF STATE

22 CFR Parts 22, 51, and 53

Public Notice 2711

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates

AGENCY: Bureau of Consular Affairs, State Department.

ACTION: Final rule.

SUMMARY: This final rule sets forth the fees for consular services to take effect on February 1, 1998, and makes appropriate implementing and other related changes in affected portions of Title 22 of the Code of Federal Regulations. Specifically, the rule makes changes in the Schedule of Fees for Consular Services (''Schedule of Fees'' or ''Schedule'') published in 22 CFR 22.1 and makes technical changes to 22 CFR part 51 (concerning passport fees) and 22 CFR part 53. The changes to the Schedule of Fees include adjustments to existing fees and the new processing fee for diversity visa applicants (see 22 CFR 42.33(i)), which took effect on October 1, 1997. The primary objective of the adjustments to the Schedule of Fees is to ensure that the costs of consular services are recovered through user fees to the maximum extent appropriate and permitted by law. As a result of new data on the cost of services, the passport fee is being lowered while most other fees are being increased. In addition, the Schedule of Fees is being restructured and streamlined. Fees for antiquated services no longer performed are being removed and fees for other services are being consolidated or more appropriately located, making the Schedule easier to read and understand. Consular services that will be performed for no fee are being added to the Schedule to facilitate tracking these services and to inform the public of all significant consular services provided by the Department.

The revised Schedule of Consular Fees was published as a proposed rule in the **Federal Register** on December 1, 1997 (62 FR 63478–85). During the 30-day public comment period, a small number of comments were received from the general public. Those comments are addressed under Supplementary Information below. For the reasons explained, the Department is setting consular fees as originally proposed, but will be making some changes in its crew list visa procedures to address concerns raised by some members of the shipping industry. Minor technical changes are being made in the wording of the Schedule for purposes of clarification.

DATES: The effective date for these changes is February 1, 1998.

FOR FURTHER INFORMATION CONTACT: Sally Light, Office of the Executive Director, Bureau of Consular Affairs, telephone (202) 647–1148; telefax (202) 647–3677.

SUPPLEMENTARY INFORMATION: The public comments received by the Department focused on three of the proposed changes in the Schedule of Consular Fees: the imposition of the nonimmigrant visa processing fee on each individual covered by a crew list visa; the increase in visa fees; and the increase in the notarial fee. One commentator also objected as a general matter to the increases in fees, noting particularly, in addition to the notarial fee, the citizenship adjudication fee and immigrant visa fees. The Department's response to the comments received is described below.

Crew List Visas

The Department received comments from four foreign shipping associations and four foreign shipping companies expressing concern about the proposal to charge the nonimmigrant visa processing fee for each person listed on a crew list for purposes of obtaining a crew list visa. These commentators generally expressed concern about the perceived increase in costs that would result from the proposed fee and noted the special status of alien crewmen and the special function of the crew list visa. The Department recognizes that the crew list visa serves a special function and is conceptually different from an individual nonimmigrant visa application. Central and common to consular processing of both the crew list and the individual visa application, however, is the automated namecheck that must be done for each person in question. This is the single largest cost factor in determining an individual alien's eligibility. Moreover, changes in nonimmigrant visa processing have led to a situation where it is often cheaper to process 50 individual visa applications than a crew list with 50 names. For example, a travel agency might submit 50 individual applications with machine readable passports under a post's mail-in program. To review those applications, the post would scan the passports and obtain the namecheck results quickly and efficiently. In the case of the crew list, in contrast, the names of all 50 crew generally would have to be manually entered before the namecheck could be performed. The process in either case would be essentially the same, but the processing of the crew list would be more costly.

These similarities create a strong presumption in favor of charging the same fee for each person on a crew list as is charged for processing a nonimmigrant visa application. While some nonimmigrant visa applications may entail documentation and interviews not generally required in the context of crew list visa processing, the same is true of crew list visas, which may take very little time or a great deal of time to process. Also, while a crew list visa is valid only for six months and a single entry, some nonimmigrant visas are similarly single-entry short-duration visas (sometimes as short as one month). While the Department could establish separate fees for each kind of visa, it instead decided to average the costs of all nonimmigrant visa applications into a single, uniform fee and to include crew list visas in this average. Establishing a single uniform fee vastly simplifies and improves the efficiency of the Department's fee collection procedures, a goal that is particularly important given the large number of countries in which the Department has consular operations and the challenge of reconciling millions of visa issuances with collections. In many countries, banks are now collecting the nonimmigrant visa processing fee from applicants who must go to the bank and obtain a payment voucher before applying at the consulate; having a single fee makes this banking function simpler and the Department's bank contracts easier to administer. Conversely, to attempt to establish different fees for different services within the general class of nonimmigrant visa services would create administrative and operational issues that would in themselves impose additional costs on the Department.

These considerations have prompted the Department to adhere to its original decision to charge for crew list visas on the same basis that it charges for nonimmigrant visas generally. The Department has decided, however, to make some changes in its crew list practices that will help mitigate the cost of this service for the shipping industry and ensure that ship owners receive maximum possible value each time the fee is paid. At present, to obtain a crew list visa, a ship owner pays the crew list fee, which varies by size of crew (and which at present is well below cost). The owner also pays the MRV fee once, since one machine readable visa is placed on the list. The crew list with its visa is given by the shipper to INS at the ship's port of entry. If the ship plans to enter at a second U.S. port, it must

obtain a second visaed crew list, paying the crew list and MRV fees a second time. The more ports are entered, the more costly this procedure. Under the Department's new procedures, when the crew list visa is originally requested, the shipper will be able to submit multiple copies of the crew list, one for each U.S. port of entry anticipated within six months of visa issuance. When the namechecks are completed, each copy of the crew list will be visaed. The $45 per name fee will be paid only once for each name checked, there will be no separate fee for the visa itself (since that cost is covered by the $45), and there will be no additional charge for the visas placed on multiple copies. This procedure will ensure that the Department recovers its costs for the work actually done and maintains its simplified fee collection process while also maximizing the value received by the ship owner. The Department anticipates working closely with the shipping industry and the Immigration and Naturalization Service (INS) on these and related arrangements to ensure that the crew list visa process works smoothly and efficiently.

Notarials

The Department received comments from two overseas American citizens associations and six Americans residing abroad protesting the increase in the notarial fee from $10 to $55. Some commentators took the view that the proposed fee must be exorbitant because notarials in their experience do not take long to perform—one commentator thought a ''few'' minutes, another five, another ten. One organization representing Americans abroad assumed that the proposed fee of $55 was based on ''what the market will bear''. The Department inferred from some of these comments that it had not adequately explained the basis for the proposed fee and that it may inadvertently have caused readers to infer, wrongly, that the fee was being set above cost in order to discourage persons from seeking notarial services from our consulates instead of from local notaries. In fact, the $55 proposed fee is based on the actual cost of services, averaged worldwide. On a worldwide basis, while some notarials are very time-consuming because they involve complex documents, the average notarial takes four minutes of foreign service national employee (FSN) time and ten minutes of consular officer time. The hourly cost of an FSN, again on a worldwide average, when ''full loaded''—i.e., when direct and indirect costs are included, is $164. The comparable figure for a consular officer is $393. Using these hourly rates and applying them to the four and ten minutes required, on average, results in a cost of $27 of FSN and $26 of consular officer time per notarial service, or a total of $53, which is the primary consideration behind the $55 fee.

Thus, the fee reflects the simple reality that it is very expensive for the United States to maintain consular facilities abroad to provide notarial and other consular services. Once the cost of service has been determined, the question is whether the actual user of the service should bear the cost or whether the cost should be subsidized by non-users. As explained when the fee was proposed, the key consideration for the Department is the conclusion that having the actual users of notarial services bear the cost of service is more appropriate than having the user of the service pay less than cost and allocating the costs not paid by the user to passport applicants, as has been done in the past to hold the fee for notarial services well below costs. Allocating the cost to passport applicants creates two anomalies: first, most passport applicants never use notarial services; second, the actual user of notarial services may be a non-U.S. citizen or a business entity or representative and not a U.S. passport holder. In addition, as the Department noted in the proposed rule, the practice of pricing notarial services well below cost has had an adverse impact on consular workload. This is certainly an appropriate factor for the Department to consider in deciding whether to set the cost of notarial services at cost or below costs. (The Department emphasizes, however, that it is not setting the fee at ''market price'' or otherwise above cost.)

The Department further notes that it is allocating to the passport fee a variety of emergency and citizenship services that it believes are appropriately borne by all passport holders and that it is setting a single passport fee, which will result in domestic passport applicants subsidizing the cost of providing passport processing services abroad. (It costs $205 to issue a passport overseas.) The Department believes it is in the public interest for all passport applicants to subsidize the costs of some services performed for American citizens overseas. One low worldwide passport fee furthers the public interest of documenting Americans overseas. Thus, for example, while the cost of issuing a Report of Birth overseas is $160, most of that cost is included in the passport fee. The cost of registration of American citizens at our embassies and consulates overseas to ensure their protection in the event of a crisis also is included in the passport fee. Finally, the passport fee includes the costs of performing all death, arrest, welfare and whereabouts, and other unpredictable emergency services for Americans overseas.

Notarial services, in contrast, are not emergency services performed for Americans in distress or citizenship documentation services. There is no public interest in requiring passport applicants to subsidize private business or legal transactions for Americans and non-Americans overseas. Thus, this is a consular service for which the Department believes it is appropriate to expect the actual user to pay the full cost. Having reviewed and considered the comments received, the Department will establish the fee as previously proposed.

Other Comments

One organization representing Americans abroad also expressed concern that the citizenship adjudication fee could discourage some individuals from verifying their citizenship. The Department recognizes an affirmative policy interest in having American citizens documented as such, and has relied upon this policy consideration to allocate some citizenship documentation costs to the worldwide passport fee (e.g., consular reports of birth abroad and passports issued overseas). In setting the fee for citizenship adjudication, however, the Department was faced with additional considerations. As explained previously, this service is generally required in complex, time-consuming cases in which the citizen was not documented prior to age 18. The delay in documenting contributes to making these cases more difficult and is most often the responsibility of the applicant and/or the applicant's parents. Setting the fee at cost ensures that the actual user pays and may, in the long term, encourage persons with citizenship claims to seek documentation at an earlier time, when documentation will be easier. In addition, INS provides the same service. If the Department's fee is lower than the INS fee, as has been the case, there will be some incentive for this work to shift from INS to State. For the Department to set its fee for this service below cost would invariably contribute to any such incentive—an undesirable result given the existing strains on overseas consular resources. The Department continues to believe that these countervailing considerations counsel in favor of setting the fee at cost, and having the actual user of the service pay for it in full, rather than setting the fee below cost with the

balance of the cost reallocated elsewhere.

Regulatory Findings

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35. This rule has been reviewed as required by E.O. 12988 and determined to be in compliance therewith. This rule is exempt from E.O. 12866 but has been reviewed internally by the Department to ensure consistency with the objectives thereof and by OMB in light of its public policy implications. OMB has determined that the rule would in any event not constitute a significant regulatory action under E.O. 12866.

Effective Date—Good Cause Exception

The new Schedule of Consular Fees will take effect February 1, 1998, as originally indicated when the proposed rule was published. Pursuant to 5 U.S.C. 553(d), there is good cause not to delay the effective date past February 1. Delaying the effective date could cause distortions in the Department's workload and strain already strained resources, if the Department's customers sought to time their use of services in light of anticipated increases or decreases in the applicable fees. One of the most significant changes is the reduction in the passport fees, and it is in the public interest to pass that savings on to the public immediately. In this connection, the Department notes that February 1 is when it begins to see an increase in passport applications associated with planned spring and summer travel. The Department estimates that putting the new passport fee into effect February 1, rather than March 1, will save passport applicants over $4 million, and that roughly $1 million will be saved in the first week of February alone. On the other hand, to the extent fees are being increased to reflect actual costs, it is clearly in the government's interest to begin collections under the new schedule as soon as possible. Beginning collections as soon as possible will minimize the extent to which the taxpayer is subsidizing services that should be paid for by the user. A substantial portion will be retained by the Department for its border security program. The Department has previously noted the high priority placed on upgrading and otherwise improving its border security program, particularly since the World Trade Center bombing, and the program could be adversely affected by the loss of revenues that would result from delaying the effective date. Finally, notice of the Department's proposal was first given on December 1, 1997, and no changes are being made in the fees as originally proposed.

List of Subjects

22 CFR Part 22

Consular services, Fees, Schedule of fees for consular services, Passports and visas.

22 CFR Part 51

Passports, fees.

22 CFR Part 53

Passport requirement and exceptions.

Accordingly, parts 22, 51, and 53 are amended as follows:

PART 22—[AMENDED]

1. The authority citation for part 22 is revised to read as follows:

Authority: 8 U.S.C. 1153 note, 1351, 1351 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 2504(a), 4201, 4206, 4215, 4219; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632, 3 CFR, 1954–1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR, 1966–1970 Comp., p. 570.

2. Section 22.1 is revised to read as follows:

§ 22.1 Schedule of fees.

Item No.	Fee
Passport and Citizenship Services	
1. Passport Services:	
(a) Execution. Required for first-time applicants and renewals under age 16	$15.00.
(b) First-time issuance:	
(1) Applicants age 16 or over	$45.00 plus expedited processing fee if applicable.
(2) Applicants under age 16	$25.00 plus expedited processing fee if applicable.
(c) Subsequent issuance (renewal):	
(1) Applicants age 16 or over	$40.00 plus expedited processing fee if applicable.
(2) Applicants under age 16	$25.00 plus expedited processing fee if applicable.
(d) Expedited service (exclusive of express mail charges) not applicable overseas:	
(1) Requested guaranteed 3-day service	$35.00.
(2) In-person service at a U.S. Passport Agency, unless the Department has determined that the applicant is required to apply at a U.S. Passport Agency.	$35.00.
2. Exemptions: The following applicants are exempted from passport fees:	
(a) Officers or employees of the United States proceeding abroad or returning to the United States in the discharge of their official duties, or their immediate family members (22 U.S.C. 214).	No fee.
(b) American seamen who require a passport in connection with their duties aboard an American flag vessel (22 U.S.C. 214).	No fee.
(c) Widows, children, parents, or siblings of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C. 214).	No fee.
(d) Employees of the American National Red Cross proceeding abroad as members of the Armed Forces of the United States (10 U.S.C. 2602(c)).	No fee.
(e) Peace Corps and Volunteer Leaders deemed to be employees of the United States for purposes of exemption from passport fees (22 U.S.C. 2504(a)).	No fee.
3. File search and verification of U.S. citizenship when applicant has not presented evidence of citizenship and previous records must be searched. (This fee will not be charged when the applicant's passport was stolen or lost overseas or when one of the exemptions in item 38 is applicable.).	$15.00.

Item No.	Fee
4. Determination or adjudication of U.S. citizenship for applicants born overseas who have not presented a U.S. passport, Report of Birth Abroad of a Citizen of the United States, or Certificate of Naturalization or Citizenship from the Immigration and Naturalization Service.	$100.00.
5. Passport amendments, to add current or new information, change a name, extend a previous passport time limitation, correct an administrative error, validate a passport for travel to restricted countries, or add extra pages.	No fee.
6. Passport waiver (22 CFR 53.2(h), Passport requirement and exceptions)	No fee.
7. Registration of a U.S. Citizen at a U.S. Embassy or Consulate when documentary proof of U.S. citizenship has been presented.	No fee.
8. Report of Birth Abroad of a Citizen of the United States (includes new no. 4)	$40.00.
9. Issuance of Replacement Report of Birth Abroad of a Citizen of the United States by the Department of State in Washington. For fees relating to obtaining documents from passport files and related records, see Documentary Services, item 35 and succeeding.	$40.00.
(Item nos. 10 through 14 vacant.)	
Overseas Citizens Services	
General Overseas Assistance:	
15. Arrest visits	No fee.
16. Assistance regarding the welfare and whereabouts of a U.S. Citizen, including child custody inquiries.	No fee.
17. Loan processing:	
(a) Repatriation loans	No fee.
(b) Emergency dietary assistance loans	No fee.
(Item Nos. 18–20 vacant.)	
Death and Estate Services:	
21. Identification of remains and consultation with family members of a U.S. Citizen	No fee.
22. Assistance to the next-of-kin in making arrangements for shipping or other disposition of remains of a U.S. Citizen.	No fee.
23. Affidavit attesting to preparation and packing of remains of a U.S. Citizen	No fee.
24. Issuance of consular mortuary certificate on behalf of a U.S. Citizen	No fee.
25. Assistance in transshipment of remains of a foreign national to or through the United States, including documentation covered by items 23 and 24.	$700.00.
26. Preparation of Report of Death of an American Citizen Abroad, including sending copies to legal representative and closest known relative or relatives.	No fee.
27. Acting as a provisional conservator of estates of U.S. Citizens (other than U.S. Government employees), by taking possession of, making an inventory, and placing the official seal.	No fee.
28. Acting as a provisional conservator of estates of U.S. Citizens (other than U.S. Government employees), by overseeing the appraisal, sale, and final disposition of the estate, disbursing funds, forwarding securities, etc.:	
(a) Estates under $10,000	No fee.
(b) Estates $10,000 or more, for rendering services additional to taking possession, inventorying, and placing the official seal.	Consular time (item 70) and costs.
(Item no. 29 vacant.)	
Services Relating to Vessels and Seamen	
30. Shipping and seamen services, including recording of bill of sale of vessel purchased abroad, taking of application for certificate of American ownership, and investigation.	Per service, $80.00.
31. Documentary services related to shipping, including issuance of certificate of American ownership	Per service, $650.00 plus costs incurred.
32. Services provided for an American vessel (a vessel with a certificate of American ownership) or American seamen. (22 U.S.C. 4206).	No fee.
(Items nos. 33–34 vacant.)	
Documentary Services	
35. Notarials	$55.00.
36. Certifications:	
(a) Certifying under official seal that a copy or extract made from an official or a private document is a true copy.	$20.00; each additional copy $10.00.
(b) Certifying under official seal a statement or extract from official files or a statement that no record of an official file can be located.	$20.00; each additional copy $10.00.
(c) Certifying the fact of issuance of a Report of Birth Abroad of a Citizen of the United States and certifying copies of documents relating to births, marriages, and deaths of citizens abroad issued by a U.S. Embassy or Consulate (obtainable from the Department of State, Washington, D.C.).	$20.00; each additional copy $10.00.
37. Authentications:	
(a) Certifying to official character of a foreign notary or other official (i.e., authenticating a document).	$32.00.
(b) Authenticating a federal, state, or territorial seal, or certifying to the official status of an officer of the United States Department of State or of a foreign diplomatic or consular officer accredited to or recognized by the United States Government, or any document submitted to the Department for that purpose.	$32.00.

Item No.	Fee
38. Exemptions: Notarial, certification, and authentication fees (items 35, 36, and 37) or passport file search fees (item 3) will not be charged when the service is performed:	
(a) At the direct request of any federal government agency (unless substantial costs would be incurred).	No fee.
(b) At the direct request of any state or local government, the District of Columbia, or any of the territories or possessions of the United States (unless substantial costs would be incurred).	No fee.
(c) With respect to documents to be presented by claimants, beneficiaries, or their witnesses in connection with obtaining federal, state, or municipal monetary benefits.	No fee.
(d) For American citizens outside the United States preparing ballots for any public election in the United States or any of its territories.	No fee.
(e) At the direct request of a foreign government or an international agency of which the United States is a member if the documents are for official noncommercial use.	No fee.
(f) At the direct request of a foreign government official when appropriate or as a reciprocal courtesy.	No fee.
(g) At the direct request of U.S. Government personnel, Peace Corps volunteers, or their dependents stationed or travelling officially in a foreign country.	No fee.
(h) With respect to documents whose production is ordered by a court of competent jurisdiction	No fee.
(i) With respect to affidavits of support for immigrant visa applications	No fee.
39. Executing commissions to take testimony in connection with foreign documents for use in criminal cases when the commission is accompanied by an order of federal court on behalf of an indigent party.	No fee.
40. Providing seal and certificate for return of letters rogatory executed by foreign officials	$455.00.
41. Taking depositions or executing commissions to take testimony	Per hour, $200.00 plus costs incurred.
(Items nos. 42–49 vacant.)	
Visa Services	
50. Immigrant visa application processing fee	$260.00.
51. Immigrant visa application surcharge for Diversity Visa Lottery	$75.00.
52. Immigrant visa issuance fee	$65.00.
53. Refugee case preparation and processing	No fee.
54. Nonimmigrant visa application processing fee	$45.00.
55. EXEMPTIONS from nonimmigrant visa application processing fee:	
(a) Applicants for A, G, C–2, C–3, and NATO visas	No fee.
(b) Applicants for J visas participating in official U.S. Government (USIA or USAID) sponsored educational and cultural exchanges.	No fee.
(c) Persons issued replacement machine readable visas when the original machine readable visa has not adhered to the passport or other travel document through no fault of the applicant.	No fee.
(d) Persons exempted by international agreement as determined by the Department	No fee.
(e) Persons travelling to participate in charitable activities as determined by the Department	No fee.
56. Nonimmigrant visa issuance fee, including border crossing cards	RECIPROCAL.
57. EXEMPTIONS from nonimmigrant visa issuance fee:	
(a) An official representative of a foreign government or an international or regional organization of which the U.S. is a member.	No fee.
(b) An applicant transiting to and from the United Nations headquarters	No fee.
(c) An applicant participating in a U.S. Government sponsored program	No fee.
(d) Persons travelling to participate in charitable activities as determined by the Department	No fee.
58. Visa fingerprinting	$25.00.
59. Special visa processing services for aliens:	
(a) Returning resident status	$50.00.
(b) Transportation letter (unless waived in significant public benefit parole cases)	$120.00.
(c) Waiver of immigrant visa ineligibility (collected for INS; subject to change)	$95.00.
60. Filing immigrant visa petition (collected for INS; subject to change)	$80.00.
(Items nos. 61–64 vacant.)	
Administrative Services	
65. Non-emergency telephone calls	Local long distance rate plus $10.00.
66. Setting up and maintaining a trust account for 1 year or less to transfer funds to or for the benefit of an American in need in a foreign country.	$20.00.
67. Transportation charges incurred in the performance of fee and no-fee services when appropriate and necessary.	Costs incurred.
68. Emergency passport photo service overseas	No fee.
69. Return check processing fee (only in the United States)	$25.00.
70. Consular time charges as required by this schedule or for fee services performed away from the office or after-duty-hours.	Per hour, $180.00 plus costs incurred.
71. Photocopies (provided other than pursuant to 22 CFR Part 171 or order of a court of competent jurisdiction).	Per page, $1.00.
(Item nos. 72–80 vacant.)	

§ 22.8 [Removed]

3. Section 22.8 is removed.

PART 51—[AMENDED]

4. The authority citation for part 51 is revised to read as follows:

Authority: 22 U.S.C. 211a, 212, 213, 214, 214a, 216, 217a, 2671(d); 31 U.S.C. 9701; Sec. 129, Pub. L. 102–138, 105 Stat. 661; E.O. 11295, 36 FR 10603, 3 CFR, 1966–1970 Comp., p. 570.

5. Section 51.61 is revised to read as follows:

§ 51.61 Passport fees.

Fees, including execution fees, shall be collected for the following passport services in the amounts prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1):

(a) A fee for each passport issued, which fee shall vary depending on whether the passport is issued to a first-time applicant or a renewal applicant and on the age of the applicant. The passport issuance fee shall be paid by all applicants at the time of application, except as provided in § 51.62(a).

(b) A fee for execution of the passport application, except as provided in § 51.62 (b), when the applicant is required to execute the application in person before a person authorized to administer oaths for passport purposes. This fee shall be collected as part of the passport issuance fee at the time of application and is not refundable (see 22 CFR 51.65). When execution services are provided by an official of a state or local government or of the United States Postal Service, the fee may be retained by that entity to cover the costs of service, pursuant to an appropriate agreement with the Department of State.

(c) A fee for expedited services, if any, provided pursuant to 22 CFR 51.66.

6. Section 51.62 is removed and §§ 51.63 through 51.66 are redesignated as §§ 51.62 through 51.65, respectively.

7. Newly redesignated § 51.63 is amended in paragraph (a) by changing ''§ 51.63'' to read ''§ 51.62'', and in paragraph (f) by changing ''§ 51.67'' to read ''§ 51.66''.

8. Newly redesignated § 51.66 is amended by revising paragraphs (a) and (c) to read as follows:

§ 51.66 Expedited passport processing.

(a) Within the United States, an applicant for a passport service (including issuance, amendment, extension, or the addition of visa pages) may request expedited processing by a Passport Agency. All requests by applicants for in-person services at a Passport Agency shall be considered requests for expedited processing, unless the Department has determined that the applicant is required to apply at a U.S. Passport Agency.

* * * * *

(c) A fee shall be collected for expedited processing service in the amount prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1). This amount will be in addition to any other applicable fee and does not include urgent mailing costs, if any.

PART 53—PASSPORT REQUIREMENT AND EXCEPTIONS

9. The title of Part 53 is revised to read as set forth above.

10. The authority citation for part 53 is revised to read as follows:

Authority: 8 U.S.C. 1185; Proc. 3004, 18 FR 489, 3 CFR, 1949–1953 Comp., p. 180.

Dated: January 22, 1998.

Bonnie M. Cohen,

Under Secretary for Management.

[FR Doc. 98–1996 Filed 1–29–98; 8:45 am]

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Friday
January 30, 1998

Part IV

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 413

Medicare and Medicaid Programs; Salary Equivalency Guidelines for Physical Therapy, Respiratory Therapy, Speech Language Pathology, and Occupational Therapy Services; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[HCFA–1808–F]

RIN 0938–AG70

Medicare and Medicaid Programs; Salary Equivalency Guidelines for Physical Therapy, Respiratory Therapy, Speech Language Pathology, and Occupational Therapy Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule sets forth revisions to the salary equivalency guidelines for Medicare payment for the reasonable costs of physical therapy and respiratory therapy services furnished under arrangements by an outside contractor. This final rule also sets forth new salary equivalency guidelines for Medicare payment for the reasonable costs of speech language pathology and occupational therapy services furnished under arrangements by an outside contractor. The guidelines do not apply to inpatient hospital services and hospice services. The guidelines will be used by Medicare fiscal intermediaries to determine the maximum allowable cost of those services.

EFFECTIVE DATE: This rule is effective April 1, 1998. The rule is applicable for services furnished on or after April 1, 1998. This rule is a major rule as defined in Title 5, United States Code, section 804(2). Pursuant to 5 U.S.C. section 801(a)(1)(A), we have submitted a report to Congress on this rule.

ADDRESSES: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1530 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jackie Gordon, (410) 786–4517.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(5) of the Social Security Act (the Act) requires the Secretary to determine the reasonable cost of services furnished to Medicare beneficiaries ''under an arrangement'' with a provider of services, by therapists or other health-related personnel. The Health Care Financing Administration (HCFA) pays the provider directly for these services, rather than paying the therapist or supplying organization. Under section 1861(w)(1) of the Act, this payment discharges the beneficiary from liability to pay for the services. Section 1861(v)(5) of the Act also specifies that the reasonable costs for these services may not exceed an amount equal to the salary that would reasonably have been paid for the services (together with any additional costs that would have been incurred by the provider or other organization) to the person performing them if they had been performed in an employment relationship with a provider or other organization (rather than under such arrangement), plus allowances for certain expenses that may be incurred by the contracting therapy organization in furnishing the services as the Secretary in regulations determines to be appropriate.

These statutory requirements are implemented in existing regulations at 42 CFR 413.106. The regulations apply to the services of physical, occupational, speech language pathologists, and other therapists and services of other health specialists (other than physicians) furnished under arrangements with a provider of services, a clinic, a rehabilitation agency, or a public health agency. The regulations provide for:

- Hourly salary equivalency amounts comprised of:

—A prevailing hourly salary rate based on the 75th percentile of the range of salaries paid to full-time employee therapists by providers in the geographic area, by type of therapy.

—Fringe benefit and expense factors to take into account fringe benefits generally received by an employee therapist, as well as expenses (such as maintaining an office, insurance, etc.) that a therapist or therapist organization might incur in furnishing services under arrangements.

- A standard travel allowance to recognize time spent in traveling to the provider's site or the patient's home.
- As provided for in existing regulations at § 413.106(e) and explained in section 1412 of the Provider Reimbursement Manual, the following are additional allowances for costs incurred for services furnished by an outside supplier. In addition to the guidelines established for the adjusted hourly salary equivalency amount and the travel allowance, the following costs incurred for services furnished by an outside supplier are recognized, provided the services are properly documented as having been received by the provider.

—Overtime, if an outside supplier utilizes the services of its employees (including the services of aides and assistants) at an individual provider in excess of the provider's standard workweek. Several commenters stated that there should be no limits on overtime compensation. The proposed rule did not specifically introduce new limits on payment for overtime. The proposed rule provided that a provider would receive payment for overtime but if the therapist worked over 40 hours it would not receive the expense factor portion of the hourly salary equivalency guideline amount.

—Administrative and supervisory duties, if an outside supplier provides more than one therapist and at least one therapist spends more than 20 percent of his or her time supervising other therapists and performing administrative duties.

—Depreciable or leased equipment, including maintenance costs of equipment remaining at the provider's site, that the outside supplier uses in furnishing direct services to the provider's patients (may also include equipment that is transported from one provider site to another but excludes equipment owned by the provider).

—Supplies furnished by the supplier for direct patient care (e.g., gases and sprays for respiratory therapy), excluding items such as envelopes, stamps, and typewriters that are reimbursed as overhead expenses and included in the fringe benefit and expense factor.

—Travel expenses, based on 10 times the General Services Administration mileage rate for each day an outside supplier travels to a provider site.

—Aides, who are paid as an add-on. Several commenters requested that we pay aides as a function of the hourly salary equivalency amount at 50 percent of these amounts.

—Assistants, who are paid as a function of the hourly salary equivalency amount at 75 percent of these amounts. (All therapy types use assistants except respiratory therapists.)

The provider must supply the intermediary with documentation that

supports these additional costs to the intermediary's satisfaction. These are the only additional costs that will be recognized.

The regulations at 42 CFR 431.106 (b)(5) and (c) also provide for an exemption for limited part-time or intermittent services if the provider required the services of an outside supplier for a particular type of therapy service and the total hours of services performed for the provider, by type of service, average less than 15 hours per week for those weeks in the cost reporting period during which services were furnished by nonemployee therapists. (Travel time is not counted in the computation, even if the actual time is used.) If a provider qualifies for this exemption, the reasonable cost of such services is evaluated on a reasonable rate per unit of service basis, except that payment for these services in the aggregate, during the cost reporting period, may not exceed the amount that would be allowable had the provider purchased these services on a regular part-time basis for an average of 15 hours per week for the number of weeks in which services were furnished. Where the contract provides for a method of payment other than rate per unit of service (e.g., hourly rate or percentage of charges), payment cannot exceed the guideline adjusted hourly amounts plus other allowable costs, even though the services are performed on a limited or intermittent part-time basis.

In addition, the existing regulations at § 413.106(f)(1) have provided for an exception because of binding contract. An exception was granted to a provider that entered into a written binding contract with a therapist or contracting organization prior to the date the initial guidelines are published for a particular type of therapy. Before the exception was granted, however, the provider was required to submit the contract to its intermediary, subject to review and approval by the HCFA regional office. This exception may be granted for the contract period, but no longer than 1 year from the date that the guidelines for the particular therapy are published. During the period in which a binding contract exception was in effect, the cost of the services was evaluated under the prudent buyer concept. (Section 1414.1 of the Provider Reimbursement Manual contains instructions on this exception.) This exception did not apply to providers who entered into a contingency contract with a therapist or contracting organization or another provider. In a contingency contract, the provider and contractor agree that if Medicare does not reimburse the provider for the rate at which the contract is set, the provider and contractor agree that the contractor will make up the difference. We do not consider a contingency contract a binding contract. (We are eliminating this exception in this final rule. See Section II. On responses to public comments on proposed rule for further discussion.)

Also, the existing regulations at § 413.106(f)(2) provide for an exception for unique circumstances or special labor market conditions. An exception may be granted when a provider demonstrates that the costs for therapy services established by the guidelines are inappropriate to a particular provider because of some unique circumstances or special labor market conditions in the area. As explained in section 1414.2 of the Provider Reimbursement Manual, exceptions will be granted only in extraordinary circumstances. Before the exception may be granted, the provider must submit appropriate evidence to its intermediary to substantiate its claim. The provider's request for an exception, together with substantiating documentation, must be submitted to the intermediary each year, no later than 150 days after the close of the provider's cost reporting period. Because providers had been required to submit cost reports to intermediaries no later than 90 days after the close of their cost reporting periods, we had required that the provider's request for an exception, together with substantiating documentation, also be submitted to the intermediary no later than 90 days after the close of its cost reporting period. On June 27, 1995 (60 FR 33137), we changed the due date for submission of cost reports to 150 days after the close of the provider's cost reporting period. Accordingly, as explained under Section II.F. of this preamble, we are revising the time period for a provider's request for an exception, together with substantiating documentation, to 150 days after the close of its cost reporting period. If the circumstances giving rise to the exception remain unchanged from a prior cost reporting period, however, the provider need only submit evidence to the intermediary 150 days after the close of its cost reporting period to establish that fact.

In order to establish an exception for unique circumstances, the provider must submit evidence to establish that it has some unique method of delivering therapy or other services, which affects its costs, that is different from the other providers in the area. The exception will be effective no earlier than the onset of the unique circumstances.

In order to substantiate an exception for special labor market conditions, the provider must submit evidence enabling the intermediary to establish that the going rate in the area for a particular type of service is higher than the guideline limit and that such services are unavailable at the guideline amounts. It is the duty of the provider to prove to the satisfaction of the intermediary that it has reasonably exhausted all possible sources of this service without success.

The intermediary collects information on the rates that other providers in the area generally pay therapists or other health care specialists. Once this information is collected, the intermediary will determine whether other providers in the area, in comparison to the provider requesting the exception, generally pay therapists or other health care specialists higher rates than the guideline amounts.

Under existing § 413.106(b)(6), HCFA issues guidelines establishing the hourly salary equivalency amounts in geographical areas for therapy services furnished to Medicare beneficiaries under arrangements. These guidelines apply only to the amount of payment the Medicare program makes to a provider for therapy services obtained under arrangements. The guidelines are not intended to dictate or otherwise interfere in the terms of a contract that a provider may wish to enter into with a therapist or therapist organization. The guidelines do not apply to services furnished by employees of a hospital or employees of other providers. There is also an exception to the guidelines for inpatient hospital services provided by hospitals paid under the prospective payment system or subject to rate-of-increase limits (§ 413.106(f)(4)), in which case the services are evaluated under the Medicare program's reasonable cost provisions as described at § 413.5). The salary equivalency guidelines also will not be applied to skilled nursing facilities (SNFs) that are paid under the prospective payment system for therapy services provided under arrangements for cost reporting periods beginning on or after July 1, 1998. (This includes low volume SNFs currently electing prospective payment under section 1888(d) of the Act.) In addition, the salary equivalency guidelines will not be applied to HHAs who are paid under the prospective payment system for therapy services provided under arrangements for cost reporting periods beginning on or after October 1, 1999. The salary equivalency guidelines also will not apply for outpatient therapy services provided by a SNF or an outpatient rehabilitation

provider for services provided to SNF patients on or after July 1, 1998 when payment for those services is made on a fee schedule basis. (Providers of Part B outpatient therapy services provided to Medicare beneficiaries whose nursing home stays are not paid by Medicare will be paid on a fee schedule basis for services furnished on or after July 1, 1998.) The guidelines also will not apply to an outpatient rehabilitation provider, a comprehensive outpatient rehabilitation facility (CORF), an HHA providing outpatient rehabilitation services to patients who are not homebound, or the outpatient department of a hospital when payment for those services is made on a fee schedule basis beginning on January 1, 1999. Shown below is a chart outlining the provisions of the Balanced Budget Act of 1997. The salary equivalency guidelines will cease to apply to the enumerated provider types once the Balanced Budget Act provisions become effective.

Provider type	BBA provision	Effective date
Hospital Outpatient Therapy Services	Payment on a fee schedule basis	Calendar year 1999.
SNF Inpatient Services (Includes therapy services and applies to free-standing and hospital-based providers).	Payment on a Prospective Payment System basis.	Cost reporting periods beginning on or after July 1, 1998.
SNF Outpatient Therapy Services	Fee Schedule	For services beginning July 1, 1998.
CORFs (applies to free-standing and hospital-based providers).	Fee schedule	Calendar year 1999.
Outpatient Rehabilitation Providers	Fee schedule	Calendar year 1999.
CMHCs	Payment under the outpatient hospital Prospective System Payment basis.	Calendar year 1999.
Outpatient Therapy Services Provided by HHA But Not Under HHA benefit.	Fee Schedule	Calendar year 1999.
HHA Services (Includes therapy services and applies to free-standing and hospital-based providers).	Payment on a Prospective System Payment basis.	Cost reporting periods beginning on or after October 1, 1999.

* A $1500 annual limitation on services provided to Medicare beneficiaries will be applied beginning January 1, 1999 where therapy services are provided by providers under the outpatient physical therapy benefit (which includes speech language pathology services) and occupational therapy benefit.

However, we are establishing regulations that provide that the salary equivalency guidelines will apply in situations where compensation, at least in part, to a therapist employed by the provider is based on a fee-for-service or on a percentage of income (or commission). The entire compensation will be subject to the guidelines in cases where the nature of the arrangements are most like an under ''arrangement'' situation, although technically the provider may treat the therapists as employees. The guidelines will be applied in this situation so that an employment relationship is not being used to circumvent the guidelines.

The guidelines apply to SNFs providing therapy services under arrangements that elect prospective payment under section 1888(d) of the Act because that prospective payment system (PPS) only applies to routine and capital services and does not apply to ancillary services which include therapy services.

Section 413.106(d) provides that, prior to the beginning of a period to which a guideline will be applied, HCFA will publish a notice in the **Federal Register** establishing the guideline amounts to be applied to each geographical area by type of therapy. We have issued schedules of salary equivalency guidelines for the reasonable costs of physical therapy services since 1975, and for respiratory therapy services since 1978. On September 30, 1983, we published a final notice (48 FR 44922) that revised the methodology used to establish the schedules, as well as the guidelines themselves. The guidelines continue to apply to physical therapy and respiratory therapy services provided under arrangements, as set forth in § 413.106, with hospitals, home health agencies (HHAs), SNFs, hospital-based HHAs, hospital-based SNFs, CORFs, and outpatient rehabilitation providers (ORPs). (Since we are issuing guidelines for occupational therapists, the guidelines also will apply to community mental health centers (CMHCs) that provide occupational therapy services furnished under arrangements. However, because CMHC therapy services will be paid under the outpatient hospital prospective payment system beginning with services furnished during calendar year 1999, at that time the guidelines will no longer apply to those occupational therapy services).

The September 30, 1983 final notice provided that, for providers with cost reporting periods beginning after October 1, 1982, the published guidelines would be revised upward by the projected 0.6 percent monthly inflation rate, not compounded. It also provided that, if for any reason we did not publish a new schedule of guidelines to be effective for cost reporting periods beginning on or after October 1, 1983 or did not announce other changes in the existing schedule, the existing guidelines would remain in effect, increased by the projected 0.6 percent monthly inflation rate, not compounded, until a new schedule of guidelines was issued. This monthly inflation rate was based on a Data Resources Incorporated (DRI) forecast of the annual rate of increase in each component of the salary equivalency amounts (that is, salary, fringe benefits, rent, and other expenses), with each component weighted to form a composite rate of increase for the 12-month period ending March 31, 1984.

II. Provisions of the March 28, 1997 Proposed Rule

On March 28, 1997 we published in the **Federal Register** a notice of proposed rulemaking (62 FR 14851) that proposed changes in the methodology used to establish the salary equivalency guidelines. We proposed to establish salary equivalency guidelines for occupational therapy and speech-language pathology services that are contracted by providers. We also proposed to revise the guidelines that were currently in place for contracted physical therapy and respiratory therapy services. In the proposed rule:

- The prevailing hourly salary rates were derived:

—From the 75th percentile of hourly therapist salaries of blended data from several sources of hospital and SNF wage rate data (weighted by relative employment levels in hospitals and nursing homes) to develop a national ''best estimate'' of prevailing salary levels as a basis for the guidelines.

—We calculated guideline levels for fourth quarter 1995 and trended forward to April 1998.

• We computed fringe benefits as a percent of total compensation using fiscal year 1994 Medicare cost reports for hospitals under the prospective payment system.

• The expense component was based on an estimate of the costs of maintaining a therapy services office.

• The standard travel allowance was set at 50 percent of the hourly salary equivalency amount.

• The published amounts were to be adjusted to take into account projected rates of inflation that occurred after the initial effective date.

The proposal provided for a 60-day period for public comment. The proposed rule also provided that the guidelines would not be effective until at least 60 days after the date of publication of the final rule.

We received 409 pieces of correspondence on the proposed guidelines. A significant number of comments focused on major aspects of the proposed methodology that required us to perform an extensive evaluation of the methodology before revised guidelines could be issued. A summary of the public comments and our responses follow.

III. Summary of Public Comments and Departmental Responses

A. Data Sources for Salary Equivalency Guidelines

We proposed to use the latest available Bureau of Labor Statistics (BLS) hospital occupational/industry wage survey data along with data from several other sources of hospital and nursing home data to develop the salary equivalency guidelines. This was the first time that we had proposed using data sources in addition to the BLS data in issuing the salary equivalency guidelines. We based this decision on the following:

First, BLS carried out its last hospital occupational/industry wage surveys in 1989 and 1991 and for budgetary reasons has discontinued conducting this survey. Accordingly, even if we had chosen to use BLS survey data as our primary source for the proposed rule, we would have needed to investigate other rehabilitation therapy survey data sources for projecting the 1989 and 1991 data to a current base period such as 1995 and for use in future guidelines. In addition, although the 1989 and 1991 BLS survey data continue to meet the rigorous publication standards of BLS and provide the only statistically reliable national/regional data for wages by occupation of which we are aware, questions have been raised as to whether the BLS data meet the Senate Committee on Finance's recommendation on timeliness. We took this concern into consideration explicitly in the proposed rule. Furthermore, the BLS hospital occupational/industry wage surveys of 1989 and 1991 include only hospital data. The last BLS nursing home occupational/industry wage survey was conducted in 1985. We believed it was reasonable to use combined hospital and SNF wages in the determination of the guidelines as was done previously because therapist wage levels are primarily determined in occupational labor markets, not in separate or isolated industry labor markets. We also needed to review the SNF therapist data so that we could determine the wage levels in SNFs holding all other factors constant (including local labor market conditions, and working conditions).

Comment: We received numerous comments regarding the strengths and weaknesses of the various data sources that we proposed to use to determine the guidelines.

Response: We intend to utilize five additional data sources for hospital wages and two additional data sources for freestanding SNF wages, each of which we discuss in detail below. We acknowledge the commenters observations of strengths and weaknesses present in several of the data sources. However, to delete any one data source would give more weight to the remaining data sources, which have their own strengths and weaknesses. To delete any data source with any weakness relating to statistical reliability would leave only the BLS data which are not as timely as we would have preferred. Although we received many comments about the strengths and weaknesses of the various data sources that we did use, we did not receive compelling evidence to either add or delete any data source or change the equal weight given to each data source.

A summary of the different data sources appears below the summaries of the public comments we received and our responses to those comments.

1. BLS Data—General

BLS collected average hourly earnings (AHE) data for all four types of therapists in 1989. However, the January 1991 BLS survey included only the average hourly earnings for full-time physical and respiratory therapists (BLS January 1991 average hourly earnings for full-time physical and respiratory therapists were found in the BLS *Occupational Wage Survey: Hospitals,* January 1991, pp. 36–119). The hospitals in this survey employed 50 or more workers. We therefore needed to estimate 1991 average hourly wages for speech language pathologists and occupational therapists at the full labor market rate. To do so, we started with the BLS 1989 survey of all four types of therapists as a baseline (*BLS Industry Wage Survey: Hospitals,* March 1989 (the latest previous survey), pp. 33–118). The hospitals in the 1989 survey employed 100 or more workers. Our analysis of the University of Texas survey data for U.S. hospitals indicated that the wages for speech language pathologists and respiratory therapists increased at similar rates between 1989 and 1993. Wages for occupational therapists also increased at rates similar to that for physical therapists during that period. Therefore, we determined that we could employ the 1991 to 1989 growth rates of respiratory therapist wages and of physical therapist wages in order to estimate 1991 wage levels for speech language pathologists and occupational therapists, respectively.

To update the data for the four therapist types from 1991 to later periods, we derived rates of increase for the period from January 1991 through January 1994 (the period which predates the additional data sources that HCFA used) and based 50 percent on American Hospital Association Panel wage data and 50 percent on the average hourly earnings for hospital workers published by the BLS Current Employment Statistics Survey, SIC Code 806 (Hospitals). The additional industry data sources, detailed below, that HCFA used were surveyed in 1994–1995.

For the period from January 1994 through October 1995, we updated the BLS occupational industry wage data for the four therapy types using the BLS Current Employment Statistics Survey for hospital worker hourly earnings. By incorporating the American Hospital Association data, which had a higher rate of increase than the BLS data during the January 1991–January 1994 period, HCFA captured the relatively faster growth in therapist wages during the period, resulting in wage levels that reflected current market conditions in January 1994. As mentioned above, we used the BLS Current Employment Statistics Survey to trend therapist wage increases from 1994 to 1995.

Comment: One commenter stated that most data sources that HCFA used, especially BLS and Mutual of Omaha, were not statistically valid. Specifically, the commenter argued that the BLS data were biased and the extrapolation of the BLS survey to non-surveyed areas was

not a valid statistical procedure, especially since there was no known relationship between surveyed areas and non-surveyed areas. Several commenters noted that the National Association for the Support of Long-Term Care (NASL) and the American Health Care Association (AHCA) surveys provide timely and accurate data and should be the only data sources used for the salary equivalency guidelines in SNFs. One commenter concluded that the BLS survey had a ''high response rate'' and the data were reliable.

Response: We agree that no available data source is ideally suited for all purposes. The data sources used may contain biases that we were unable to remove using standard statistical editing routines. We believe that the biases go in both directions and tend to offset each other. Given that the mean hourly wages of therapists generally cluster in rather small ranges, we believe that an average of the various sources, including any inherent biases, fairly represents the national wage rate for each of the four therapist types. We agree that the NASL and AHCA databases are timely, but each has shortcomings regarding representativeness. We address specific comments concerning the Mutual of Omaha data and the issue of separate salary equivalency guidelines for each setting later.

Comment: One commenter stated that Congress does not want HCFA to use the BLS data because Congress discontinued funding for these surveys in 1992.

Response: Congress discontinued funding for these surveys for reasons unrelated to the salary equivalency guidelines. The BLS surveys were replaced by the Occupational Compensation Survey (OCS). We could not use the OCS because it did not contain the level of detail by occupation required for use in establishing salary equivalency guidelines.

2. National Association for the Support of Long-Term Care (NASL)

In March 1996, NASL, representing a portion of the rehabilitation therapy industry, submitted an October 1995 sample survey of salaried therapists in hospitals and nursing homes to HCFA, as allowed under our regulations. This survey did not meet the requirements of the regulations at § 413.106(b)(6), since the survey design, questionnaires, and instructions were not approved by HCFA prior to the start of the survey. The survey did provide data that were current in SNFs and hospitals, and some documentation was furnished. We, therefore, conducted a special analysis of this NASL survey data, including a limited audit of the survey records. Based on this analysis and limited audit, we determined that the survey was not adequate as a sole or primary source of data in determining the guidelines, but could be useful in combination with other data sources. There were several reasons for this determination:

- The data were not audited or certified by an independent party. We were permitted to conduct an audit of the survey records only under stringent restrictions designed to protect the confidentiality of the survey respondents. Those restrictions made it impossible for us to verify the survey results. For example, we were unable to compare submitted survey data with data from other sources.
- The verification survey, conducted to determine the reliability of data submitted by mail, did not appear to be adequate. Only five providers were included in the verification survey. Specifically, we were not satisfied that the verification sample was either sufficiently large or adequately representative.
- The survey is not sufficiently representative. There were variable response rates for hospitals and SNFs. The response rate for hospitals was 10.8 percent and the response rate for SNFs was 29.9 percent. In addition, the sample seemed to include an overrepresentation of large hospitals and chain-affiliated SNFs.

Because there is an underrepresentation of small hospitals and non-chain SNFs in the NASL survey, we cannot be assured with this small response rate that the large hospitals and chain-affiliated SNFs will adequately represent the small hospitals and non-chain SNFs not included in the survey. (The GAO stated in its report, ''Medicare Early Resolution of Overcharges for Therapy in Nursing Homes is Unlikely'', August 16, 1996, p. 7, regarding the NASL survey data, ''However, the survey response rate was low (10 percent for hospitals and 30 percent for SNFs), which raises questions about how representative the data are.'' In a footnote on that page, GAO points out, ''Official government surveys generate a much higher response rate. The BLS White Collar Pay Survey (one component of which was the hospital salary data survey on which the draft guidelines were based) has an overall response rate of 82 percent. Typically, BLS response rates exceed 80 percent).''

- Despite requests for the raw unedited data file, the file was not provided to us.
- We have questions about the validity of certain edits.
- We were also concerned that supervisory time and compensation in lieu of benefits were not consistently reported. Additionally, we were concerned that the supervisory time included in the NASL survey was above a certain threshold that we use in developing the guidelines.

Comment: Some commenters challenged HCFA's characterization of the NASL data and felt that HCFA should give greater weight to the NASL data for a variety of reasons.

Response: In general, the mean wages from the various data sources we used were rather tightly clustered. None of the commenters offered compelling evidence that NASL data should be weighted preferentially. Therefore, we did not change the weighting of any of the data sources used.

Comment: One commenter stated that the NASL data have response rates comparable to those achieved in unspecified BLS studies, hospital industry studies, and long-term care studies. The same commenter pointed out that the NASL data consisted of responses from 711 institutions while the BLS data were from 628 institutions. Another commenter stated that the NASL survey suffered from a low response rate.

Response: The NASL surveyed hospitals, hospital-based SNFs, and freestanding SNFs while the BLS surveyed hospitals only. The response rate of the BLS survey was 84 percent, in contrast to the response rate of the NASL survey, which was 20 percent in the aggregate (10 percent for hospitals and 29 percent for SNFs). We agree with the comment that the response rate for the NASL data was low with respect to statistical sampling theory. While, the validity and reliability of a sample survey depends primarily upon the representativeness of the sample, not on the number of responses (assuming an adequate sample size), we have concerns about the representativeness of the NASL survey. These concerns, along with the low response rate to the survey, lead us to believe that the NASL data should be given no greater weight than the data from other sources.

Comment: One commenter asserted that the NASL survey followed a rigorous statistical design in consultation with HCFA and that the NASL data were as good as the data HCFA used.

Response: HCFA did comment and make suggestions on some aspects of the

statistical design. NASL did not, however, implement all of the suggestions that HCFA felt were necessary for a valid statistical design. Nevertheless, we are using the NASL data in conjunction with data from several other sources, giving it the same weight as all other data sources.

Comment: One commenter defended the quality of the NASL data by stating that HCFA performed an audit of the data, although limited by conditions set by NASL.

Response: The restrictions set by NASL were such that essentially all that HCFA was able to perform during its on-site visit to NASL was a review. The data were not audited or certified by an independent party. We were permitted to review the survey records only under stringent restrictions designed to protect the confidentiality of the survey respondents. Those restrictions made it impossible for us to verify the survey results. For example, we were unable to compare submitted survey data with data from other sources.

Comment: One commenter noted that the NASL survey benefitted from a verification survey.

Response: We concur that verification surveys are beneficial, but our review of the NASL survey disclosed that the number of provider verifications actually conducted was extremely limited. As stated earlier, there were only 5 verifications on 711 responses, a number too small to give statistical significance to the result.

Comment: Several commenters recommended that HCFA use only the NASL and/or AHCA data from SNFs to develop rates for SNFs.

Response: As stated above, HCFA has blended SNF and hospital data in our previous notice and we see no valid reason not to do so again. In addition, we found a number of shortcomings with the NASL data and the AHCA data, which we found to be biased toward SNF chains and to include some supervisory data. We edited the data as much as possible to improve data quality, but did not use either data source alone to develop rates for SNFs. We address the issue of separate salary equivalency guidelines for each provider setting later in this final rule.

Comment: Several commenters pointed out that the NASL data were the most timely data available.

Response: We agree that the NASL data were the most timely data available, but, as discussed earlier, timeliness alone does not sufficiently meet the criterion for validity and reliability.

Comment: One commenter noted that the NASL data were skewed toward larger hospitals.

Response: We concur that the sample responses were skewed toward larger hospitals as well as larger SNF chains but, as stated earlier, some of the other data sources are biased in other ways as well. The extent of response bias within the reweighted data is not possible to quantify without some additional survey work. Again, by combining data sources with different biases, we believe that the biases tend to offset each other as evidenced by the clustering of means.

3. Texas National Hospital Survey (1994 National Survey of Hospital and Medical School Salaries, University of Texas Medical Branch, Galveston, TX, 1994, pp. 15–19)

The University of Texas National Hospital Survey data are from October 1994. This annual survey of hospitals is voluntary. The survey has been conducted for many years for hospitals in various regions of the country to use as a benchmark of regional wage levels for specific health professional occupations. While there are data from all regions of the United States, the survey was not designed to meet the rigorous BLS standards for representativeness or statistical validity at the regional level. It does, however, give reasonable levels at the national level when compared to other data sources.

Comment: One commenter stated that it was inappropriate for HCFA to use the University of Texas survey of hospitals in the United States because the data ''includes medical schools with a low wage bias to establish rates of pay for therapists that are working primarily in SNFs.''

Response: The commenter's assertion is incorrect because the mean wages from the University of Texas data clustered with the mean wages from other data sources. Specifically, the University of Texas mean hourly wage ranged from being $0.19 higher to $0.83 lower than the mean hourly wage for the four therapy types using all the data sources—a range well within reasonable boundaries associated with statistical variation. For physical therapists, the University of Texas mean wage was $20.29; the mean wage from all sources of hospital wage data was $21.00, a difference of 3 percent. For occupational therapists, the University of Texas mean wage was $19.28; the mean wage from all sources of hospital wage data was $19.73, a difference of 2 percent. For speech language pathologists, the University of Texas mean wage was $18.58; the mean wage from all sources of hospital wage data was $18.67, a difference of less than one percent. For respiratory therapists, the University of Texas mean wage was $15.74; the mean wage from all sources was $15.58, a difference of negative one percent.

4. American Health Care Association (AHCA) Data

The AHCA report includes data on both SNFs and hospitals. The SNF data for January 1995 are both current and industry-specific. However, the data are unevenly edited and appear to include some supervisors and additional salary in lieu of benefits. The sample is heavily weighted by large chains that are members of the Association. The SNF data, unlike BLS data, appear as both employee-weighted and facility-weighted averages and, therefore, do not permit computation of a median or 75th percentile levels for individual workers.

Comment: One commenter objected to HCFA's observations concerning the 1994 and 1995 AHCA survey data and indicated that HCFA's criticisms were unreasonable, given the lack of alternative sources and the constant enhancement of the AHCA database since 1987. In particular, the commenter objected to HCFA's observations that the AHCA data were ''unevenly edited and appear to include supervisors and additional salary in lieu of benefits,'' stating that HCFA fails to acknowledge discussions addressing these issues. The same commenter suggested that HCFA give the AHCA data greater weight because they were both timely and accurate, noting that: (a) AHCA data are exhaustively and consistently screened and cleaned with participants and the database is certified by Buck Consultants as being representative; (b) Buck Consultants has taken steps to insure that supervisory data are excluded from the data; (c) there are no wages or salary in lieu of benefits in the data; and (d) this is an annual study, given the same scrutiny each year and, therefore, should increase the degree of confidence that HCFA has in the data. Other commenters acknowledged the bias in the AHCA data toward large chains and indicated that HCFA could correct the AHCA survey for large company bias as well as individual data point analysis and exclusion of supervisory rates.

Response: We acknowledge the steps taken to improve the quality of the AHCA data over time, and agree that the quality of the data has improved. Our analyses of the 1994 and 1995 AHCA survey indicate that the survey is still not representative of Medicare-certified facilities; it represents primarily large chains that are members of AHCA. We

made the same observations as did some commenters regarding AHCA data deficiencies and took steps to exclude supervisory data. HCFA did not have the necessary information to correct for large company bias. We believe that the biases tend to offset the data as evidenced by the clustering of mean wages. Further, individual worker data are not available to validate the reasonableness of the means for each institution. For these reasons, it would not be appropriate for HCFA to modify the weights given to the AHCA data, or to use these data as the sole source in developing the salary equivalency guidelines.

Comment: Another commenter asserted that the NASL and AHCA data probably contained more responses from therapists than were contained in the BLS studies and that the occupational nature of therapists should outweigh the industry focus created by counting numbers of institutions.

Response: The 1989 and 1991 BLS samples had responses from 536 and 628 hospitals, respectively. The 1989 and 1991 BLS data that we used contained responses from 12,672 certified therapists as follows: 3,668 in physical therapy (1991); 1,742 in occupational therapy (1989); 668 in speech language pathology (1989); and 6,594 in respiratory therapy (1991). The post-edit NASL survey had responses from 191 hospitals, 50 hospital-based SNFs, and 351 freestanding SNFs. The post-edit NASL survey contained responses from 5,741 registered/ certified therapists as follows: 1,720 in physical therapy; 1,204 in occupational therapy; 680 in speech language pathology; and 2,137 in respiratory therapy. The AHCA data contained responses from 3,515 certified therapists: 1,806 physical therapists; 1,405 occupational therapists; and 304 speech language pathologists. The commenter was apparently seeking to give more weight to the NASL and AHCA data because ''the number of therapists reported in the NASL and AHCA survey probably exceeds the numbers reported in the BLS studies * * *'' implying that the two industry data bases are more reliable for that reason. In fact, the BLS studies (12,672 therapists) we used contained 37 percent more therapists than the NASL and AHCA data combined (5,741 and 3,515, respectively).

5. Maryland Health Services Cost Review Commission Data

The Maryland Health Services Cost Review Commission conducts an annual census of occupational wage rates for all Maryland hospitals. We analyzed data from the 1995 census. While this is a complete census covering over 50 hospitals, it is for Maryland only. In addition, speech-language pathologists are not included as a separate occupational category.

Comment: One commenter noted that the Maryland Health Services Cost Report Commission's database is not representative of the United States because the data are from only one State. Further, the commenter noted that speech language pathologists are not separately identified in the data.

Response: Despite its shortcomings, the strengths of the Maryland census are that it is timely, accurate, and contains data from providers of various sizes in geographically diverse urban and rural areas. It is a rich data source for variations in occupational wage levels by degree of urbanization. In fact, the mean hourly wage for physical therapists in the Maryland data was $20.78; the mean wage from all sources of hospital wage data was $21.00, a difference of only 1 percent. The mean hourly wage for occupational therapists in the Maryland data was $20.60; the mean wage from all sources of hospital wage data was $19.73, a difference of 4 percent. The mean hourly wage for respiratory therapists in the Maryland data was $16.20; the mean wage from all sources of hospital wage data was $15.58, a difference of four percent. We used the data because we concluded that its strengths outweighed its weaknesses for our specific purpose.

6. 1995 American Rehabilitation Association (ARA) Salary Survey

The ARA collected July 1994 data from its members that are medical and residential rehabilitation providers. Among ARA members are CORFs that provide physical therapy, respiratory therapy, speech language pathology, and occupational therapy services to Medicare and Medicaid beneficiaries. The response rate was low and the Association indicated in its report that these data cannot be presumed to represent the full population of rehabilitation facilities. However, this survey appears to give reasonable wage levels at the national level when compared to other data sources. Information on SNFs was not reported due to an inadequate sample size.

Comment: One commenter noted that the ARA survey had a low response rate and that it could not be assumed to be representative. Another commenter noted that despite the low response rate, the results appeared to yield reasonable wage levels nationally.

Response: We agree with the observations of both commenters. Although the data could not be assumed to be representative, they were reasonable and fairly close to the other data sources we used. In fact, the mean hourly wage for physical therapists in the ARA freestanding hospital data was $20.82; the mean wage from all sources of hospital wage data was $21.00, a difference of less than 1 percent. The mean hourly wage for occupational therapists in the ARA freestanding hospital data was $18.90; the mean wage from all sources of hospital wage data was $19.73, a difference of only 4 percent. Similarly, the mean hourly wage for physical therapists in the ARA rehabilitation unit data was $21.12; the mean wage from all sources of hospital wage data was $21.00, a difference of less than one percent. The mean hourly wage for occupational therapists in the ARA rehabilitation unit data was $19.82; the mean wage from all sources of hospital wage data was $19.73, a difference of less than one percent. As is the case with the other data sources, we used the ARA data because we concluded that its strengths outweighed its weaknesses.

7. Mutual of Omaha Data

Mutual of Omaha, an HCFA intermediary, conducted a survey of about 2,000 Medicare SNF providers in 1995. Data were collected on contract therapy prices and salary rates for occupational therapy and speech language pathology.

Comment: Several commenters stated that the Mutual of Omaha survey was not statistically valid because of inadequate sample design, no analysis of respondents vs. nonrespondents, too small a sample size, overrepresentation of hospital-based SNFs and contract therapists, no physical therapist or respiratory therapist data, and data that were limited to aggregate facility data as opposed to data points for each employee. The weight of many comments is reflected in their assertions that the average wage rates of occupational therapists and speech language pathologists reflected in the Mutual of Omaha data are out of line with other data sources.

Response: We agree that the Mutual of Omaha survey does not meet the rigorous sample design requirements of the BLS survey data included in our estimates. However, we did use it in combination with the other described data sources. The Mutual of Omaha data are similar to other data sources such as AHCA and the American Rehabilitation Association (ARA) that reflect universes other than the national. The Mutual of Omaha estimate of the mean hourly wage level of occupational therapists in SNFs in October 1995 that we used in the salary computation was $22.90, compared to the mean wage rate of all SNF data sources of $20.33. The Mutual of Omaha mean wage rate for occupational therapy is thus 13 percent above the mean wage rate of all data sources. The Mutual of Omaha mean wage rate for speech language pathologists in SNFs in October 1995 was $20.34 compared to the mean wage rate of $19.26. The Mutual of Omaha mean wage rate for speech language pathologists is thus 6 percent above the mean wage rate of all SNF data sources.

8. Unused Data Source—''A Study of Respiratory Care Human Resources in Hospitals 1992''

This survey was conducted by the American Association of Respiratory Care's (AARC) Task Force on Professional Direction in conjunction with consultants from Arthur Andersen & Co. The AARC surveyed 2,732 of 4,900 hospitals having respiratory care departments and received 858 responses (31 percent response rate), comprising 17 percent of all hospitals with respiratory care departments.

Comment: One commenter inquired as to why HCFA did not use this study by AARC in conjunction with consultants from Arthur Andersen & Co.

Response: HCFA used data from academic (e.g., University of Texas), government and industry-wide surveys for hospitals, SNFs, etc. that included occupational specific data. HCFA did not use data sources specific to one occupational category from its own professional association, e.g., American Occupational Therapy Association data. Using specific occupational data from a particular association may have biased the results relative to the other occupational categories, given the wide discretion used in defining wages, income, and statistical design among the four occupational groups.

B. Methodology

In order to establish the proposed hourly salary equivalency amounts, we determined the ''best estimate'' of wages for both hospitals and SNFs. We first found mean wage rates for each of the data sources listed above.

BLS surveyed average hourly earnings (AHE) for all four therapies in 1989. However, their January 1991 survey included the average hourly earnings only for full-time physical and respiratory therapists. (BLS January 1991 average hourly earnings for full-time physical and respiratory therapists were found in the BLS Occupational Wage Survey: Hospitals, January 1991, pp. 36–119. The hospitals in this survey employed 50 or more workers.) We, therefore, needed to estimate 1991 average hourly wages for speech language pathology and occupational therapy. To do so, we started with the BLS 1989 survey of all four therapies as a baseline (BLS Industry Wage Survey: Hospitals, March 1989 (the latest previous survey), pp 33–118). The hospitals in the 1989 survey employed 100 or more workers. Our analysis of the University of Texas data for U.S. hospitals indicated that the wages for speech language pathology and respiratory therapy increased at a similar rate between 1989 and 1993. Wages for occupational therapy and physical therapy also increased at a similar rate during that period. Therefore, we determined that we could employ the 1989 ratios of speech language pathology to respiratory therapy, and of occupational therapy to physical therapy, in order to estimate 1991 wage levels for speech language pathology and occupational therapy. Specifically, multiplying the ratio of 1989 average hourly occupational therapy wages to 1989 average hourly physical therapy wages by 1991 physical therapy wages yielded estimated 1991 occupational therapy wages. The following formula summarizes the computation (all values are average hourly wages):

[(March 1989 AHE, OT) / (March 1989 AHE, PT)] × (January 1991 AHE, PT) = (estimated January 1991 AHE, OT).

Similarly, multiplying the ratio of 1989 average hourly speech language pathology wages to 1989 average hourly respiratory therapy wages by the 1991 average hourly respiratory therapy wages yielded estimated 1991 average hourly speech language pathology wages. Again, the following formula summarizes the computation (all values are average hourly wages):

[(March 1989 AHE, speech language pathology) / (March 1989 AHE, respiratory therapy)]×(January 1991 AHE, respiratory therapy) = estimated January 1991 AHE, speech language pathology.

The American Health Care Association data provided facility-weighted mean wage rates for SNFs. The Association has estimated that 5 percent of the SNF wage rates represented supervisors and additional wages paid in lieu of fringe benefits. We used that estimate to reduce the Association survey wage data to a nonsupervisory, no additional salary in lieu of benefits basis.

We converted annual data in the American Rehabilitation Association and University of Texas surveys to hourly wages using a divisor of 2080 hours, which represents a standard work year.

The Maryland Health Services Cost Review Commission census data provided wage data, paid hours, and numbers of personnel for each hospital. We eliminated data for employees who worked less than 35 hours or more than 40 hours a week to restrict the computation to full-time employees only. We then determined the average hourly wage for each hospital by dividing aggregate wages by the number of paid hours. Finally, we computed the average hourly wages across all hospitals, weighted by the number of employees in each hospital.

NASL data were first divided by 52 to arrive at weekly salary, then divided by the number of hours worked per week which were also given in the survey, to obtain hourly wage rates. As in the case of the Maryland census data, we eliminated data for employees who worked less than 35 hours, or more than 40 hours a week to restrict the computation to full-time employees only.

We trended all data to the 1995 fourth quarter as described in detail in the March 1997 proposed rule. We then determined the salary equivalency guideline amounts for 1998 in five steps. Those five steps were: (1) Determine average wages by therapy type, separately for hospitals and nursing homes; (2) blend the hospital and nursing home average wages by therapy type, to yield average wages by therapy type for the four occupational markets; (3) approximate the 75th percentile of wages by therapy type; (4) calculate salary equivalency guideline levels for fourth quarter 1995, by adding amounts for fringe benefits, rent, etc.; and (5) update these guideline amounts to April 1, 1998, the proposed effective date.

In the first step, we determined the mean wage levels, by therapy type, for hospitals in each of the available data sources. (Data sources used for hospitals were: BLS, Industry Wage Survey: Hospitals, March 1989 and

Occupational Wage Survey: Hospitals, January 1991; University of Texas *1994 National Survey of Hospital and Medical School Salaries;* American Rehabilitation Association's surveys of freestanding hospitals and of rehabilitation units, *1995 Salary Survey;* Maryland Health Services Cost Review Commission's census of hospitals; American Health Care Association hospital report's data profile, *1994 AHCA Survey;* and NASL 1995 survey of hospitals). We similarly determined the mean wage levels, by therapy type, for nursing homes in each of the available data sources. (Data sources used for SNFs were: 1995 NASL survey of SNFs; American Health Care Association survey of SNFs, *1995 AHCA Survey;* and the 1996 survey of SNFs by Mutual of Omaha). We then averaged the mean wage levels from the available data sources by therapy type, separately for hospitals and nursing homes.

In the second step, we blended the hospital and nursing home average wage levels, by therapy, to yield average wage levels by therapist type across the four occupational markets. We employed a blending process used in the previous salary equivalency guidelines notice (48 FR 44922, September 30, 1983), to weight the occupational averages by relative employment levels in hospitals and nursing homes, respectively. To establish appropriate weights, we used employment of therapists in nursing homes (Standard Industrial Classification (SIC) Code 805) and in hospitals (SIC Code 806), as found in the BLS Occupational Employment Statistics survey (OES). (The most recent available survey of employment in nursing homes is for 1993, while the most recent survey data of employment in hospitals is for 1995.) We applied these weights to the mean hospital and SNF wage rates by the four therapist types as determined in the first step. The BLS Occupational Employment Statistics survey shows that the hospital industry is a major employer of therapists of all types, while SNFs employ fewer salaried therapists. The weights for hospitals and nursing homes, respectively, are: for physical therapy, 85 percent and 15 percent; for occupational therapy, 85 percent and 15 percent; for speech language pathology, 82 percent and 18 percent; and for respiratory therapy, 99 percent and 1 percent.

In the third step we approximated the 75th percentile of the blended wage rates for each therapy occupation. It was necessary to approximate the 75th percentile because, unlike our previous computations of the guidelines, in this proposal we could not determine percentile values directly from each of the sources. We have observed in the BLS data and a regression analysis we performed on NASL data that the 75th percentile was approximately 110 percent of the mean. We, therefore, proposed to increase each of the four blended wage averages by 10 percent to approximate the 75th percentile of wages in each discipline across the occupational market. (In response to comments on the proposed rule, however, we have increased the factor to estimate the 75th percentile from 110 percent of the mean to 112 percent of the mean to reflect inherent variations that we were not able to quantify.) The inherent variations are due to estimating national rates for each of the four rehabilitation therapies, then using the GPCI to approximate wage and fringe levels in all geographic areas of the United States. Data does not exist to verify that, for each of the four therapies, every local labor market in the United States is accurately portrayed by the GPCI.

Salary equivalency guidelines are based on the therapists' time in the facility. Adjustments to average hourly earnings data were necessary to include a reasonable allowance for vacation, sick leave, and administrative time. In order to convert the average hourly earnings from an hours paid basis to an hours worked basis, we applied a factor of total paid hours divided by hours worked (2,080 ÷ 1,808) to the average hourly earnings determined thus far, which is the same methodology used in the previous notice. The 1,808 figure was computed based on 2,080 hours (40 hours/week × 52 weeks; a standard work year) less 15 vacation days, 10 sick leave days and 9 holidays equal to 34 days, or 272 hours. Data on leave benefits come from the BLS Employee Benefits Survey. (U.S. Department of Labor, Bureau of Labor Statistics: *Employee Benefits in Small Private Establishments, 1992,* Bulletin 2441, U.S. Government Printing Office, May 1994, pp. 10–20.)

In the fourth step, we added fringe benefit and expense factors to the prevailing salary rates determined for each therapy type. The fringe benefit and expense factors are intended to recognize fringe benefits that are received by an employee therapist, as well as overhead expenses that a therapist or therapist organization might incur in furnishing services under arrangements. These factors are expressed as percentages of the prevailing hourly rate and are applied to every hour of service furnished at the provider site. Fringe benefits may include vacation and sick pay, insurance premiums, pension payments, allowance for job-related training, meals, severance pay, bonuses, etc.

We computed fringe benefits as a percent of total compensation using fiscal year 1994 Medicare cost reports for hospitals under the prospective payment system. We believe these data are the best proxy for therapist fringe benefit information, which is not available for SNFs. We used the Medicare cost reports for prospective payment system hospitals to obtain fringe benefit information because these data are carefully scrutinized; they are used to adjust the labor portion of hospital payments under the prospective payment system. Also, the BLS Employment Cost Index (ECI) for March 1994 showed that fringe benefits for professional and technical workers in hospitals and nursing homes were similar. In the proposed rule, the fringe benefit component was about 14 percent of the total salary equivalency guideline amount. In the final rule, we have, instead, added the amount determined from the adjustment to average hourly earnings for vacation, sick leave, and administrative time to the fringe benefit amount excluding leave determined from the hospital cost reports. By including paid leave in fringe benefits rather than in salary, the final weight for fringe benefits is about 20 percent of the guideline amount or about 28 percent of total compensation.

The expense component takes into account expenses a therapist or therapist organization might have, such as maintaining an office, purchasing insurance, etc. We based the expense component of the guidelines on an estimate of the costs of maintaining a therapy services office. The general methodology for computing the expense component is similar to that used in the September 30, 1983 notice (48 FR 44922) but the factors have been revised. This component has rental and non-rental portions.

To determine the rental portion of the expense component, we used the 1995 rental rate data compiled by the Building Owners and Managers Association International (BOMA) and published in the 1996 BOMA Experience Exchange Report for Downtown and Suburban Office Buildings. (Building Owners and Managers Association International: *1996 BOMA Experience Exchange Report,* Washington, DC, 1996, p. 17.) BOMA reported a national rent average, excluding utility cost, of $18.37 per square foot per year. We applied an occupancy factor of .887 to take into account the space used for rental building hallways, elevators, etc., that

are included in the BOMA rent figure, but are not part of the area rented for an office. We then added the BOMA utilities cost of $1.82 per square foot. We determined total rental cost, assuming a rental area of 250 square feet, the same rental area used in prior schedules of guidelines. The total 1995 rental cost was divided by 1,808 (the hours factor applied to average hourly earnings) to compute rental cost per hour worked in 1995.

The expense component includes costs of maintaining an office, such as wages and salaries of administrative and clerical help, insurance, telephones, etc. Medicare pays for services at their reasonable cost. It has been reported to HCFA that an effective and efficient rehabilitation therapy firm incurs overhead expenses of about 25 percent. We estimate this component, including rent, to be within a reasonable cost range of 28.2 percent of total expenses in 1995. The 1995 rent per square foot amount and the other expenses amount were constant across the four therapy types, implying that the share of these costs vary by therapy type (the share for rent is lowest for physical therapy since the physical therapy wage rates are the highest).

As described in detail in the proposed rule, we added the fourth quarter 1995 dollar values of the ''blended'' wages, fringe benefits, rent, and the remainder of the other expenses factors to obtain salary equivalency guideline amounts for fourth quarter 1995. We updated the resultant fourth quarter 1995 salary equivalency guideline amounts to April 1998, using a Standard & Poor's DRI 1997:4 forecast.

1. Occupational Labor Market

In calculating the salary equivalency guidelines proposed on March 28, 1997, HCFA used a blend of hospital and SNF therapist wages. We also used a blend of hospital and SNF therapist wages in the establishment of salary equivalency guidelines for physical and respiratory therapy in the September 30, 1983 notice. The use of a blended wage reflects the influence of occupational labor market conditions on rehabilitation therapist wages, given the substantial degree of mobility between the settings. In the proposed rule, the labor market for therapists was characterized as an integrated occupational market in which therapists working in hospitals and SNFs have the potential to migrate between the two settings with relatively little difficulty resulting from differences in job requirements. We noted, however, that wage levels across settings for the same occupation may differ due to reasonable compensating wage differentials associated with working conditions, risk of injury, and geographic location. Wage differentials may also be associated with differences in worker characteristics, such as experience and skill. When these factors are taken into account, the ability to move across settings should ensure that the wage levels between these settings bear a reasonable relationship over time.

Comment (general): Many of the comments on the proposed rule have focused on the issue of compensating wage differentials, asserting that HCFA should not blend wages of hospital and SNF therapists in the establishment of salary equivalency guidelines. These comments maintain that wage differentials that exist between the two settings can be fully explained by a combination of higher skill requirements and a less agreeable work setting in SNFs. For this reason, commenters claim that the full difference in wages should be recognized by HCFA.

Response: The assertion that differences in skills and work environment fully explain current differences in wage rates rests on the assumption that compensating wage differentials between hospitals and SNFs are equivalent to the actual wage differentials observed at a point in time. However, there are a number of factors which may cause actual wage differentials to vary from those associated solely with differences in skills or environment. These factors include adjustments to short-term shifts in demand, entrance barriers to the therapy professions which have slowed adjustment to these shocks, and distortions to the operation of markets for therapy services and labor within the SNF sector caused by the inflation of prices and wages by Rehabilitation Therapy Firms (RTFs) to quickly gain market share as well as the lack of sufficient efforts to minimize costs by SNFs.

HCFA contracted with Standard & Poor's DRI to study this issue. Their data indicate that HCFA's proposed salary equivalency rates, incorporating the adjustment to the 75th percentile of the wage distribution, are more than sufficient to cover legitimate compensating wage differentials for skills and work environment in SNFs, as well as the wage differential which would result from increases in demand for therapy services in SNFs given cost-minimizing behavior by SNFs and RTFs.

Comment: Some commenters stated that there is no legal foundation for using a blended wage rate for hospitals and skilled nursing facilities to set salary equivalency rates.

Response: We do not believe that the statute prohibits use of a blended wage rate. We used a methodology based on blending wages from therapists in hospitals and SNFs in the September 30, 1983 notice which revised salary equivalency guidelines for physical and respiratory therapists. In that notice, HCFA established the prevailing salary component based on a blended hourly wage for hospitals and nursing home hourly wage at the 75th percentile of the wage distribution. As discussed in more detail in the Statutory Issues section below, we believe that this approach comports with Congressional intent as expressed in the relevant legislative history.

Comment: One commenter stated that the growing wage differential between therapists in the SNF setting and those in the hospital setting implies that the labor markets for therapists in these two settings are separate and distinct. According to the commenter, this indicates that the concept of an occupational labor market cannot be used as the basis for establishing salary equivalency rates based on a blend of hospital and SNF wages.

Response: The key factor involved in determining the extent to which an occupational labor market is integrated is the substitutability of professional skills across settings. This determines the potential for mobility between the two settings. If workers can flow relatively freely across industry settings, and markets are functioning competitively, this means that wage rates in different settings will be influenced by the supply and demand conditions for that occupation in all settings. This does not mean that wages will be equivalent. Compensating wage differentials for differing skills and environments will result in a reasonable relationship of wages across all settings.

The term ''occupational labor market'' implies some range of shared, and, therefore, substitutable skills. The question then becomes whether the extent to which skills required in the two settings are overlapping, whether the educational requirements are similar, and whether substantial retraining is required in order for therapists to move from one setting to another. An examination of these issues for therapists in hospitals versus SNFs indicates that the required educational qualifications and skills are extremely similar. All therapists complete the same accredited education programs and substantive retraining for individuals moving between these two settings is not standard. For therapists

employed in hospitals and SNFs, it is clear that, while not identical, the skills needed to perform their jobs are highly substitutable. This is evidenced in commenters' observations by the shift in employment of roughly a quarter of physical therapists and speech language pathologists formerly employed in hospitals who have been moved to SNFs or HHAs without substantive retraining. In addition, both hospitals and SNFs routinely hire occupational therapists, physical therapists, and speech language pathologists directly out of college, indicating that the body of required skills is covered by the general educational programs completed by all accredited therapists.

The existence of actual wage differentials between two settings does not indicate that an integrated occupational labor market does not exist. These differences are not solely those associated with different skill requirements or working conditions. Short-term differentials may reflect disequilibrium in response to rapid shifts in employment in the presence of transaction costs, costs of information, and lags in the adjustment of the occupational labor supply. These are reasonable wage differentials that are consistent with cost minimizing behavior. Differentials may also reflect differences in incentives to minimize costs between the two settings.

The fact that SNFs may have little economic incentive to minimize costs, beyond the point where they are subject to risk of audit, will likely result in higher relative prices for therapy and higher therapist wages in the SNF sector. Rehabilitation therapy firms may take advantage of this incentive structure to push prices and wages beyond prudent buyer rates. Because SNFs have little incentive to switch suppliers unless the price is far above their current rates, higher prices will not cause the rehabilitation therapy firm to lose market share. There is no market pressure to push prices down and less pressure for rehabilitation therapy firms to minimize costs than would be the case in competitive cost-minimizing markets.

Comment: Some commenters were concerned that therapists attracted to SNFs and HHA settings are different from those attracted to hospitals and, therefore, do not compete in the same labor market. The wage differential between hospitals and SNFs is a reasonable compensating wage differential associated with these differences in skills and work environment. These differences make it harder for SNFs to recruit qualified therapists. Specific differences between hospitals and SNFs cited by commenters were:

(a) Therapists in SNFs must work independently with less supervision. For this reason, SNFs require a more experienced workforce.

(b) The work environment in SNFs is less appealing than that in hospitals.

—There is less variety in the case mix,
—Smaller therapy departments in SNFs mean less collegiality, less potential for advancement, and fewer opportunities for training; and
—Patients in SNFs are more difficult to work with.

Response: We agree that compensating wage differentials potentially exist between different work settings for therapists. In using a blended hospital/SNF wage rate as the basis for salary equivalency rates, the question is the magnitude of these differentials and whether they are covered by the use of the blended wage rate at the 75th percentile of the wage distribution.

In response to industry requests for additional statistical research on this issue, we contracted with Standard & Poor's DRI to estimate the magnitude of justifiable wage differentials for physical and occupational therapists, and speech-language pathologists. The resulting data presents estimates of compensating wage differentials associated with skills and work environment across industry settings for 1979–89, wage differentials associated with short-term labor market disequilibrium under conditions of cost-minimization, and wage premiums resulting from the failure of many SNFs to behave as cost-minimizers.

The DRI data estimated a net compensating wage differential associated with education, experience, and work environment which is very small in comparison to the actual disparity in wages between the two sectors in 1995. The conclusion of this study was that our proposed salary equivalency rates, based on the blended wage approach, were more than sufficient to cover reasonable compensating wage differentials between hospitals and SNFs and an additional positive short-term differential for SNF therapist wages associated with the estimated increase in the relative demand for therapists in SNFs under the condition that SNFs behave as cost-minimizers.

The commenters maintained that the current disparity of wages is solely reflective of compensating wage differentials associated with the underlying fundamentals of skills and work environment. However, the actual wage differential will be equal to the compensating wage differential only in cases where product and labor markets are competitive (i.e. suppliers, providers and consumers are cost minimizers) and in equilibrium. Neither of these assumptions are met in the case of the labor market for therapists in rehabilitation therapy firms and SNFs.

The nursing home reform requirements of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), which took effect in 1990, caused a rapid increase in the relative demand for therapist labor in SNFs. The continued shift of employment from hospitals, educational institutions, and other settings towards SNFs, which is associated with the current observed wage differential, means that the occupational labor market has not yet reached equilibrium. This indicates that some part of the wage disparity between hospitals and SNFs is reflective of continued efforts to sharply increase the share of the pool of therapists who are employed in SNFs over a fairly short period of time.

In the presence of costs associated with changing jobs and costs of information about available positions and associated wage rates, these efforts can be expected to result in a temporary wage differential even with cost minimizing behavior. This effect is heightened by constraints on the number of new graduates from accredited therapy programs, since job mobility is less costly for new graduates than established therapists. Long queues for entry into accredited therapy programs indicate that current occupational wages are well above the level needed to attract new entrants to the professions. This suggests that difficulties in expanding the capacity of educational programs is contributing to the cross-sectoral adjustment process. These effects on therapist wages in SNFs are beyond the control of the SNFs in minimizing costs, and should therefore be covered by salary equivalency guidelines.

DRI also has shown that the market for therapy services in SNFs does not function in the normal parameters of a cost minimization framework. This analysis relied on a model framework originally developed by Joseph Newhouse (1978)[1] for the analysis of the behavior of medical cost increases under conditions where cost-sharing requirements for consumers vary. This model has the implication that the

[1] Newhouse, Joseph P. The Erosion of the Medical Marketplace, R–2141–1–HEW, The Rand Corporation, Santa Monica, California, December 1978.

supply of medical services will exhibit increasing inefficiency as the coverage of costs approaches 100 percent, resulting in higher volumes, prices, and wages than would otherwise be the case.

Therapy services provided under arrangement in SNFs represent a service that closely approximates 100 percent coverage. Medicare Part A, which accounts for 58 percent of such services, requires zero cost-sharing for the first 20 days. The daily coinsurance rate that beneficiaries must pay for days 21 through 100 for 1998 is $95.50. Medicare pays for all costs over this coinsurance rate. However, because the daily rate in a SNF is usually higher than the coinsurance rate (in 1995, the latest year for which data is available, the average daily rate in a nursing home was $127.16), beneficiaries will pay the full coinsurance amount whether they receive therapy services or not. The extra cost of therapy services is usually paid for by Medicare. Medicare Part B coverage, which begins after 100 days and accounts for 32 percent of therapy services provided in SNFs, requires a 20 percent copayment which is primarily covered by Medigap policies.[2] An additional 5 percent of services are covered by Medicaid, again with zero cost-sharing. While 5 percent of contract therapy services are covered by private insurance (and therefore may be subject to some cost-sharing), this fraction of the market is too small to introduce any significant sensitivity to price into this market.

In many cases, higher contract therapy costs result in higher relative reimbursement from Medicare for allocated overhead as well as for the direct costs of contract therapy services. This reimbursement methodology and market structure has implications for the behavior of firms that supply contract therapy services to SNFs. Cost-effective therapy firms will have little advantage in this market and will not tend to gain any substantial market share compared to the case of freely functioning market. In this situation, Newhouse argues that a competitive cost minimizing supply curve for the industry does not exist. This invalidates claims that prices, input and output quantities, and wages in this setting are at cost-minimizing rates that reflect freely functioning markets.

The Standard & Poor's DRI data produced estimates of hospital/SNF wage differentials associated with reasonable compensating wage differentials based on worker and job characteristics as well as reasonable differentials based on short-term disequilibrium associated with increases in demand, given cost-minimization by SNFs. The estimated differentials associated with characteristics of the workforce and work environment were produced by the estimation of wage equations relating the hourly wages of individual employees throughout the U.S. economy with human capital variables such as education and experience, as well as the systematic differences across occupations and industry groups that are associated with work environment. This estimation was based on regression analysis using pooled cross-sectional data from the 5 percent Public Use Microdata Samples from the 1980 and 1990 decennial census. The census sample incorporates information for therapists in all settings with information on salary, hours worked, educational attainment, demographic characteristics, and location. These data were carefully screened for potential inaccuracies associated with self-reporting and reviewed for consistency with licensure requirements and consistency with other available data sources. The estimation period ended before the implementation of OBRA '87 in 1990. This indicates that wage differentials associated with the resulting unanticipated increase in demand, and those associated with failure to minimize costs in an environment with little restraint on volume and prices, will not bias the estimated compensating wage differentials.

DRI data show that in 1989 SNFs were actually able to hire similarly qualified therapists for a slightly lower wage than could hospitals, holding skills and environment constant. While it is not possible to obtain comparable multivariate estimates based on other data sources because of the lack of available information on skill variables and other occupational groups, we note that several other sources from 1989 and surrounding years confirm that actual wage differentials for SNFs relative to hospitals were small positives or negatives. The American Speech-Language Hearing Association (ASHA) reported a negative differential for SNFs relative to hospitals in 1989, while the American Occupational Therapy Association (AOTA) reports a small positive differential for 1990 (1989 is not available). The differentials reported by ASHA and AOTA are close to those seen in the Census wage data without adjustment for skills and work environment.

Data from the 1990 decennial census indicates that, on average, physical and occupational therapists working in SNFs do have more experience than physical and occupational therapists in hospitals, possibly because some therapists in SNFs need to work more independently or with less supervision. The estimated wage differential associated with the greater degree of experience, however, was small (in both cases less than 5 percent.) The reason for the small differential appears to be that the greater degree of experience is usually past the point where additional experience results in a substantial increase in wages. Rapid increases in wages associated with experience occur during the first decade of practice with wage increases for additional years of experience adding little in the terms of wage gains. Thus, additional years of experience past this point add relatively little to the wages these therapists can demand. On the other hand, speech language pathologists in the census sample reported slightly less experience on average than those employed in hospitals.

However, since the compensating differential resulting from the Census wage equations applies to the year 1989 (1990 Census), it is important to analyze how these conditions might have changed between 1989 and 1995. The principle reason why more experienced therapists might be required in the SNF environment, according to comments, was the relative lack of supervision for these therapists, when compared to hospitals, which have larger, more established therapy departments. The key issue becomes the determination of the direction of changes in the level of supervision since the year 1989 on which our estimates are based.

Given the rapid expansion in the volume of therapy services provided in SNFs, and the larger number of therapists practicing within a given SNF, it follows that the opportunity to consult supervisory personnel has actually grown over the past 6 years. This suggests that, while a gap in the average years of work experience may exist, the size of the gap is likely to be smaller than was the case in 1989.

Comments on the unappealing work environment in SNFs focused on two areas: (1) The nature of the work, that is there is less variety in the case mix, and (2) the lack of collegiality, potential for career advancement, and training opportunities associated with smaller therapy departments in SNFs relative to hospitals.

[2] Weiner and Zeid, Comparing Current Cost with Salary Equivalency Reimbursement for Physical Therapy, Occupational Therapy, and Speech-Language Pathology, Washington DC, April 1995.

To apply these estimates to the later period, we must analyze how these conditions that contribute to the less appealing work environment would have changed between 1989 and 1995. It would appear that there would actually be more variety in case mix in 1995 than in 1989 due to the expansion of therapy services in the SNF setting and the trend towards discharging hospital patients to SNFs earlier. With the significant increases in therapy programs in SNFs, it is likely that career advancement, training opportunities, and the opportunity to work with other therapists would have grown similar to that of hospitals.

Given the changes in the SNF and hospital environments over the past 6 years, these environments are likely to have grown more similar, on average, than otherwise. It, therefore, appears unlikely that the relative appeal of the two settings would be far different than in 1989. DRI's estimates of compensating wage differentials can therefore be applied to the later period.

Comment: Several commenters stated that, by combining hospital and SNF wages, HCFA was not recognizing the full compensating wage differential for therapists in SNFs.

Response: Our salary equivalency rates cover the full compensating wage differential for therapists in SNFs (which, as explained above, is very small), and a reasonable wage differential for the estimated costs of the increased demand that would have occurred after OBRA '87, under the condition that all SNFs behaved as cost-minimizers.

The observed relative wages for therapists in SNF settings have become distorted by the lack of cost minimization efforts in the provision of therapy supply services in SNFs. Blending hospital and SNF wage rates, as we have done in the past, provides a methodology that covers compensating differentials associated with skills and work environment, while avoiding the validation of increases associated with the absence of sufficient cost minimization efforts. As hospitals and educational institutions adjusted wages upwards at a rate slower than rehabilitation therapy firms and SNFs to retain staff, access to therapy services in these settings would decrease, while the volume of services available in SNFs continued to increase beyond the point where the benefits conveyed to patients justified the costs incurred.

2. Trending Old Data To Reflect Current Conditions

Comment: HCFA should use the percent increases in physical therapy wages to update speech language pathology wages from 1989 BLS speech language pathology data to 1991 rather than using the percent changes in respiratory therapy wages.

Response: The University of Texas data source was the only source that had all four therapy types over time with relatively consistent definitions and methodology. The University of Texas data indicated that the speech language pathology wage growth from 1989 to 1991 correlated better with respiratory therapy wage growth than with physical therapy wage growth. Therefore, we used the same percentage growth for speech language pathology wages as existed for respiratory therapy wages from 1989 to 1991.

Comment: One commenter suggested that the use of 6 -and 8- year-old BLS hospital data is inappropriate and does not satisfy the Senate Finance Committee's recommendation for timely and accurate data. This commenter also suggested that trending forward does not mitigate distortions of using old data and does not capture the significant changes in the marketplace over the past several years. Other commenters stated that because the BLS data were relatively old, HCFA should give a lesser weight to the BLS data or not use these data at all.

Response: We believe that our methodology for aging the baseline BLS data is consistent with Congressional intent. We used the most recent BLS data available on therapists employed in hospitals and trended it forward using the best data sources of which we were aware. If the commenter's assertion that trending forward does not capture the significant changes in the therapy marketplace were correct, then the BLS hospital data for therapists trended forward to 1995, would be substantially different from the best industry data sources for 1995. In fact, the trended BLS data tend to be at the center of the clustered industry data sources for 1995. For physical therapists, the trended BLS mean wage was $20.90; the mean wage from all sources was $21.00, a difference of less than one percent. For occupational therapists, the trended BLS mean wage was $19.67; the mean wage from all sources was $19.73, a difference of less than one percent. For speech language pathologists, the trended BLS mean wage was $19.30; the mean wage from all sources was $18.67, a difference of 3 percent. For respiratory therapists, the trended BLS mean wage was $15.48; the mean wage from all other sources was $15.58, a difference of less than one percent. Therefore, we do not think it would be appropriate to give the BLS data a smaller weight or remove BLS from the mix of data sources.

3. Blending Hospital and SNF Data for Occupational Labor Market Wage

Comment: Many commenters believed that use of hospital data in the blend was (1) inappropriate because only SNF data should have been used; (2) irrelevant because the rule applies exclusively to nonhospital settings; (3) flawed because there are problems with the sources of hospital data that HCFA used; and (4) incorrect because of the large difference in wage levels between hospitals.

Response: Hospital wage levels by therapy type were used, in part, because hospital therapists constitute a large part of the therapist labor market. In addition, hospitals are a major source of therapists hired by SNFs and rehabilitation therapy firms that contract with SNFs to furnish therapy services. Also, the salary equivalency guidelines do apply to contracted therapy services provided in the outpatient departments of hospitals. Following traditional labor market theory for professional services, we believe that there is an occupational labor market for therapists, with compensating differentials for workers for worker characteristics and job requirements. Had we used only SNF wage data, the result would have reflected the relatively higher rates that the rehabilitation therapy firm can afford to pay to bid therapists away from other sectors that operate in a more financially constrained contract environment. With respect to commenters' assertion that hospital data are irrelevant in determining wages for therapists that work primarily in nonhospital settings, our analyses supports our position that an occupational labor market exists. We discussed these issues in more detail in Section III.B.1 the Occupational Labor Market of this final rule.

We believe that our ''best estimate'' approach incorporated the BLS occupational/industry data in a reasonable way with other data from less statistically reliable but more current sources. Each set of data has equal weight in developing the ''best estimate'' for therapist wages in hospitals and in SNFs. Each of the data sources we used is discussed more fully in section III.A, Data Sources for Salary Equivalency Guidelines of this final rule.

Comment: Many commenters challenged our blending of hospital and SNF wage levels, but offered various blending recommendations in the event that we use blending in the final rule. Many commenters agreed that the employment weights as proposed for respiratory therapy wages (99 percent hospital and 1 percent SNF) were correct. These same commenters, however, offered a wide range of alternative employment weights for use in blending hospital and SNF wages for physical and occupational therapists and speech language pathologists. Some of these commenters offered alternative employment weights which included HHAs as well as SNFs and hospitals.

Response: We believe that an occupational labor market, with compensating differentials, exists and that blending is required to achieve equitable wage levels across settings as indicated in the discussion above.

We also believe that the proposed blending method is reasonable. When we blended the wages for each type of therapy, we used hospital therapist employment and SNF therapist employment to develop the relative shares. For SNFs, we used BLS' 1993 Occupational Employment Statistics survey data, the latest and most complete employment data for SNFs available from a government source. For hospitals, we used BLS' 1995 Occupational Employment Statistics survey data, also the latest and most complete employment data for hospitals available from a government source. Some commenters preferred that employment data for both settings be for the same year. We agree. Data on a same-year basis, however, are not yet available. Based on industry discussions, we believe that, as contract therapy services to SNFs have grown, there has been a corresponding drop in the relative share of employed therapists in SNFs. Without new data to substantiate this hypothesis, we felt that the most appropriate option was to use the 1993 Occupational Employment Statistics survey for employment of therapists in SNFs, by therapy type, as we did in the proposed rule (Occupational Employment Statistics SNF data were collected for 1990 and 1993). This approach may overstate SNF employment relative to hospitals in 1995, and therefore the blended wage may also be slightly overstated.

One reason for the discrepancy between BLS Occupational Employment Statistics and commenters' suggested shares of employment in SNFs and hospitals is that commenters have included contract therapists in their employment count for SNFs and hospitals. Using employment setting (contract and employed) rather than employer to determine the share in SNFs and hospitals increases the SNF share and decreases the hospital share to use in blending. As rehabilitation therapy firms have hired therapists away from SNFs and hospitals to work as contract therapists, it is likely that the percentage of employed therapists in SNFs relative to employed therapists in hospitals has decreased. As indicated earlier, the SNF employment weights that we use may be too high.

Comment: One commenter believed the blend is invalid because SIC codes (806 for hospitals, 805 for SNFs) do not differentiate between registered therapists, therapy assistants, and therapy aides. In addition, a few commenters noted that audiologists are included in the OES survey figures for speech language pathologists.

Response: The BLS Occupational Employment Statistics survey has a separate occupational category for registered therapists. Therapy aides and assistants are in a separate category and are excluded from therapist employment numbers. Regarding the audiologist data included with speech language pathology data in the Occupational Employment Statistics survey, we believe that including audiologist data will not significantly skew the employment shares in hospitals and SNFs for speech language pathologists.

Comment: Another commenter proposed using total wages (wage bill share of costs) rather than employment shares in blending hospital and SNF wages.

Response: Using wage bill shares of costs for weights would double the weight given to wages. The wage bill share is the number of hours of service times the hourly wage for each therapy type in each setting. The wage bill approach would, in effect, use SNF and hospital wage levels twice in the calculation rather than once as is appropriate.

Comment: Several commenters were concerned that in the blending methods we used we have not shown the difference in wage levels between hospital and SNF, and that we have not proven the statistical validity of combining these two wage values (hospital and SNF) to arrive at the wage portion of the salary equivalency guidelines.

Response: In this final rule, we followed the same procedure that we used in the 1983 rebasing of the salary equivalency guidelines for physical and respiratory therapy, as published in the September 30, 1983 **Federal Register** (48 FR 44924). The industry requested a statistical analysis of our blending therapist wages by relative employment. We commissioned a complete statistical analysis of therapist wage differentials under contract with Standard & Poor's DRI. A full discussion of the results of this study appears in Section III.B.1., the Occupational Labor Market of this final rule.

4. 75th Percentile

Comment: Commenters indicated that HCFA has significantly underestimated the 75th percentile differential. Some want therapy-specific differentials applied to each therapy type and many offered alternatives to the 10 percent that HCFA used to approximate the 75th percentile differential.

Response: HCFA estimated the 75th percentile differential using several different data sources. We did not use the data sources that did not have the 75th percentile available. The 75th percentile differential in hospitals varied from 6.9 percent to 14.7 percent depending on the data source and therapy type. The 75th percentile differential in SNFs varied from 9.7 percent to 26.9 percent depending on the data source and therapy type. None of the SNF sample surveys met the sample design criterion of the Federal Government, resulting in wider variation than would otherwise be the case.

When we ran regressions on the NASL data for hospitals and SNFs with adjustments for region, ownership, and chain or individual establishment, the 75th percentile for hospitals ranged from 9 to 11 percent, depending upon therapy type, while the 75th percentile for SNFs ranged from 12 to 14 percent, again depending upon therapy type.

The 75th percentile differential varies so widely because if two samples with the same means are compared, one meeting the BLS sample design standard and the other below the BLS standard, the 75th percentile differential will tend to be smaller for the BLS-type sample than for the other sample. The alternatives offered by commenters come from samples that do not meet BLS sample design standards.

We proposed a 10-percent differential to approximate the 75th percentile for all therapy types because we believed that we had selected a reasonable estimate for the range of average 75th percentile differentials for the various therapy types. We have increased the differential from 10 percent to 12 percent to allow for factors that we may not have quantified previously. In choosing 12 percent for all therapy types, we believe that we have selected

a reasonable estimate of the 75th percentile differential.

5. Calculations

Comment: Some commenters suggested that HCFA use BLS' 1991 Employee Benefits for Medium and Large Private Establishments rather than its 1992 Small Establishments survey. As an adjunct to this comment, some commenters indicated that the number of productive hours HCFA used was too high, and that HCFA should make adjustments for breaks and lunches, family leave, jury duty, funeral leave, and military leave.

Response: The average number of employees per establishment in SIC Code 805, Nursing and Personal Care Facilities, calculated from the BLS ES–202 survey in 1995, was fewer than 100. The average number of employees per facility in the AHCA survey's sample data for 1995 was fewer than 100, despite the fact that this data source is skewed toward larger SNF chains. These figures support our decision that employee benefits for small firms should be used in determining the number of productive hours with which to adjust the hourly wage from hours paid to hours worked.

The 1994 Small Private Firms survey reports even fewer paid leave days (vacation, sick leave, and holidays) than did the 1992 survey. For 5-year employees, subtracting paid leave and 2 days for continuing education from the standard work year (2,080 hours), still brings the number of productive hours very near to our 1,808 productive hours figure.

When data from the BLS Employment Cost Index Employer Costs for Employee Compensation for March 1995 or March 1996 are used, only State and Local Government Health Services and one of its subcategories, State and Local Hospitals, have employees who work fewer productive hours than the 1,808 hours used in HCFA's hours adjustment. All other white collar, professional and technical occupations, as well as the Health Services and Service Producing industries, work more productive hours than we used in this calculation. (The calculation to reach productive hours is 2,080 hours—272 hours of paid leave = 1,808 productive hours. Paid leave days numbered 33.7 (rounded to 34 days) and multiplied by 8 hours per day to equal 272 hours of paid leave. This adjustment equals approximately 15 percent of therapist hourly wages.)

Data from both the recent BLS Employee Benefits Survey and the BLS Employer Costs for Employee Compensation Survey support our choice of number of productive hours worked per year. It is our policy to limit paid leave to vacation, sick leave, and holidays.

Comment: Many commenters believed that HCFA's estimate of the fringe benefit share of compensation is too low. Most commenters mentioned about 30–31 percent of salary for a fringe benefits share, while another mentioned 27 percent of salary for the standard fringe benefit factor. Some commenters indicated that our proposed fringe benefit share of 14 percent was too low; others asked that the ECI for fringe benefits be used to determine fringe benefit share.

Response: For our fringe benefits calculation, HCFA used Health Care Provider Cost Report Information System (HCRIS) prospective payment system hospital cost reports to determine the share of compensation other than leave that fringe benefits constitute. The amount determined was 19.5 percent of total compensation excluding leave, or about 24.2 percent of salary. Adding the fringe benefit of paid leave (15 percent of salary associated with the productive hours adjustment) to the fringe benefits determined from the cost reports results in an overall fringe benefit rate of 39.2 percent of salary. Thus, fringe benefits, including paid leave, constitute 28.2 percent of total compensation, which is similar to the shares recommended by commenters.

Comment: A few commenters stated that the allowed rental space of 250 square feet for office space was not sufficient to meet direct and indirect space requirements. These commenters suggested that greater allowance should be made for human resources management, program support, compliance, and general business support.

Response: Contract therapists work in office space outside of the rehabilitation therapy firm for which HCFA pays as part of Medicare payments to providers. We believe that the 250 square feet for each contract therapist allowed for rehabilitation therapy firm office space is more than adequate to allow for human resources management, program support, and general business support as well as space for individual therapists.

Comment: Commenters offered what they termed ''technically justifiable corrections'' that would have added between $5.20 and $13.38 to the proposed guidelines, depending on the therapy type. Others suggested salary equivalency guidelines somewhat closer to HCFA's proposed guideline amounts. Several commenters stated that speech language pathology guidelines should be as high or higher than those for physical therapy. The commenters pointed out that speech language pathologists have greater education requirements than do the other types of therapists for whom salary equivalency guidelines were proposed. In addition, commenters indicated that the services speech language pathologists perform merit higher guidelines than we proposed.

Other commenters indicated that if salary equivalency guidelines do not reflect accurately contract rates in the RTF industry, SNFs and other providers will be unable to obtain medically necessary services for Medicare beneficiaries. Some commenters believed that, in addition to having difficulty in procuring therapy services, SNFs may find their profit margins depressed to the point where some may close.

Commenters reported that some rehabilitation therapy firms pay therapists sign-on bonuses and offer cruises as special incentives.

Response: We carefully analyzed all the industry ''technically justifiable correct'' alternative levels for salary equivalency guidelines and made modifications where we believed them to be appropriate. We carefully reviewed recommended changes to employment weights, fringe benefit shares, rental space, overhead shares, and 75th percentile differentials. Modifications were made where they were justified by the data, as stated in other sections of this rule. We recognize that sign-on bonuses and other incentives such as cruises, noted by some commenters, increase the operating costs of rehabilitation therapy firms and result in higher wages than cost conscious purchasers can afford to pay. This regulation requires HCFA to set the salary equivalency guidelines at levels reasonably close to costs that providers would incur for their own employees. These bonuses and other incentives have contributed to distorting the therapist market. We do not believe that Medicare should recognize these extraordinary costs, which may not be considered to be related to patient care, as part of its salary equivalency guidelines. Finally, we believe that the therapist market, including rehabilitation therapy firms, will adjust to these new guidelines without disrupting access to care. Indeed, because of provisions in the Balanced Budget Act of 1997, the new guidelines will not be the only change controlling provider behavior.

C. One Schedule for Respiratory Therapists

We proposed to use one schedule of guidelines for respiratory therapists, in contrast to the three schedules that we issued in the September 30, 1983 notice. This decision was based on the fact that HCFA does not differentiate in covering respiratory therapists by different levels. Therefore, to make coverage conform with payment for respiratory therapy services, we proposed one schedule for respiratory therapists. Information from fiscal intermediaries and the American Association for Respiratory Care indicates that industry practice is to use only one schedule. For respiratory therapists in 1991, BLS showed two wage classes and a summary wage level. The summary level was the consistent category present for all metropolitan statistical areas (MSAs) and encompassing all nonsupervisory levels of responsibility. This final rule includes one schedule of guidelines for all therapy types.

Comment: One commenter was concerned that the American Hospital Association (AHA) and BLS data do not distinguish between wages for a Certified Respiratory Therapy Technician and a Registered Respiratory Therapist and fail to take the salary differentials of the two levels into consideration. The commenter felt this was important for two reasons. First, SNFs usually require the more experienced registered respiratory therapists. Second, with a single rate, HCFA would introduce an incentive for SNFs ''to contract for the less costly, yet less experienced and less trained CRTT, rather than the more advanced registered respiratory therapist to provide respiratory care services to the medically acute SNF patient,'' raising questions about the delivery of appropriate quality patient care.

Response: We used the AHA and BLS data for trending purposes only and assumed that certified respiratory therapy technician and registered respiratory therapist wages rose at the same rate. This rule implements one schedule of guidelines for respiratory therapists, regardless of whether services are rendered by a certified respiratory therapy technician or a registered respiratory therapist. We developed a single respiratory therapy wage rate that includes wages for certified respiratory therapy technicians and registered respiratory therapists, weighted for the various levels in respiratory therapy. The single wage rate for the BLS data aged to 1995 was $15.48 per hour, compared to $15.58 per hour for all data sources, a difference of less than one percent.

Regarding the commenter's concern of introducing an incentive to SNFs to use ''less experienced and less trained'' certified respiratory therapy technicians rather than registered respiratory therapists, we believe that as long as the therapist is qualified to provide respiratory therapy services, then the provider will furnish quality care. Therefore, both a certified respiratory therapy technician or a registered respiratory therapist should be qualified to provide respiratory therapy services.

D. Geographic Adjustment Factors

1. Use of Urban Portions of the Prospective Payment System Hospital Area Wage Index for Geographic Adjustment

We proposed using the urban portion of the prospective payment system hospital area wage index to adjust the guideline amounts for local labor-related cost variations. We chose the urban portions of the prospective payment system hospital area wage index because we felt that SNFs compete in the same labor markets as hospitals, HHAs, and other health care providers. There was also precedent for using the hospital area wage index since two other long-term care Medicare benefit programs, SNF and HHA care, use it to adjust for local labor cost variation.

Comment: Several commenters stated that using the hospital area wage index to adjust the salary equivalency guidelines for geographic variation exaggerates the market variances both within and across States. The commenters suggested that the geographic wage variation in rehabilitation therapist labor markets is less than the geographic variation in hospital industry labor markets. Therefore, they concluded that using the hospital area wage index creates variations among localities that are much too large. The commenters offered suggestions that they believed would more adequately reflect the actual geographic variations in therapist wages. One of these suggestions was the Geographic Practice Cost Index (GPCI) used under the Resource-Based Relative Value Scale (RBRVS) of the Physician Fee Schedule. Other suggestions included aggregating data into State or regional rates similar to those under the existing guidelines, or creating State guideline amounts close to the national average with exceptions for markets that have extreme variations. Commenters also suggested using the hospital area wage index, but applying it to a smaller portion of the labor-related costs to reduce distortions within and across states. Another commenter suggested using the reclassified prospective payment system hospital area wage index, instead of the pre-reclassified area wage index. That would give SNFs and therapy suppliers the same advantages that prospective payment system hospitals receive since SNFs compete in the same labor markets as hospitals.

Response: As recommended by commenters, we are using the GPCI contained in the Physician Fee Schedule (62 FR 59052, October 31, 1997) instead of the hospital area wage index. We will use the Work, Practice Expense, and Malpractice GPCIs, and apply them to therapist compensation and overhead shares. Therapist compensation and overhead shares come from the therapy-specific input price indexes as developed by HCFA. There was no direct source of data on therapist malpractice cost shares. To estimate a malpractice share, we analyzed the malpractice shares from relevant rehabilitation therapy Current Procedural Terminology (CPT) codes under the Physician Fee Schedule. We determined that, on average, malpractice represents roughly 3.0 percent of total expenses for these therapy CPT codes. We used 3.0 percent for the malpractice share of the GPCI and subtracted 3.0 percentage points from the overhead share of the GPCI to avoid accounting for malpractice twice. The shares for these therapy-specific input price indexes are presented in the table below.

Therapist cost category	GPCI	Cost shares from therapy-specific input price indexes			
		Physical therapist	Occupational therapist	Speech language pathologist	Respiratory therapist
Therapist Compensation	Work	0.74	0.72	0.71	0.67
Therapist Practice Expense	Practice Expense	0.23	0.25	0.26	0.30

Therapist cost category	GPCI	Cost shares from therapy-specific input price indexes			
		Physical therapist	Occupational therapist	Speech language pathologist	Respiratory therapist
Therapist Malpractice	Malpractice	0.03	0.03	0.03	0.03
Total		1.00	1.00	1.00	1.00

The guideline amounts are calculated by the following equation:

Locality SEG amount
=
National SEG amount
×
[(Work GPCI × Therapy-Specific Compensation share)
+
(Practice Expense GPCI × Therapy-specific Overhead share)
+
(Malpractice GPCI × Therapy-specific Malpractice share)]

The GPCIs and guideline amounts for each therapy type for each GPCI locality are in Table I under section V of this final rule.

We decided to use the GPCI for several reasons. The Balanced Budget Act of 1997 mandates that many therapy services that are now reimbursed based on the salary equivalency guidelines will be shifted to the physician fee schedule, and, thus, therapist wages will be indexed by the GPCI as early as July 1, 1998. We, therefore, saw that using the GPCI was the direction for future therapy wage adjustments. We assessed the appropriateness of using the GPCI and found that, of the available indexes, the GPCI most accurately reflects the local labor costs of therapists. Using the GPCI produces a less widespread geographic distribution of guideline amounts. Also, many commenters asked us to provide statewide rates as opposed to MSA rates provided in prior salary equivalency guideline notices.

We decided to apply the GPCI to the therapist compensation share as determined by the therapy-specific input price index. We then used the practice expense GPCI to approximate the relative cost differences by geographic area of practice expenses (clerical and managerial compensation, office costs, and other costs) used to provide therapy services. In addition, we use the malpractice expense GPCI to approximate the relative cost differences by geographic area for malpractice expenses incurred in providing therapy services. The application of these GPCIs is analogous to the methods used under the Physician Fee Schedule.

As mandated by section 4541 of the Balanced Budget Act of 1997, many services presently covered under the therapy guidelines will be paid under the physician fee schedule beginning in January 1999. Since the physician fee schedule is adjusted for geographic variation by the GPCI, both the current and future payment systems will reflect similar geographic wage adjustments providing a smoother transition from the salary equivalency guidelines to the physician fee schedule.

Comment: Commenters suggested that the hospital area wage index in the proposed rule did not reflect the known geographic differences in therapist wages in different settings, specifically, hospital-employed therapists as compared to SNF-employed therapists. Many commenters suggested that until HCFA can demonstrate that the geographic variation in the wages in other settings are comparable, the use of the PPS hospital area wage index should be abandoned.

Response: We responded to the variation in wage levels among different settings in our responses to comments on the occupation labor market for therapists under section III.B. of this final rule. We have no data that indicate that the geographic adjustment needs to be done by setting if the national baseline amounts by setting are appropriately handled.

Comment: A commenter recommended that HCFA use nursing home employed therapist wage data, and that the recent revision to the SNF Medicare cost report would be useful in this regard. The commenter suggested this as a long-term option and was willing to accept modification of the hospital area wage index as a short-term solution for reducing the influence of the geographic adjuster.

Response: We have decided to use the GPCI from the physician fee schedule as the geographic adjuster. Currently, however, therapist wage data are not available on the Medicare SNF cost reports. Also, the Balanced Budget Act of 1997 provides for payment for outpatient rehabilitation services on a fee schedule basis which uses the GPCI as the wage index. Since we will only have salary equivalency guidelines for a short period of time, we have not developed a separate wage index for therapy services using nursing home employed therapist wage data.

2. Methodology for Determining Rural Rates Under Salary Equivalency

We proposed to calculate the guidelines in rural (non-urban) areas in a given State as the weighted average of the prospective payment system hospital wage index for MSAs within a State's boundaries. We proposed this method because our analyses indicated that the therapy market for rural areas tends to reflect the prevailing compensation conditions of the surrounding urban areas in the region. By weighing the urban areas in a state by the amount of hours associated with the delivery of PPS hospital care, the rural rate would reflect the larger weight given to MSAs with the most hospital hours. These urban areas with most of the hospital hours also tend to have higher wage index values.

Comment: Several commenters were concerned that rates in some rural areas may be set too low. Some commenters indicated that this would impede access to quality health care by Medicare beneficiaries because it would be difficult to recruit and retain therapists in rural areas. These commenters offered no recommendation on how to mitigate this potential problem.

Response: Since we have decided, based on industry comments and HCFA analyses, to use the work, practice expense, and malpractice GPCIs from the physician fee schedule, we analyzed rural rates using the GPCI. Unlike the hospital area wage index, the GPCI provides no distinction between rural and urban areas. Instead, certain localities have separate GPCIs based on their unique characteristics. The rest of the areas in a state use the state GPCI. The localities given separate index values are usually the larger urban areas and have been separated because they have unique labor cost characteristics. Using the GPCI essentially creates a geographic cost adjustment for the unique areas and a different geographic cost adjustment for the rest of the state. Under this methodology, a rural area would have a similar guideline amount to any other area in the state (urban and non-urban), except those areas that have

unique cost markets. The 1990 Census data showed that therapist wages in rural areas were close to therapist wages in other rural and urban areas while therapist wages in the largest urban areas were distinctly higher than the national averages. Using the work GPCI produces a local labor adjustment that mirrors the actual geographic wage variations for therapists as determined from the 1990 Census data.

Because of the resulting distribution created by using the GPCI, we do not feel that rural areas will have difficulty recruiting and retaining therapists. Since only those areas that have shown unique costs would have a different guideline amount, rural areas would receive effectively the same rate as most nonrural areas in the State. Thus, there would be no incentive to diminish services in rural areas or compromise access to quality health care by Medicare beneficiaries due to relatively lower wage levels. We do not believe that a local labor cost adjustment (work GPCI) that mirrors the actual geographic wage distributions for therapists will create shortages in rural areas.

Comment: Several commenters were concerned that the guideline amounts would force SNFs in rural areas to use on-call therapists rather than contract therapists. The commenters stated that the only reason rural areas can currently attract contract therapists is that therapy companies can offer bonuses to their employees. If the rates in rural areas are set too low, contract therapy companies could not hire as many therapists and, therefore, could not provide services in rural areas. Thus, rural nursing homes would have to use on-call therapists who are less qualified than contract therapists.

Response: Since we are using the GPCI to adjust the guidelines for relative cost differences by geographic area, we believe that we have addressed the concerns of these commenters. As explained above, most areas in a State, including rural areas, are adjusted by the same GPCI. Only those areas that have shown unique characteristics would have a different adjustment factor under the GPCI. In fact, there are 33 states that have statewide rates only. We feel this methodology more accurately reflects the current labor market for therapists for two reasons: First, therapy companies can attract therapists under these guidelines because the guidelines more accurately reflect the relative costs of an hour of therapy patient-time for a given therapy type. Second, using the work GPCI to adjust the guidelines provides a more accurate reflection of the geographic distribution of therapist wages. Therefore, we see no reason for therapy companies to be unable to attract therapists nor do we see any reason for rural areas to be unable to attract contract therapists under these guidelines.

The use of on-call therapists is a decision to be made by the individual nursing home. While some commenters believed that on-call therapists were not as qualified as contract therapists, other commenters seemed to imply that on-call therapists came from the same group of therapists as contract therapists. As far as we know, there is no difference in education, training, or credentialling between the two. Commenters also alluded to rural areas using on-call therapists because that was the nature of their caseload. We do not feel that these new salary equivalency guidelines disadvantage rural areas, particularly regarding on-call therapists.

Comment: One commenter believed that HCFA's proposed methodology for computing the rural rates is incorrect because it should be based on the cost of employing labor in a rural area or weighted by other data representative of labor costs of speech language pathologists in rural areas. The commenter suggested using either rural area speech language pathology wage data, state average speech language pathology wage data, rural area hospital wage data, or state average hospital wage data. The commenter also suggested applying the prospective payment system hospital wage index to one-third of the guideline amounts instead of 83.378 percent as proposed.

Response: There are no available data or index for speech language pathology wages in rural areas or state areas that could be used to adjust the guidelines. Because there are no available geographic data on speech language pathology wages and because the hospital wage distribution does not reflect therapist wage distribution, we have decided, based on industry comments and HCFA analyses, to use the work GPCI for the therapist compensation portion of the therapy-specific input price indexes. We will also apply the practice expense GPCI to the practice expense portion and the malpractice GPCI to the malpractice expense portion. Based on our analysis of the different data surveys of therapist wages by geographic region, the work GPCI provides a close approximation of the distribution of therapist wages.

Comment: One commenter recommended that HCFA have a special adjustment for rural providers that contract for more than 40 percent of any specific therapy services.

Response: This comment implied that the adjustment should increase the guideline amounts for rural providers that contract for large amounts of therapy services because contracting for these services in rural areas is more costly. We feel that, by using the GPCI to adjust the guideline amounts for geographic variation, we have adequately determined rural rates. The guideline amounts in rural areas are consistent with the guideline amounts in nonrural areas that have not displayed unique labor costs. The distribution of rural guideline amounts as they compare with guideline amounts in other areas is consistent with the geographic distribution patterns of therapist wages shown in other surveys.

Comment: One commenter suggested that HCFA continue, as in the proposed rule, to apply a blended MSA rate as a substitute for rural calculations.

Response: We are not blending urban rates to determine rural rates in this final rule because we are not using the hospital area wage index to adjust the guideline amounts for local labor cost variations. Instead, we are using the GPCI from the physician fee schedule to adjust the guideline amounts for relative cost differences by geographic area. The work GPCI more accurately reflects the geographic distribution of therapist wages and produces a rural area amount that is consistent with nonrural areas in a state that has not shown unique cost characteristics.

3. Local Labor Market Theory

We proposed to adjust the salary equivalency guideline amounts for local labor cost variations because the labor market theory suggests that payment amounts reflect the costs of providing services in a given area. Many other Medicare payment systems such as hospital prospective payment system, SNF and HHA cost limits, and the physician fee schedule, adjust payments for geographic variation. Adjusting the guidelines for local labor cost variations is consistent with the adjustments made under these other payment systems. The only difference is that the salary equivalency guidelines are established for a single type of occupation (therapists) whereas costs in these other programs include all occupations in the industry. Because of this difference, there is no available adjustment factor that is completely accurate for therapist wage variations by geographic area. Instead, we use the adjustment index that best reflects the observed geographic distribution in therapist wages. The most appropriate adjustment index HCFA has been able to find was

the work GPCI from the physician fee schedule.

Comment: One commenter believed that it was inconsistent for HCFA to simultaneously recognize and adjust for differences in therapist wages among geographic regions while, at the same time, insisting that the much greater wage differentials among sites of employment within the same geographic region are not also worthy of adjustment.

Response: We believe that the adjustment to therapist wages for local labor cost variation is a different issue than the compensation of wage differentials among sites of employment within the same geographic area. We discuss our logic and the reasoning behind our decisions on wage differentials by employment setting in our responses to comments on the occupational labor market for therapists under Section III.B. of this final rule. We have concluded that the observed wage differentials by employment setting result from compensating differences in working conditions, skills required, short-run market disequilibrium, and different degrees of cost-minimizing behavior in different settings. The relative cost differentials by geographic area are simply variations caused by local market conditions and are not designed to replace the compensating differentials that HCFA incorporates in the guideline amounts. Relative cost differences by geographic area are captured in both the PPS hospital area wage index and the GPCI. However, for specific occupations, this differential can be smaller or larger than the average for all occupations. For therapists, we have found that local labor cost variation is smaller than the variation for all hospital occupations. The GPCIs and guideline amounts for each therapy type for each GPCI locality are in Table I under section V. of this final rule.

E. Salary Equivalency Amount Updates

In the March 28, 1997 proposed rule, we discussed the development of the Rehabilitation Therapist Input Price Index needed to update guideline levels from the base period to the implementation period (62 FR 14868). The rehabilitation therapist input price index would also be used to adjust the guidelines in future periods, using forecasts by Standard & Poor's DRI.

1. Rehabilitation Therapist Input Price Index and Related Issues

As discussed at 62 FR 14868, we proposed that the therapist input price index would be a fixed-weight, or Laspeyres-type, index. The index would be consistent with other HCFA input price indexes used to update Medicare payment rates. HCFA input price indexes are normative indexes measuring the pure price change of a fixed market basket of inputs to provide specific services. A normative index is designed to measure pure price changes under normal competitive conditions, conditions that may not exist in health care markets given the extensive presence of third-party payers. The rehabilitation therapist input price index consists of two parts for each cost category: (1) base weights that are determined from the same data sources as used to produce the guideline payment levels, and (2) price proxies that show price changes reflective of cost-minimizer market forces impacting a given cost category.

Comment: One commenter suggested that changes be made to correct the fringe benefit factor and to adjust the rental cost share to reflect what the commenter believes to be more realistic space needs. The commenter recommended using the ECI data on fringe benefits for hospital workers and increasing the rental area to 750 square feet.

Response: As explained in the section on methodology, we have modified the fringe benefits factor to include the productive hours adjustment. The productive hours adjustment had previously been added to wages rather than fringe benefits. Reclassifying the productive hours adjustment to the fringe benefits factor increases its share of total compensation to more than 28 percent. This share which we calculated using the hospital Medicare Cost Reports and the productive hours adjustment, is consistent with the ECI data on fringe benefits for hospital workers. The consistency supports our view that the hospital Medicare Cost Reports are the most accurate source of fringe benefit data since they are carefully scrutinized for use under hospital prospective payment system. Therefore, we believe that this is an accurate estimate of the fringe benefit share for the rehabilitation therapist input price index.

We also believe that the 250 square feet allowed as office space in the proposed rule is sufficient for efficient and effective therapy services as was explained in section III.B., Methodology, of this final rule. We will continue to use the cost associated with 250 square feet as the rent share in the rehabilitation therapist input price index.

Comment: One commenter recommended using internal proxies for wages and fringe benefits consistent with the hospital and SNF blend used in determining wage levels for the guideline amounts.

Response: The hospital and SNF blend uses rehabilitation therapy wage levels for physical therapy, occupational therapy, speech language pathology, and respiratory therapy to reflect occupational market wage levels for the nation. The rehabilitation therapy input price index is used to update the base wage levels for inflation and is analogous to our market baskets for prospective payment system hospitals and HHAs. In both of these market baskets, rehabilitation therapists are included as part of professional-technical occupations with a 50/50 blend of the ECI for civilian hospital workers and the ECI for private professional-technical workers. The rehabilitation therapy input price index uses this same blend of ECIs.

Comment: One commenter proposed an alternative method of escalation which, for the time period tested, actually would project lower monthly increases than would the 96:3 forecast of the rehabilitation therapist input price index.

Response: The escalation method proposed by the commenter used a market basket that differed slightly from the one we derived. The commenter's market basket blended the ECI for nursing homes with the ECI for hospitals to create a blended internal wage proxy. Our rehabilitation therapist input price index is consistent with the 50/50 blend of ECI for hospitals and the ECI for Professional and Technical used in the hospital PPS and HHA input price indexes. We believe this methodology most closely measures relevant buyer price inflation even if it results in projected monthly increases that are higher than the alternative proposal.

Comment: One commenter suggested using the CPI plus an additional percentage, determined by HCFA, while another commenter suggested using the CPI plus 3 percent as the update factor if updates are not applied within a certain time limit.

Response: Our rehabilitation therapy input price index updates are conceptually superior for adjusting the salary equivalency guidelines because they are specific to the cost structure of rehabilitation therapy. We use weights that reflect the mixture of costs appropriate for efficiently providing contract rehabilitation therapy services. The rehabilitation therapist input price index includes proxies for wages and benefits of health sector and professional and technical workers as well as wages and benefits for administrative support and managerial

personnel, office costs, and other costs. These proxies are conceptually closer to changes in the actual cost of rehabilitation therapy supply services than is a broad measure like the CPI.

HCFA has currently produced updates through the year 2000. The Balanced Budget Act of 1997 shifts most services covered by salary equivalency guidelines to SNF PPS or to the physician fee schedule well before the year 2000.

2. Timing of Rebasing Rates and Market Basket

Comment: Some commenters believed that HCFA should establish a schedule for adjusting inflation assumptions and provide that schedule in the final rule. These commenters also felt that HCFA should explain when and how rebasing would be done. Some commenters requested it be rebased at least every 3 years. One commenter recommended we update for inflation annually.

Response: The Balanced Budget Act of 1997 included some provisions that we believe will implement more effective and simpler controls over providers' costs of contracting for therapy services and that appear to make revised salary equivalency guideline regulations unnecessary in the future. The Balanced Budget Act of 1997 provided prospective payment systems for SNFs, HHAs, and Community Mental Health Centers, which ultimately will eliminate the need for salary equivalency price restraints in those venues. In addition, the Balanced Budget Act of 1997 contained various provisions which will move therapy payment from a cost basis to using the physician fee schedule for therapy provided in CORFs and outpatient rehabilitation facilities and by other providers furnishing Part B outpatient therapy service. This includes the therapy provided under Part B to nursing home patients, outpatient hospital services, and outpatient therapy services provided by an HHA to patients not under the HHA benefit. The Balanced Budget Act of 1997 also provided a $1,500 annual limitation per Medicare beneficiary where therapy services are provided under the outpatient physical therapy benefit (which includes outpatient speech language pathology services) or occupational therapy benefit. We believe that these new prospective payment systems, application of the physician fee schedules, and the $1,500 annual limitation per Medicare beneficiary, when they are implemented, will override limiting payment of contracted therapy services to the salary equivalency guidelines because they will limit payment for contracted therapy services and should offer a strong incentive for providers to control costs. Therefore, we almost certainly will not be revising the salary equivalency guidelines in the future. Until the new payment systems are implemented for the different providers, this rule provides a monthly adjustment factor for May 1998 through April 2001 (Table IV). Also, for cost reporting periods beginning on or after May 2001, the schedules would remain in effect, increased by the appropriate adjustment factor.

F. Other Technical and Policy Issues

1. Travel Allowance

Comment: Several commenters requested clarification regarding payment of the standard travel allowance. Many commenters requested that we revise the current policy, which permits only one standard travel allowance per supplier traveling to a provider site. Some commenters suggested that we should permit a standard travel allowance for each therapist traveling to the provider site. Some commenters believed that the standard travel allowance is inadequate, especially for HHAs, and another commenter believed that the standard travel allowance may discourage therapists contracting with providers in rural areas. One commenter stated that it should be noted that a salaried therapist is not subjected to a reduced compensation allowance for time spent traveling to a patient's home. Another commenter recommended an alternative of one travel allowance for each discipline or therapy type that performs services at each provider site each day.

Response: We have not found any evidence that the standard travel allowance has discouraged therapists from contracting with rural providers in rural areas. Also, our longstanding policy authorizes HHAs to receive payment under the optional travel allowance policy if they document their time spent in traveling and, if they choose, their travel mileage. We have decided to adopt the recommendation made by one commenter to provide a travel allowance for each discipline or therapy type that performs services at each provider site each day.

Comment: We asked for comments in the proposed rule on extending the optional travel allowance established for home health agencies to all providers. We received a large amount of comments requesting that we adopt this provision. In addition, one commenter stated that a salaried employee is not subjected to reduced compensation when he/she travels to a patient's home. A salaried employee who receives a set compensation is paid for all duties of his job including travel time within an 8 hour day. This is in contrast to a person who is being paid on a contractual basis.

Response: After consideration of the comments, we decided to expand the optional travel allowance. In this rule, we are permitting the optional travel allowance for all providers who furnish therapy services in areas in which geographic distance creates unique labor markets, e.g., rural areas. Under this optional travel allowance, each therapy type or discipline traveling to either the patient's home or provider site may claim this optional travel allowance. However, the provider must maintain documentation of the therapist's travel time and mileage. This optional travel allowance will help providers who are disadvantaged by one standard travel allowance per supplier. We believe that the standard travel allowance is adequate.

2. Data Sources for Future Salary Equivalency Guidelines

This topic is now obsolete because, as a result of the Balanced Budget Act of 1997 provisions, we are not publishing revised guidelines in the future.

3. Application of Guidelines

Comment: We received three comments regarding application of the guidelines in situations where compensation to a therapist employed by the provider is based (at least in part) on a fee-for-service or on a percentage of income (or commission) and that was of particular concern to the home health industry. One commenter pointed out that this issue is in litigation and should not be resolved through regulations. In addition, this commenter stated that, based on the law, HCFA could not apply salary equivalency guidelines to employees paid on a fee-for-service basis and that this proposal is only one step away from applying guidelines to the allowable costs of all therapy services whether salaried employees, hourly compensated employees, ''fee-for-service'' employees, or outside contractors. Another commenter felt that this proposal needs to be considered more carefully. The third commenter was in favor of this provision and felt that it was a good safety measure.

Response: We are establishing regulations that will allow that the salary equivalency guidelines to apply in situations where at least partial compensation to a therapist employed by the provider is provided on a fee-for-

service basis or on a percentage of income (or commission). The entire compensation will be subject to the guidelines in cases where the nature of the arrangements are most like an ''under arrangement'' situation, although the provider may technically treat the therapists as employees. The guidelines will be applied in this situation so that an employment relationship is not being used to circumvent the guidelines. Since June 1977, our longstanding policy on this issue has been contained at section 1403 of the Provider Reimbursement Manual. We are now establishing this provision in regulations that further the statutory purpose of cost control as reflected in the legislative history of the guidelines. HCFA recognizes that certain employment relationships would effectively circumvent the guidelines, has provided for these circumstances in instructions in section 1403 of the Provider Reimbursement Manual, and now provides for them in regulations at 42 CFR § 413.106(c). The guidelines will only be applied in such cases, not to all salaried employees. We do not believe that the fact that there is litigation on this issue prevents us from establishing this longstanding policy in regulations.

4. Limiting Contracted Services to 40 Hours

In the proposed rule, we had stated that, while we were evaluating the data used in developing the guideline amounts, we became aware of a tendency for contracted therapy hours in some cases to exceed 40 hours per therapist a week, the amount of hours a full-time employee would generally work (62 FR 14872). We proposed to eliminate the expense factor where the hours of therapy services per therapist exceed 40 hours.

Comment: An overwhelming amount of commenters requested that we not eliminate the expense factor for therapy hours per therapist that exceed 40 hours. Several commenters said that in rural areas, where it is hard to obtain therapists' services, the therapists must sometimes work over 40 hours.

Response: We have decided to retain the expense factor in cases where the therapist provides services to the provider exceeding 40 hours per week. We believe that this may be burdensome for the intermediaries and as stated by the commenters, there may be some providers who do appropriately utilize services in this manner.

5. Outcomes Based Systems

Comment: Several commenters stated that they used the Functional Independence Measurements in SNFs. They also stated that they wanted payment outside of the expense factor for this service which should be reimbursed based on the prudent buyer policy.

Response: Events have superseded our allowing an additional payment for outcomes-based systems. OBRA '87 required that the SNF must complete a comprehensive resident assessment which is the minimum data set. The Balanced Budget Act of 1997 also mandates, for purposes of the SNF prospective payment system, that SNFs complete the MDS for collecting information for payment under prospective payment system for therapy and other services. SNFs are and will be reimbursed for completing the minimum data set. We will not be able to permit an additional payment outside of the salary equivalency guidelines for other outcomes based systems.

6. Exception for Binding Contract

We proposed to eliminate the exception for binding contract.

Comment: Several commenters requested that we not eliminate the exception for binding contract and that it continue in the manner that it is currently provided for in the regulations. Other commenters believed that therapy contractors and nursing home providers should not be subject to rates that were not yet published at the time a contract was negotiated.

Response: We continue to believe that providers should have been prudent buyers of therapy services at the time they negotiated the contracts. Therefore, elimination of the exception for binding contract and applying the salary equivalency guidelines to these services where a binding contract is in effect should not yield a different result than what a prudent buyer should pay. Accordingly, we are eliminating the binding contract exception in § 413.106(f)(1).

7. Exceptions Process for Unique Circumstances or Special Labor Market Conditions Including Time Period for Submission of Requests

We received several comments on the substantiating requirements and the process.

Comment: One commenter asked that we establish a new exceptions process that would include specific requirements for a provider qualifying as having unique circumstances or a special labor market condition. The commenter also requested that we have specific time limits on intermediary, HCFA Regional Office, and Central Office review of the exception request. Several other commenters also made similar requests. Several commenters said that the exceptions process was adequate but recommended a deadline of 90 to 120 days from receipt of application for fiscal intermediary response.

Response: At this time, we will not be establishing a new exceptions process. The Balanced Budget Act of 1997 introduces new payment systems which, for a large portion of the providers, will override the salary equivalency guidelines in the next year. We also believe that the current exceptions process provides sufficient latitude for submission of provider documentation to support either an exception request for unique circumstances or special labor market conditions. Also, with the 60 day increase in time that the provider has to submit documentation, the providers should have enough time to provide documentation to the fiscal intermediaries. Regulations at § 413.106(f)(4) now reflect the increase from 90 to 150 days. We encourage providers to do so and, as suggested in the comments, we will require that the intermediaries process the exception requests within 180 days after receiving the exception request which is the same time frame required for SNF and HHA exception requests to routine cost limits. Because this has never been a HCFA Central Office responsibility, we do not want to make it so now, since the salary equivalency guidelines will shortly be phased out for all providers. However, we believe the 180 days will give the intermediary enough time to conduct their own review of the documentation and, if necessary, enough time to consult with the Regional Office.

Although we did not ask for comments in the proposed rule on payment for supervisory services, we received several comments on the issue of supervisory pay.

Comment: Several commenters asked that payment for these services be made at 135 percent of the hourly salary equivalency guideline amount.

Response: Because there was no evidence to substantiate these comments, we will continue to have the fiscal intermediaries pay for these services based on the intermediaries' knowledge of the differential between physical therapists', respiratory therapists', occupational therapists', and speech language pathologists' supervisors' salaries and physical therapists', respiratory therapists', occupational therapists', and speech language pathologists' salaries in similar provider settings in the area.

Comment: Several commenters asked for a definition of a supervisor and an

administrator. Several commenters asked if one supervisor could supervise all types of therapy. One commenter asked if there could be a different supervisory rate per discipline.

Response: In the past, the Medicare program has not defined these terms. However, section 1412.5 of the Provider Reimbursement Manual permits an additional payment for a chief therapist and those therapists who spend at least 20 percent of their time supervising other therapists or in administrative duties. Supervising other therapists is distinguished from simply being expected, as a staff therapist, to direct trainees, aides, and assistants in performing therapy services. Administrative responsibility is the performance of those duties that normally fall within the purview of a department head or other supervisor. Because the provider department head or supervisor is not providing direct patient care, it would not be necessary for this person to hold the credentials for the particular type of department he is heading. For that reason, we are not asking intermediaries to determine different administrative/supervisory rates for each discipline.

Comment: Several commenters requested that we pay aides as a function of the hourly salary equivalency amount at 50 percent of these amounts. Some commenters suggested that aides be paid at one third of the hourly salary equivalency amount. Another commenter asked that HCFA conduct a study of the classification and compensation of rehabilitation therapy aides and establish a set of salary standards specific to respiratory therapy aides.

Response: Because the commenters did not supply any substantiating evidence in the comments to support their request for paying aides as a function of the hourly slary equivalency amount at 50 percent, we will continue our policy of having the intermediary look at a comparable position, e.g., the nurses aide in order to determine the reimbursement amount. Because there are no educational requirements for coverage of aides' services and we continue to believe that their services are comparable to nurses aides, we do not feel that it is necessary to conduct a study of the classification and compensation of therapy aides.

Although we did not request comments on payment for assistant services, we did receive several comments on this issue.

Comment: Several commenters asked that we increase payment to 85 percent of the hourly salary equivalency amounts for assistants.

Response: Because there was no evidence to substantiate the commenters' request, we will continue with payment at 75 percent of the hourly salary equivalency amount.

Comment: Several commenters were concerned that we were limiting payment for overtime.

Response: The proposed rule did not specifically introduce new limits on payment for overtime. The proposed rule states that a provider would receive payment for overtime; however, if the therapist worked over 40 hours he/she would not receive the expense factor portion of the hourly salary equivalency guideline amount. As stated previously, we are not limiting the expense factor if a therapist works over 40 hours. We are also not revising the overtime policy. Section 1412.4 of The Provider Reimbursement Manual contains our longstanding policy for overtime reimbursement.

Comment: Several commenters asked that HCFA add a provision to the regulations that recognizes a 12.5 percent shift differential for weekend and second shift services.

Response: We continue to believe that it is not customary for therapists to provide services on shifts that would not be part of a normal day-time shift. Therefore, we suggest, for those cases where a provider is paying a shift differential, that the provider apply for an exception as a unique circumstance. The fiscal intermediary will determine if the amount paid is reasonable and justifiable as a unique circumstance.

Comment: One commenter suggested that HCFA use the HHA per visit limits for the salary equivalency guideline amounts instead of the proposed rule.

Response: We cannot use the HHA per visit limits because they do not represent hourly wage rates for employees. They are visit costs which do not necessarily represent an hour's worth of service and do not represent hourly wage rates for therapists.

Comment: One commenter felt that HCFA should exempt from the salary equivalency guidelines those facilities participating in Phase I of the Multi-State Case Mix Demonstration project.

Response: In Phase I and Phase II of the Multi-State Came Mix Demonstration project, the therapy services were paid on a reasonable cost basis and therefore, payment was limited to the salary equivalency guidelines. Under Phase III, therapy services are paid on a prospective payment rate. However, the providers will have to continue to complete a Medicare cost report reflecting the salary equivalency guidelines. Ultimately, the salary equivalency guidelines will not effect the payment the providers receive because payment for therapy is on a prospective rate. As SNFs participating in the demonstration project are paid under the prospective payment system, they will no longer be paid under the demonstration project. They will be subject to prospective payment system for cost reporting periods beginning on or after July 1, 1998.

Comment: One commenter recommended that a variety of costs should be reimbursed for contract therapists working in SNFs: (1) Education, (2) training, (3) attendance at professional meetings, (4) licensing and credentialing, and (5) liability insurance.

Response: We believe that because these costs are the type of costs that an employee may incur, they are reimbursed under the hourly salary equivalency amount as part of the fringe benefit and expense factor.

Comment: Several commenters supported an exception for certain diagnostic services, such as video fluoroscopies, and recommended that such procedures be exempt from the salary equivalency guidelines.

Response: We do not believe that there should be an exception for these services. We believe that if qualified speech language pathologists are permitted to perform those services, then they are speech language pathology services that should be paid for in the same manner as other speech language pathology services. We want to point out that any special equipment that is required for these services will be reimbursed as an additional allowance to the hourly salary equivalency guideline amounts. Also, if these services take longer to perform than some other therapy services, the provider will be reimbursed for the additional hours.

Comment: One commenter suggested that HCFA study the impact that the Medicare transfer agreement requirement has on the cost of providing respiratory therapy services to SNFs. The commenter stated that the transfer agreement creates another layer of costs.

Response: Because the Balanced Budget Act of 1997 provides that, for respiratory therapy services furnished by a SNF on or after July 1, 1998, there will no longer be a requirement for SNFs to provide respiratory therapy services to SNF patients through a transfer agreement hospital, we do not believe it is necessary to perform the suggested study.

Comment: One commenter wanted HCFA to clarify which rate may be charged when a rehabilitation facility

bills for services using contracted employees in several sites that cross geographic wage index lines (*i.e.*, charge geographic rates based on central office location or site location?)

Response: We do not interfere with the provider's charging practices as long as it is consistently applied to all patients. However, the guidelines would limit provider's costs to the central office location guideline amount because the salary equivalency guidelines limit the costs of the provider who incurs the costs and does the billing. In addition, we do not have any site-of service-billing requirements for therapy services.

Comment: One commenter stated that HCFA was deficient in not developing data for HHAs, CORFs, and outpatient rehabilitation facilities.

Response: We did not have the database resources to perform the types of studies and surveys that are necessary for the salary equivalency guidelines. As pointed out in other sections of this final rule, we are unable to use the cost report as a data source for wage rates because it does not collect information on hourly wages for employees. Moreover, no outside sources submitted reliable data for these individual provider types that were consistent with the type of data described in the Senate Committee on Finance Report (S. Rept. No. 1230, 92nd cong., 2nd sess. 251 (1972)).

Comment: One commenter wanted HCFA to develop salary equivalency guidelines for HHAs, rehabilitation agencies, and CORFs using relevant data from those settings.

Response: As pointed out in the previous comment, we did not have the resources to develop this data, nor could we use the cost report for this purpose. In addition, we did not receive this type of data from outside sources. We also do not believe that the statutory language under section 1861(v)(5) of the Act requires that we develop individual salary equivalency guidelines for each provider type.

Comment: One commenter stated that HCFA should continue to include professional associations in discussions concerning future payment methodologies.

Response: Because we have no plans to publish revised salary equivalency guidelines in the future, we cannot address this issue in the context of further discussions of the salary equivalency guidelines. However, we have included, and will continue to include, professional associations in discussions of the new payment methodologies that are provided in the Balanced Budget Act of 1997.

Comment: One commenter wanted HCFA to clarify its position regarding application of the salary equivalency guidelines as Medicare providers move to prospective payment systems.

Response: The Balanced Budget Act of 1997 provided prospective payment systems for SNFs, HHAs, and community mental health centers and payment on a fee schedule basis for outpatient rehabilitation services. When providers go under these systems, the salary equivalency guidelines will no longer apply, as stated previously, because these prospective payment systems and fee schedules will limit payment for therapy services and should provide a strong incentive for providers to control costs.

Comment: One commenter suggested that in place of salary equivalency guidelines, HCFA should develop a uniform method for payment of therapy services regardless of setting.

Response: In the Balanced Budget Act of 1997, Congress enacted a uniform method for payment of therapy services regardless of setting and employee or contractor arrangements for services. This legislation provides for prospective payment systems for inpatient rehabilitation hospitals, skilled nursing facilities, home health agencies, and community mental health centers. It also provides for payment on a fee schedule basis for all outpatient rehabilitation services regardless of setting.

Comment: One commenter suggested that HCFA reimburse the contractors' costs associated with therapists' 9 month clinical training program.

Response: We can only reimburse the provider for services related to patient care. If the therapist will be providing services to Medicare patients, during the therapist's 9 month clinical trial, then we may reimburse the provider for some of those services as an aide.

Comment: One commenter stated that HCFA should pay for in-service training and utilization review services that are contracted out by the SNF.

Response: The Provider Reimbursement Manual section 1412.5, describes a therapist's professional services, as serving on utilization review and other appropriate committees and participating in training. Because this section is part of the instructions for salary equivalency guidelines which relate to contracted services, we are recognizing that a provider could contract out for these services.

Comment: One commenter stated that calculation of the guideline amount for each metropolitan statistical area for each individual provider would take some time for each individual fiscal intermediary. The commenter also suggested that funding be provided to the maintainers of the STAR programs (formerly Aetna, now Mutual of Omaha) to provide a computer program to each fiscal intermediary that would automatically calculate the therapy limitations for each provider.

Response: In the final rule, we used the GPCI as our wage index, we did not develop as many local rates as we did in the proposed rule. Therefore, it should be easier for the intermediaries to calculate the providers' guideline amounts.

Comment: One commenter stated that there are a number of outpatient rehabilitation providers who have established branch offices. Therefore, HCFA should clarify the application of the proposed guidelines for providers with branch offices.

Response: We do not have a policy which mandates that an outpatient rehabilitation provider bill for their services at the site of service. The guideline amounts have been based and will continue to be based on the central office address of the provider.

Comment: One commenter wanted to know if the guidelines are finalized during a provider's cost reporting year, will the provider be subject to two sets of limits.

Response: This has happened in previous schedules of guidelines. The intermediary will pro rate the different guideline amounts for the different parts of the cost reporting year to which they apply.

G. Statutory Issues

Comment: One commenter was concerned that the proposed rule would violate section 1861(v)(5) of the Act that says: ''reasonable cost for these services may not exceed an amount equal to the salary that would reasonably have been paid for services to the person performing them * * *'' for several reasons. One commenter felt that HCFA must include data from all settings, while another commenter believed that the statute requires setting-specific rates. A third commenter stated that contract therapist wages should have been included.

Response: HCFA has broad legal authority to determine reasonable cost. HCFA has implemented section 1861(v)(5) of the Act through regulations that authorize the establishment of salary equivalency guidelines. The Senate Finance Committee Report accompanying PL 92–603, section 251(c), discusses the methodology for developing the initial salary equivalency guidelines and revisions. The Senate Finance

Committee Report stated that guideline amounts should be set at the 75th percentile of the range of salaries paid in the area (by type of therapy) to full-time employee therapists. The Report specifically mentioned the use of salary data compiled by the BLS in determining the 75th percentile level of salaries in an area to the extent feasible, timely, and accurate. Thus, the committee report sets forth a detailed plan describing the measure of reasonableness (prevailing salary), the parameters (75th percentile), and the preferred data source (Bureau of Labor Statistics) which does not specify that HCFA set rates for each setting nor that we use data for each provider type. Until the publication of the proposed rule, we have always relied on the BLS hospital and nursing home wage data. Because there was some concern as to the timeliness of the 1989 and 1991 BLS hospital wage survey data which was the latest BLS survey data available, we felt that we could not use this data as our sole source for the salary equivalency guidelines. We decided to use the ''best estimate'' methodology combining a number of data sources.

Comment: One commenter stated that lumping together data from different provider types to determine the reimbursement of all provider types does not meet the statutory and regulatory requirements.

Response: We do not believe that the statute or regulations prohibit us from combining different provider type data for developing the salary equivalency guidelines. In fact, in 1983, where BLS had provided both hospital and nursing home wage data, we did combine the different types of provider type data. Again, the legislative history supports this approach. We believe that the word ''provider'' was used in the statute to include all types of entities that meet the definition of that term in the statute.

Comment: One commenter stated that it would be appropriate to include salary data from rehabilitation agencies and other providers in developing salary equivalency guidelines, as these settings represent significant segments of the occupational market for therapy services. The commenter believes that the statutory language in stating, ''* * * with such provider or other organization'' refers to section 1861(p) of the Act where ''other organization'' includes rehabilitation agencies.

Response: We did not receive nor did we have available this type of data. Moreover, as mentioned earlier, the Senate Committee on Finance Report endorsed the use of the BLS survey as the primary data source. Because the language in section 1861(p) of the Act regarding ''other organizations'' existed in the statute at the time the Report was written, we believe that the Report supports the use of the BLS provider data in establishing guidelines to be applied to these other organizations as well.

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IV. Schedules of Guidelines

TABLE I: 1998 GEOGRAPHIC PRACTICE COST INDICES AND SALARY EQUIVALENCY GUIDELINE AMOUNTS BY LOCALITY

	GPCI			SEG			
Locality Name	Work	Practice Expense	Mal-practice	PT	OT	SLP	RT
NATIONAL				50.65	48.06	46.23	40.01
ALABAMA	0.979	0.871	0.902	48.19	45.66	43.86	37.77
ALASKA	1.064	1.164	1.575	55.85	53.06	51.09	44.40
ARIZONA	0.996	0.964	1.255	50.46	47.86	46.02	39.77
ARKANSAS	0.954	0.854	0.415	46.32	43.88	42.16	36.31
ANAHEIM/SANTA ANA, CA	1.037	1.198	0.799	54.06	51.41	49.53	43.16
LOS ANGELES, CA	1.056	1.203	0.799	54.83	52.13	50.22	43.73
MARIN/NAPA/SOLANO, CA	1.015	1.171	0.632	52.67	50.08	48.26	42.04
OAKLAND/BERKLEY, CA	1.041	1.206	0.632	54.05	51.40	49.53	43.16
SAN FRANCISCO, CA	1.068	1.315	0.632	56.35	53.64	51.72	45.20
SAN MATEO, CA	1.048	1.287	0.632	55.27	52.61	50.73	44.33
SANTA CLARA, CA	1.063	1.276	0.632	55.70	53.00	51.09	44.60
VENTURA, CA	1.028	1.162	0.702	53.16	50.53	48.67	42.37
REST OF CALIFORNIA*	1.009	1.046	0.663	51.02	48.43	46.61	40.40
COLORADO	0.988	0.961	0.811	49.45	46.91	45.11	38.99
CONNECTICUT	1.050	1.182	1.027	54.71	52.00	50.09	43.58
DELAWARE	1.020	1.030	0.826	51.49	48.86	47.01	40.70
DC + MD/VA SUBURBS	1.051	1.177	1.006	54.65	51.94	50.03	43.53
FORT LAUDERDALE, FL	0.997	1.031	1.825	52.16	49.51	47.65	41.30
MIAMI, FL	1.016	1.082	2.403	54.35	51.61	49.68	43.12
REST OF FLORIDA	0.976	0.946	1.372	49.68	47.12	45.31	39.16
ATLANTA, GA	1.007	1.032	0.927	51.18	48.58	46.74	40.50
REST OF GEORGIA	0.971	0.896	0.927	48.23	45.71	43.93	37.89
HAWAII/GUAM	0.999	1.202	0.938	52.91	50.34	48.52	42.36
IDAHO	0.961	0.887	0.577	47.22	44.75	43.01	37.09
CHICAGO, IL	1.028	1.084	1.538	53.50	50.81	48.90	42.42
EAST ST. LOUIS, IL	0.988	0.930	1.345	49.90	47.31	45.48	39.25
SUBURBAN CHICAGO, IL	1.007	1.080	1.262	52.25	49.63	47.78	41.48
REST OF ILLINOIS	0.964	0.885	0.906	47.80	45.31	43.54	37.54
INDIANA	0.982	0.917	0.382	48.06	45.56	43.79	37.78
IOWA	0.959	0.880	0.664	47.19	44.72	42.98	37.06
KANSAS*	0.964	0.895	1.041	48.13	45.62	43.85	37.82
KENTUCKY	0.971	0.871	0.813	47.76	45.25	43.48	37.45
NEW ORLEANS, LA	0.999	0.948	1.075	50.11	47.51	45.68	39.44
REST OF LOUISIANA	0.969	0.876	0.972	47.99	45.47	43.69	37.64
SOUTHERN MAINE	0.980	1.032	0.734	49.88	47.36	45.59	39.55
REST OF MAINE	0.962	0.925	0.734	47.94	45.46	43.71	37.77
BALTIMORE/SURR. CNTYS, MD	1.020	1.038	1.107	52.01	49.36	47.49	41.13
REST OF MARYLAND	0.984	0.969	0.864	49.48	46.94	45.14	39.04
METROPOLITAN BOSTON	1.040	1.205	0.846	54.33	51.67	49.78	43.38
REST OF MASSACHUSETTS	1.011	1.089	0.846	51.88	49.28	47.44	41.20
DETROIT, MI	1.043	1.030	3.060	55.74	52.88	50.86	43.99
REST OF MICHIGAN	0.997	0.937	1.836	51.06	48.41	46.54	40.17
MINNESOTA	0.990	0.966	0.551	49.19	46.66	44.87	38.79
MISSISSIPPI	0.957	0.845	0.724	46.79	44.33	42.58	36.65
METROPOLITAN KANSAS CITY, MO	0.989	0.949	1.202	49.94	47.36	45.54	39.34
METROPOLITAN ST. LOUIS, MO	0.995	0.944	1.203	50.11	47.51	45.68	39.44
REST OF MISSOURI*	0.946	0.831	1.162	46.88	44.41	42.66	36.71
MONTANA	0.952	0.871	0.744	46.95	44.49	42.75	36.86
NEBRASKA	0.950	0.873	0.444	46.44	44.01	42.30	36.47
NEVADA	1.006	1.030	0.942	51.14	48.54	46.71	40.46
NEW HAMPSHIRE	0.988	1.034	0.965	50.55	48.00	46.19	40.06
NORTHERN NJ	1.058	1.203	0.779	54.88	52.17	50.26	43.76
REST OF NEW JERSEY	1.029	1.104	0.779	52.63	49.99	48.12	41.78
NEW MEXICO	0.974	0.907	0.754	48.21	45.70	43.92	37.89
MANHATTAN, NY	1.094	1.356	1.600	59.28	56.42	54.41	47.56
NYC SUBURBS/LONG I., NY	1.068	1.234	1.846	57.24	54.42	52.44	45.68
POUGHKPSIE/N NYC SUBURBS, NY	1.011	1.083	1.272	52.45	49.82	47.96	41.64
QUEENS, NY	1.058	1.237	1.763	56.77	53.99	52.03	45.35
REST OF NEW YORK	1.000	0.957	0.807	49.85	47.27	45.45	39.26
NORTH CAROLINA	0.971	0.921	0.466	47.82	45.34	43.59	37.64
NORTH DAKOTA	0.951	0.869	0.637	46.72	44.28	42.55	36.68
OHIO	0.991	0.940	1.062	49.70	47.12	45.30	39.12
OKLAHOMA	0.969	0.881	0.437	47.23	44.76	43.01	37.06
PORTLAND, OR	0.997	1.011	0.612	50.08	47.53	45.72	39.60
REST OF OREGON	0.962	0.934	0.612	47.86	45.40	43.65	37.73
METROPOLITAN PHILADELPHIA, PA	1.025	1.090	1.261	53.04	50.37	48.49	42.08

REST OF PENNSYLVANIA	0.990	0.928	0.687	48.95	46.41	44.61	38.49
PUERTO RICO	0.883	0.734	0.314	42.10	39.84	38.25	32.84
RHODE ISLAND	1.019	1.072	1.379	52.79	50.12	48.24	41.85
SOUTH CAROLINA	0.976	0.902	0.321	47.56	45.08	43.33	37.37
SOUTH DAKOTA	0.936	0.865	0.439	45.81	43.42	41.73	35.99
TENNESSEE	0.976	0.899	0.538	47.86	45.36	43.59	37.59
AUSTIN, TX	0.987	0.993	0.838	49.84	47.29	45.49	39.38
BEAUMONT, TX	0.993	0.896	1.407	49.78	47.17	45.32	39.05
BRAZORIA, TX	0.993	0.972	1.407	50.68	48.07	46.23	39.97
DALLAS, TX	1.011	1.014	0.912	51.09	48.48	46.64	40.37
FORT WORTH, TX	0.988	0.972	0.912	49.74	47.18	45.38	39.24
GALVESTON, TX	0.989	0.968	1.407	50.48	47.88	46.05	39.82
HOUSTON, TX	1.021	1.006	1.423	52.15	49.47	47.58	41.15
REST OF TEXAS	0.966	0.884	0.855	47.79	45.29	43.52	37.52
UTAH	0.978	0.900	0.619	48.07	45.56	43.78	37.75
VERMONT	0.974	0.986	0.500	48.75	46.27	44.51	38.55
VIRGIN ISLANDS	0.966	1.006	1.028	49.49	46.99	45.22	39.21
VIRGINIA	0.986	0.940	0.538	48.72	46.19	44.41	38.35
SEATTLE (KING CNTY), WA	1.006	1.079	0.745	51.42	48.84	47.02	40.82
REST OF WASHINGTON	0.983	0.969	0.745	49.26	46.73	44.95	38.87
WEST VIRGINIA	0.964	0.852	1.055	47.64	45.13	43.35	37.32
WISCONSIN	0.982	0.930	1.001	49.15	46.60	44.80	38.68
WYOMING	0.968	0.888	0.758	47.76	45.27	43.50	37.51

* Payment locality is serviced by two carriers.

NOTE: Work GPCI is the 1/4 work GPCI required by Section 1848(e)(1)(A)(iii) of the Social Security Act. GPCIs rescaled by the following factors to assure budget neutrality: Work = 1.00027; Practice expense = 1.00057; Malpractice = 1.03174.

TABLE II: THERAPY-SPECIFIC ADJUSTED HOURLY SALARY EQUIVALENCY INPUT PRICE INDEXES
(BASE PERIOD: FOURTH QUARTER 1995=100.000)

	Base Period Weights by Therapy Type (1)					
	Physical Therapy	Occupational Therapy	Speech Language Pathology	Respiratory Therapy	Composite Therapy Index	Price Proxies
Total	100.000	100.000	100.000	100.000	100.000	
A. Therapist Compensation	73.672	72.250	71.157	66.670	71.824	
Wages	52.884	51.864	51.079	47.858	51.557	50% ECI Civilian Hospital Workers and 50% ECI Private Professional & Technical Workers' Wages.
Benefits	20.788	20.386	20.078	18.812	20.267	50% ECI Civilian Hospital Workers and 50% ECI Private Professional & Technical Workers' Fringe Benefits.
B. Overhead	26.328	27.750	28.843	33.330	28.176	
Other Wages	8.248	8.694	9.036	10.442	8.828	
Clerical Wages	4.124	4.347	4.518	5.221	4.414	ECI Wages Private Administrative Support Including Clerical. (2)
Managerial Wages	4.124	4.347	4.518	5.221	4.414	ECI Wages Private Executive, Administrative, & Managerial. (2)
Other Benefits	0.898	0.948	0.984	1.138	0.962	
Clerical Benefits	0.449	0.474	0.492	0.569	0.481	ECI Benefits Private Administrative Support Including Clerical. (2)
Managerial Benefits	0.449	0.474	0.492	0.569	0.481	ECI Benefits Private Executive, Administrative, & Managerial. (2)
Office Costs	7.555	7.962	8.276	9.563	8.084	CPI-U Housing.
Other Costs	9.627	10.146	10.547	12.187	10.302	CPI-U All Items Less Food & Enegy.
Composite Index Share (3)	0.416	0.264	0.172	0.148	1.000	

1/ Base year weights were developed for each type of therapy offered under arrangement. These weights are multiplied by price index levels to measure composite price change over time.

2/ ECI = Employment Cost Index. ECIs are fixed-weight indexes which track labor cost, free from the influence of employment shifts among occupations and industries.

3/ The composite index share represents the proportion that each therapy index type represents of the composite index. These shares were derived from estimates of the 1998 shares of therapy services offered under arrangement by therapy type.

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TABLE III.—REHABILITATION THERAPY INPUT PRICE INDEXES FOR FORECASTING THE INCREASE IN THE COST OF THERAPY SERVICES, CY 1991–2000

Calendar year	Physical therapist index	Occupational therapist index	Speech language pathologist index	Respiratory therapist index	Composite therapist index [1]
Historical					
1991	4.9	4.9	4.9	4.9	4.9
1992	4.2	4.2	4.2	4.1	4.2
1993	3.6	3.6	3.6	3.5	3.6
1994	3.1	3.1	3.1	3.1	3.1
1995	2.6	2.6	2.6	2.6	2.6
1996	2.7	2.8	2.8	2.8	2.8
Forecast [2]					
1997	2.4	2.4	2.4	2.4	2.4
1998	2.9	2.9	2.9	2.9	2.9
1999	3.2	3.2	3.2	3.2	3.2
2000	3.4	3.4	3.4	3.4	3.4

Released By: HCFA, OACT, National Health Statistics Group.

[1] The estimated outlays for services rendered in 1998 were used to develop the outlays-weighted composite rehabilitation therapy input price index.

[2] Source: Standard & Poor's DRI HHC 3rd QTR 1997; @USSIM/Trend25yr0897@CISSIM/CONTROL973.

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Table IV: Adjusted Hourly Salary Equivalency Amount Monthly Inflation Factors Using Outlay Weighted Composite Rehabilitation Therapy Input Price Index

Salary Equivalency Period		Period Inflation
Month	Year	Factors
1 April	1998	1.00000
2 May	1998	1.00274
3 June	1998	1.00549
4 July	1998	1.00825
5 August	1998	1.01101
6 September	1998	1.01379
7 October	1998	1.01656
8 November	1998	1.01935
9 December	1998	1.02215
10 January	1999	1.02495
11 February	1999	1.02776
12 March	1999	1.03058
13 April	1999	1.03340
14 May	1999	1.03624
15 June	1999	1.03908
16 July	1999	1.04193
17 August	1999	1.04479
18 September	1999	1.04765
19 October	1999	1.05052
20 November	1999	1.05340
21 December	1999	1.05629
22 January	2000	1.05919
23 February	2000	1.06209
24 March	2000	1.06500
25 April	2000	1.06792
26 May	2000	1.07085
27 June	2000	1.07379
28 July	2000	1.07673
29 August	2000	1.07969
30 September	2000	1.08265
31 October	2000	1.08561
32 November	2000	1.08859
33 December	2000	1.09158
34 January	2001	1.09457
35 February	2001	1.09757
36 March	2001	1.10058

Source: Standard & Poor's DRI HHC 3rd QTR 1997; @USSIM/Trend25YR 0897@CISSIM/CONTROL973

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V. Provisions of the Final Rule

In this final rule, we are revising the methodology for establishing the schedules for the maximum payment for physical therapy and respiratory therapy services. We are revising the determination of reasonable cost for physical therapy and respiratory therapy furnished under arrangements by an outside contractor by rebasing the guideline amounts.

We are also establishing salary equivalency guidelines for speech language pathology and occupational therapy services furnished under arrangements by an outside contractor using the same methodology as we are using for determining reasonable cost for physical therapy and respiratory therapy services.

In addition, we are: (1) Eliminating the exception to the salary equivalency guidelines for a provider that entered into a written binding contract with a therapist or contracting organization prior to the date the initial guidelines are published; (2) applying the salary equivalency guidelines in situations where compensation, at least in part, to a therapist employed by the provider is based on a fee-for-service or on a percentage of income (or commission).

VI. Summary of Changes in Methodology in the Final Rule

Item description	Proposed rule	Final rule
Estimate of the 75th percentile	10 percent of the mean wage used to estimate the 75th percentile.	12 percent of the mean wage used to estimate the 75th percentile. This accounts for the underlying variability that may not have been quantified in preliminary notice.
Market Basket shares for wages and fringes.	The wage share was developed based on total paid hours rather than actual worked hours. The fringe benefit cost share excluded paid hours not worked due to vacation leave, sick leave, etc.	The wage share was recalculated to include only worked hours. The fringe benefits cost share was allocated paid hours not worked due to vacation leave, sick leave, etc.
Market Basket: Office wages and benefits expense share of costs.	Source: IRS Statistics of Income—1991 cost share.	Source: IRS Statistics of Income—1994 cost share.
Market Basket: Rental space converted to hourly cost of therapy.	Source: Building and Owners' Management Association (BOMA)—1991 aged to 1995 using CPI rental.	Source: BOMA—1995.
Geographic Adjustment Factor	Pre-Reclassified urban portion of Hospital Wage Index.	Geographic Practice Cost Indexes (GPCI) used for physician fee schedule.

VII. Regulatory Impact

A. Background

We have examined the impacts of this final rule as required by Executive Order 12866, the Unfunded Mandate Reform Act, and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354).

1. Executive Order 12866 and RFA

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). We have determined that this final rule is an economically significant rule under this Executive Order, as discussed in detail under section VII.B below. The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities. All therapists, however, are treated as small entities.

This final rule (1) revises the methodology for determining salary equivalency guidelines for physical therapy and respiratory therapy services furnished under arrangement; (2) applies the revised methodology for payment of physical therapy and respiratory therapy services to speech language pathology and occupational therapy services; and (3) establishes revised schedules of salary equivalency guidelines for physical and respiratory therapy services and initial schedules of salary equivalency guidelines for speech language pathology and occupational therapy services. These final guidelines will be used by Medicare fiscal intermediaries to determine the maximum allowable payment for therapy services furnished under arrangements.

As we indicated earlier in the preamble of this final rule, the salary equivalency guidelines for physical and respiratory therapy services furnished under arrangements were last revised in 1983, with provisions for yearly adjustments for inflation. In addition, although the law gives us explicit authority to establish salary equivalency guidelines for speech language pathology and occupational therapy services furnished under arrangements, we have never previously done so. We have, instead, paid for these services using reasonable cost methodologies. We now believe that, if we continue to use these methods to pay for speech language pathology and occupational therapy services furnished under arrangements, we will be paying for costs that are in excess of what Congress intended under section 1861(v)(5) of the Act.

We estimate that a large number of therapists, especially suppliers of rehabilitation therapy services, will be affected by these revised guidelines, and a substantial number of these entities may be required to make changes in their operations. However, we do not have sufficient available data to estimate how many of each type of entity will be affected. The analysis under section VII.B. below, in combination with the remainder of this preamble, is consistent with the standards for analysis set forth by the RFA and the Executive Order 12866.

2. Congressional Review

Section 804(2) of Title 5, United States Code (as added by section 251 of Public Law 104–121), specifies that a ''major rule'' is any rule that the Office of Management and Budget finds is likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

based enterprises in domestic and export markets.

We estimate that the impact of this final rule will be an overall savings from fiscal years 1998 to 2000 of $260 million. Therefore, this rule is a major rule as defined in Title 5, United States Code, section 804(2).

Because this final rule is considered a major rule, and is required by law, this final rule is subject to congressional review. Therefore, this final rule is being forwarded to Congress for a 60-day review period.

3. Unfunded Mandate

The Unfunded Mandate Reform Act of 1995 also requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits for any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by both the private sector, of $100 million. The final rule has no consequential effect on State, local, or tribal governments. We believe the private sector costs of this rule fall below the threshold, as well.

4. Rural Hospital Impact

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer that 50 beds. We are not preparing a rural hospital impact statement because we have determined, and we certify, that this final rule will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

B. Anticipated Effects

1. Effects on the Medicare Trust Funds

The final guidelines are based upon a provider's reasonable cost for an employee therapist furnishing therapy services. This cost includes the prevailing salary levels for therapists, prevailing market area fringe benefits, as well as a share of the other expenses that could be attributed to an employee therapist. The estimated savings to the Medicare Trust Funds result from the differences in the final guidelines relative to current rates of payment after behavioral offsets for increased add-ons, volume, intensity, mix of services, and other revenue enhancement behaviors have occurred.

We developed an estimate on the effect of the revised guidelines on the Medicare Trust Funds using all available data. We had limited data sources with which to develop hourly salary rates and other expense factors as well as to develop a projection of the effect of the revised guidelines on the Medicare Trust Funds for revised versus existing levels. We are limited because the Medicare cost reports and claims data do not furnish us with data on hourly rates paid to therapists and other relevant expense and net revenue data. Therefore, we based the hourly salary rates and the effect of the revised guidelines on the Medicare Trust Funds on the best data available to us from HCFA sources and the therapy industry. The hourly salary rates were based on a blend of hospital and SNF survey data sources. The impact analysis was based on billing data from HCFA's Decision Support Access Facility (DSAF) files and SNF cost report data from the Hospital Cost Reporting Information System file as well as industry sources.

Based upon various data sources for 1993, 1994, and 1995, we formed a baseline in order to project the volume of services in future years for each of the four therapy types. For each therapy type, we then found the difference between the current rate and the revised rate, and multiplied that difference by the projected volume in order to estimate the savings or additional outlays that this proposed rule would have.

When trend factors from the DRI/McGraw Hill third quarter 1997 forecast of the HCFA rehabilitation therapist input price index are used, we estimate the revised guidelines for April 1998 will increase the current national or aggregate guidelines per hour for physical therapy by about 35 percent and the national or aggregate guidelines for respiratory therapy by about 10 percent. At the same time, the guidelines for occupational therapy and speech language pathology will decrease estimated current aggregate rates by about 40 percent and about 25 percent, respectively.

Our projected savings per year are based on the difference between current and estimated total costs after a standard behavioral adjustment is applied for lower proposed prices relative to current payments under current payment rules.

We followed the Office of the Actuary (OACT) standard practice of allowing an offset of 35 to 50 percent for behavioral changes when we estimated the savings resulting from lowered prices. In recent years, suppliers of therapy services have bundled physical therapy, occupational therapy, and speech language pathology (but not respiratory therapy) when they have contracted to furnish therapy services to SNFs. The 35 percent behavioral offset allows for changes in behavior that generate increased revenue to the suppliers at the lower average price for the bundle of services. The behavioral offset was not applied to respiratory therapy services because revised prices are higher than current regulation prices and the respiratory therapy industry contracts separately with the SNF industry. We chose the lower end of the range because services are provided in the facility based on time in facility, not fee-for-service, thus there are substantially fewer opportunities for revenue enhancing behavior. Suppliers are estimated to compensate for about one-third of the reduction in prices by a combination of increased add-ons, volume, intensity, change in mix, and a shift in the site of service or a change in options for reimbursement. Suppliers might shift from being suppliers where payment is controlled by salary equivalency guidelines to being providers where payment is on a reasonable cost basis not subject to guidelines (unless as providers they also contract for therapy services); or they may increase the volume of services in physical therapy where guideline amounts are higher; or they may use less experienced and, therefore, lower salaried therapists. Other revenue enhancement practices may emerge which cannot be fully anticipated. Using this offset, the 3 year impact of the guidelines for 1998 through 2000 for therapy services under arrangements is estimated to be a savings of $170 million for Medicare Part A and $90 million for Medicare Part B.

Although we moved from using the hospital wage index in the proposed rule to the GPCI in the final rule, there was a negligible effect on the savings estimate in making this change. Because of the Balanced Budget Act of 1997 provisions, we revised our savings estimates from the proposed rule. These estimates are presented in the table below.

Due to the Balanced Budget Act of 1997, these guidelines become obsolete as new payment methodologies are implemented for the various providers of services. By the end of fiscal year 2000, these guidelines will have no effect, as all providers will be subject to new payment methodologies. In other words, as a result of the statutory provisions in the Balanced Budget Act of 1997, the salary equivalency guidelines will no longer be in effect by the end of fiscal year 2000.

SALARY EQUIVALENCY: SAVINGS ESTIMATES

Federal fiscal year	Estimated savings after offset (in millions, rounded)		
	Part A	Part B	Total
1998	$90	$50	$140
1999	60	40	100
2000	20	0	20
Totals	170	90	260

The savings include coinsurance and are before the Part B premium offset.
This applies the 35 percent offset to physical therapy, occupational therapy, and speech language pathology only and no offset to respiratory therapy.
Estimates are based on an effective date of April 1, 1998.

2. Effects on Providers

We expect that these salary equivalency guidelines will provide adequate payments for all classes of efficient providers. It is possible that certain inefficient therapy suppliers may be unwilling to contract with providers at the salary equivalency rates, expanding the market for more efficient therapy suppliers. We also understand that certain therapy suppliers were requiring providers to purchase a bundled package of physical therapy, occupational therapy, and speech language pathology services. By requiring this bundling of services, suppliers were able to make substantial profits because, even though there was an hourly payment limit on the physical therapy services, there were no guidelines for the speech-language pathology and occupational therapy services. Consequently, the suppliers marked up the speech-language pathology and occupational therapy services. The guidelines for speech-language pathology and occupational therapy services may eliminate suppliers profiting from excessively high prices for occupational therapy and speech language pathology. We expect that providers will continue to provide therapy services at the published rates. We expect that providers will be able to furnish the same array of beneficiary services they furnish under current guidelines amounts or payment on a reasonable cost basis.

3. Effects on Beneficiaries

We believe that the impact of these guidelines on Medicare beneficiaries will be minimal. Beneficiaries may be slightly affected by the guidelines for physical therapy, speech language pathology, and occupational therapy services. With respect to physical therapy services, the Medicare Part B coinsurance amounts associated with these services that must be paid by beneficiaries (20 percent of the provider's charges to the beneficiary) may increase if providers increase charges for those services. The charges may increase because physical therapy hourly amounts recognized by Medicare fiscal intermediaries to determine the maximum allowable cost of those services will increase in this final rule over the previous schedules of guidelines. However, the Medicare program does not dictate a provider's charge structure. We do expect charges to be reasonably related to cost. Conversely, beneficiary coinsurance will be reduced for speech language pathology and occupational therapy services because Medicare payment rates for these services will be reduced by the establishment of guidelines in this final rule and the provider's charges to the beneficiary may also decrease. Because respiratory therapy provided in comprehensive outpatient rehabilitation facilities under arrangements is a Part B service, Medicare Part B coinsurance amounts related to those services that must be paid by beneficiaries may increase if providers increase charges for those services. This may also occur because respiratory therapy hourly amounts recognized by Medicare fiscal intermediaries to determine the maximum allowable cost of those services will increase in this final rule over the previous schedules of guidelines. We believe that the guideline amounts are adequate so that therapy suppliers should continue to contract with providers to furnish services to beneficiaries. Since we are now introducing new guideline amounts for occupational therapy and speech language pathology, if providers are passing along the therapy companies higher charges, then we would expect providers' charges may be lower for those services.

4. Effects on Therapists and Therapist Companies

These salary equivalency guidelines will have varying impacts on the four categories of therapists. Speech language pathologists and occupational therapists working for contract suppliers should be minimally affected, since the suppliers typically bundle all therapy services when negotiating rates (including overhead) with providers. Physical therapists acting as suppliers or employed by supplying therapy companies may be affected positively because physical therapy hourly rates recognized by Medicare fiscal intermediaries to determine the maximum allowable cost of those services will increase in this final rule and, therefore, providers may contract with physical therapists at a higher amount. Also, providers may contract with therapy companies at a higher amount and they, in turn, may pay the therapists higher salaries. Similarly, respiratory therapists acting as therapy suppliers or employed by therapy suppliers may be positively affected because respiratory therapy hourly amounts recognized by Medicare fiscal intermediaries to determine the maximum allowable cost of those services will increase in this final rule and, therefore, providers may contract with respiratory therapy suppliers at a higher amount. Also providers may contract with therapy companies at a higher amount and they, in turn, may pay the therapists higher salaries.

We recognize that a large percentage of providers have contracts with therapy companies that may dominate a market area. We understand that because the contracted physical therapy services have been limited by the guidelines, some of these therapy companies have been requiring providers to sign up for three therapy services, that is, physical, occupational and speech language pathology services, but were overcharging providers for speech language pathology and occupational therapy services. These therapy companies may incorrectly claim that the introduction of these guidelines for contracted speech language pathology and occupational therapy services may

put them out of business. Our rates are designed to reflect adequate rates for all classes of efficient suppliers. Even though we do not pay contracted therapy companies directly, unless they also act as providers, and (with the exception of independent physical therapists and occupational therapists) contracted therapy services are one of the few Medicare services that have not been targeted in earlier deficit reduction laws.

Other changes in behavior might include a change in the type of therapy offered (perhaps substituting physical therapy for occupational therapy and increasing the volume of services furnished in physical therapy, which has a higher guideline amount), use by suppliers of less experienced (and therefore lower salaried) therapists, a shift by suppliers from furnishing therapy services under arrangements to furnishing therapy services under agreement, in which the therapy company bills Medicare directly as a provider under Part B. In the latter case, the providers are paid under Part B on a reasonable cost basis and are not subject to salary equivalency guidelines unless they contract for therapy services.

Inefficiently run rehabilitation therapy companies may cut expenses and become more efficient, as is happening in much of the rest of the economy. More efficient companies may expand or enter the market, picking up the therapy services volume which less efficient suppliers may leave unserved. Therapists' productivity could increase. Overhead is a likely candidate for expense reduction. In addition, profit margins may be reduced, but still be at or above competitive rates for efficient firms. Individual therapy suppliers may already have lower overhead than corporate suppliers. Multi-therapy companies may adjust their service mix away from therapy types for which they are inefficient producers and expand the therapy types for which they are efficient producers.

Due to these salary equivalency guidelines, some therapists who work for inefficient rehabilitation therapy suppliers may have compensation levels above competitive rates and may find that their yearly salary and fringe benefit increases lag those of therapists employed in other more competitive settings of the local therapist labor market. A deceleration in wage increases for workers with excessively high compensation levels will continue until wages in various settings, after compensating non-wage differences, are roughly comparable for each therapy type. Those therapists whose employers curtail furnishing services under arrangements with providers may either furnish therapy for those same employers as employees of rehabilitation agencies that will bill Medicare directly as providers, change employers to those efficiently run companies that expand their contracted therapy services, or become self-employed and contract directly with providers to furnish therapy services under arrangements. Therapists who are employed by efficient rehabilitation therapy suppliers where salaries are in line with those of other therapists (after adjustments for compensating non-wage differentials) in the local labor market should notice no substantial effect. The expected effects described above result in a better functioning, more efficient health care system.

C. Alternatives Considered

Section 1861(v)(5) of the Act requires HCFA to determine the reasonable cost of services furnished to Medicare beneficiaries ''under an arrangement'' with a provider of services by therapists or other health-related personnel. Other alternatives to implementing the salary equivalency program are to continue paying for therapy services, furnished under arrangements, using current reasonable cost methodologies or to use alternative data sources to establish the salary equivalency guidelines in this final rule.

We rejected the first alternative because, if we continue to pay for speech language pathology and occupational therapy services furnished under arrangements using reasonable cost methodologies, we will be paying for costs that are in excess of what Congress intended under section 1861(v)(5) of the Act, to the detriment of the Medicare Trust Funds. In the case of physical therapy and respiratory therapy services, current salary equivalency guidelines may reflect less than a provider's reasonable costs in furnishing these services.

As we indicated in our discussion of data sources we used to establish the guidelines (see section III.B. of this final rule), we were unable to find a sole or primary source of data on hourly rates paid to therapists by providers that is timely and statistically valid. Because the BLS hospital wage industry surveys were not timely, we were unable to use that data as our sole source as in prior guideline notices. The rehabilitation therapy industry submitted survey data to HCFA that they believe support higher guideline amounts than are in the final rule. Although the survey data were submitted to HCFA in order to determine its appropriateness for use in determining new guideline amounts as provided in § 413.106(b)(6), it did not meet the requirements in the final rule. Nevertheless, we evaluated the data. As indicated in Section II.A. of this preamble, we decided to blend select hospital and SNF data sources so that the wages and salary parts of this final rule have been determined using a ''best estimate'' approach, giving equal weight, but not preferential status to each data source. We decided on the ''best estimate'' approach because we were unable to find a sole or primary source that met our criteria of reliability, validity, and representativeness.

D. Conclusion

Federal Medicare expenditures have grown at an extraordinary rate in recent years. A study commissioned by the National Association for Support of Long-Term Care indicates that 75 percent of all therapy services under arrangements were furnished in SNFs. We also project that the 65 and over population will nearly double by the year 2025. We believe that the salary equivalency guidelines in this final rule are in the public interest since they balance the needs of Medicare program beneficiaries, taxpayers, providers of therapy services, and suppliers who furnish therapy services under arrangements.

In accordance with the provisions of Executive Order l2866, this final rule was reviewed by the Office of Management and Budget.

VIII. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

However, the information collection requirements referenced in this rule as

outlined in §§ 413.106(e) and 413.106(f) are currently approved under the PRA. In particular, these requirements are currently captured in each of HCFA's provider cost report information collections.

Section 413.106(e) requires a provider of therapy services to supply its intermediary with documentation that supports additional costs incurred for services furnished by an outside supplier.

Section 413.106(f) requires that before an exception to the application of the guidelines may be granted, the provider must submit appropriate evidence, in accordance with instructions issued in section 1414 of the Provider Reimbursement Manual, to its intermediary to substantiate its claim.

Organizations and individuals desiring to submit comments on any of these information collection and recordkeeping requirements, should direct them directly to the following:

Health Care Financing Administration, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850. ATTN: HCFA–1808–F

and

Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10235, New Executive Office Building, Washington, DC 20503, ATTN.: Allison Herron Eydt, HCFA Desk Officer

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR part 413 is amended as set forth below:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT FOR SKILLED NURSING FACILITIES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

2. Section 413.106(c)(5) is redesignated as (c)(6) and republished, a new paragraph (c)(5) is added, paragraph (f)(1) is removed and paragraphs (f)(2), (3), and (4) are redesignated as (f)(1), (2), and (3) and republished to read as follows:

§ 413.106 Reasonable cost of physical and other therapy services furnished under arrangements.

* * * * *

(c) *Application.* * * *

(5) If therapy services are performed in situations where compensation to a therapist employed by the provider is based, at least in part, on a fee-for-service or on a percentage of income (or commission), the guidelines will apply. The entire compensation will be subject to the guidelines in cases where the nature of the arrangements is most like an under ''arrangement'' situation, although technically the provider may treat the therapists as employees. The intent of this section is to prevent an employment relationship from being used to circumvent the guidelines.

(6) These provisions are applicable to individual therapy services or disciplines by means of separate guidelines by geographical area and apply to costs incurred after issuance of the guidelines but no earlier than the beginning of the provider's cost reporting period described in paragraph (a) of this section. Until a guideline is issued for a specific therapy or discipline, costs are evaluated so that such costs do not exceed what a prudent and cost-conscious buyer would pay for the given service.

* * * * *

(f) *Exceptions:* The following exceptions may be granted but only upon the provider's demonstration that the conditions indicated are present:

(1) *Exception because of unique circumstances or special labor market conditions.* An exception may be granted under this section by the intermediary if a provider demonstrates that the costs for therapy services established by the guideline amounts are inappropriate to a particular provider because of some unique circumstances or special labor market conditions in the area. The provider's request for an exception, together with substantiating documentation, must be submitted to the intermediary each year, no later than 150 days after the close of the provider's cost reporting period. If the circumstances giving rise to the exception remain unchanged from a prior cost reporting period, however, the provider need only submit evidence of the intermediary 150 days after the close of its cost reporting period to establish that fact.

(2) *Exception for services furnished by risk-basis HMO providers.* For special rules concerning services furnished to an HMO's enrollees who are Medicare beneficiaries by a provider owned or operated by a risk-basis HMO (see § 417.201(b) of this chapter) or related to a risk-basis HMO by common ownership or control (see § 417.205(c) of this chapter).

(3) *Exception for inpatient hospital services.* Effective with cost reporting periods beginning on or after October 1, 1983, the costs of therapy services furnished under arrangements to a hospital inpatient are excepted from the guidelines issued under this section if such costs are subject to the provisions of § 413.40 or part 412 of this chapter. The intermediary will grant the exception without request from the provider.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 16, 1998.

Nancy-Ann Min Deparle,

Administrator, Health Care Financing Administration.

Dated: January 22, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–2154 Filed 1–29–98; 8:45 am]

BILLING CODE 4120–01–P

federal register

Friday
January 30, 1998

Part V

Library of Congress

Copyright Office

Copyright Restoration of Works in Accordance With the Uruguay Round Agreements Act; Notice

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 97–3C]

Copyright Restoration of Works In Accordance With the Uruguay Round Agreements Act; List Identifying Copyrights Restored Under the Uruguay Round Agreements Act for Which Notices of Intent to Enforce Restored Copyrights Were Filed in the Copyright Office

AGENCY: Copyright Office, Library of Congress.

ACTION: Publication of Seventh List of Notices of Intent to Enforce Copyrights Restored Under the Uruguay Round Agreements Act.

SUMMARY: The Copyright Office is publishing its seventh list of restored copyrights for which it has received and processed Notices of Intent to Enforce a copyright restored under the Uruguay Round Agreements Act. Publication of the lists creates a record for the public to identify copyright owners and works whose copyright has been restored for which Notices of Intent to Enforce have been filed with the Copyright Office. This list includes NIEs filed by copyright owners whose eligibility to file in the Office expired December 31, 1997. Copyright Office processing continues for the remainder of NIEs received on or before December 31, 1997.

EFFECTIVE DATE: January 30, 1998.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Assistant General Counsel, or Charlotte Douglass, Principal Legal Advisor to the General Counsel, Copyright GC/I&R, Post Office Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

The Uruguay Round General Agreement on Tariffs and Trade and the Uruguay Round Agreements Act (URAA) (Public Law No. 103–465; 108 Stat. 4809 (1994)) provide for the restoration of copyright in certain works that were in the public domain in the United States. Under section 104A of title 17 [1] of the United States Code as provided by the URAA, copyright protection was restored on January 1, 1996, in certain works by foreign nationals or domiciliaries of World Trade Organization (WTO) or Berne countries that were not protected under the copyright law for the reasons listed below in (2). Specifically, for restoration of copyright, a work must be an original work of authorship that:

(1) is not in the public domain in its source country through expiration of term of protection;

(2) is in the public domain in the United States due to:

(i) noncompliance with formalities imposed at any time by United States copyright law, including failure of renewal, publishing the work without a proper notice, or failure to comply with any manufacturing requirements;

(ii) lack of subject matter protection in the case of sound recordings fixed before February 15, 1972; or

(iii) lack of national eligibility (e.g., the work is from a country with which the United States did not have copyright relations at the time of the work's publication); and

(3) has at least one author (or in the case of sound recordings, rightholder) who was, at the time the work was created, a national or domiciliary of an eligible country. If the work was published, it must have been first published in an eligible country and not published in the United States within 30 days of first publication. *See* 17 U.S.C. 104A(h)(6).

A work meeting these requirements is protected ''for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States.'' 17 U.S.C. 104A(a)(1)(B).

Under the URAA, copyright in restored works vests automatically on the date of restoration. 17 U.S.C. 104A(a)(1)(A). That date is January 1, 1996, if the particular nation was already a member of the World Trade Organization (WTO) or the Berne Convention. Otherwise, the effective date of restoration is the date of a particular nation's adherence to the WTO or the Berne Convention or the date when the President issues a proclamation extending copyright restoration to that nation.

Although the copyright owner may immediately enforce the restored copyright against individuals who infringe his or her rights on or after the effective date of restoration, the copyright owner's right to enforce the restored copyright is delayed against reliance parties. Typically, a reliance party is one who was already using the work before December 8, 1994, the date the URAA was enacted. *See* 17 U.S.C. 104A(h)(4). Before a copyright owner can enforce a restored copyright against a reliance party, the copyright owner must file a Notice of Intent (NIE) with the Copyright Office or serve an NIE on such a party.

An NIE may be filed in the Copyright Office within 24 months of the date of restoration of copyright. Alternatively, an owner may serve an NIE on an individual reliance party at any time during the term of copyright; however, such notices are effective only against the party served and those who have actual knowledge of the notice and its contents. NIEs appropriately filed with the Copyright Office and published herein serve as constructive notice to all reliance parties.

II. Administrative Processing

Pursuant to the URAA, the Office is publishing its seventh four-month list identifying restored works for notices of intent to enforce a restored copyright filed with the Office. 17 U.S.C. 104A(e)(1)(B). The earlier lists were published between May 1, 1996, and December 19, 1997. 61 FR 19372 (May 1, 1996), 61 FR 46134 (Aug. 30, 1996), 61 FR 68454 (Dec. 27, 1996), 62 FR 20211 (April 25, 1997), 62 FR 44842 (Aug. 22, 1997), and 62 FR 66766 (Dec. 19, 1997). To allow for processing this NIE information, the Office closed the record for publication approximately three working days before forwarding this record for publication. Accordingly, the NIEs listed herein are those entered into the public records of the Office between December 5, 1997, and January 21, 1998. NIEs not processed by January 21, 1998, will appear on the eighth four-month list, to be published on April 17, 1998.

NIEs for works restored to copyright on January 1, 1996, must have been postmarked on or before December 31, 1997, to be accepted in the Copyright Office for publication in the **Federal Register**. *See* 17 U.S.C. 104A(d)(2). NIEs that were received in the Office too late for **Federal Register** publication will be returned to the remitter unrecorded, and the fee will be refunded. On the other hand, owners of works that are still within their eligible filing period may continue to file such notices with the Copyright Office and receive constructive notice, and the Office will continue to publish a list of eligible NIEs in the **Federal Register**.

III. Correction of Previously Filed NIEs

Correction NIEs for major errors (essentially, major errors in title and owner information) on any NIE filed

[1] The URAA's amendment of 17 U.S.C. 104A replaced section 104A under the North American Free Trade Agreement Implementation Act (Public Law No. 103–182, 107 Stat. 2057, 2115 (1993)). The Uruguay Round Trade Agreements, Texts of Agreements, Implementing Bill, Statement of Administrative Action, and Required Supporting Statements, H.R. Doc. No. 316, 103d Cong., 2d Sess. 324 (1994). *See* 60 FR 50414 (Sept. 29, 1995).

must be submitted within the eligibility period. 37 CFR 201.34 (d)(6)(i). Minor errors may be corrected at any time without regard to eligibility for filing, pursuant to the interim regulation on Correction NIEs, published at 62 FR 55736 (Oct. 28, 1997).

IV. On-line Availability of NIE Lists

Using the information provided herein, one may search the Office's database to obtain additional information about a particular NIE. NIEs are located in what is known as the Copyright Office History Documents (COHD) file, which is available from computer terminals located in the Copyright Office itself or from terminals located in other parts of the Library of Congress through the Library of Congress Information System (LOCIS). Alternative ways to connect through Internet are: (i) The World Wide Web (WWW), using the Copyright Office Home Page at: http://www.loc.gov/copyright; or (ii) connect directly to LOCIS through the telnet address at locis.loc.gov. WWW is available 24 hours a day. LOCIS is available 24 hours a day Monday through Friday, U.S. Eastern Time; Saturday until 5 p.m.; and Sunday after 11 a.m.[2]

Information available online includes: the title or brief description if untitled; an English translation of the title; the alternative titles if any; the name of the copyright owner or owner of one or more exclusive rights, the date of receipt of the NIE in the Copyright Office; the date of publication in the **Federal Register**; and the address, telephone and telefax number of the copyright owner. If given on the NIE, the online information will also include the author, the type of work, and the rights covered by the notice. *See* 37 CFR 201.33(f). For the purpose of researching the full Office record of NIEs on the Internet, the Office has made online searching instructions accessible through the Copyright Office Home Page. Researchers can access them through the Library of Congress Home Page on the World Wide Web by selecting the copyright link. Select the menu item ''Copyright Office Records'' and/or ''URAA, GATT Amends U.S. law.'' In addition to online records, images of the complete NIEs as filed are on optical disc and available from the Copyright Office.

[2] Not all files are available after 9:30 p.m. on weekdays. On Sundays, all files may not be available from 5 p.m.–8 p.m.

V. Seventh List of Notices of Intent to Enforce

The following restored works are listed alphabetically by copyright owner; multiple works owned by a particular copyright owner are listed alphabetically by title. Works having more than one copyright proprietor are listed under the first owner and cross-referenced to the succeeding owner(s). A cross-reference to the composite owner (e.g., Title I owned by ''A B & C'') will state, ''SEE A B & C'' at the listing for each individual owner (e.g., for Owner A, for Owner B and for Owner C).

ADAGP. SEE Societe Civile Succession Richard Guino & ADAGP (Societe de Auteures des Arts Graphiques et Plastiques).

Anguru. SEE Art Theatre Guild of Japan Company, Ltd. & Anguru.

Apple Corps., Ltd.
- Angus McBean Beatles photographs.
- Bruce McBroom Beatles photographs.
- Dezo Hoffmann Beatles photographs.
- Dick Matthews Beatles photographs.
- Ethan Russell Beatles photographs.
- Iain Macmillan Beatles photographs.
- John Kelly Beatles photographs.
- Monty Fresco Beatles photographs taken at Titenhurst Park, 1969.
- Peter Kaye Beatles photographs.
- Robert Freeman Beatles photographs.
- Robert Whitaker Beatles photographs.
- Stephen Goldblatt Beatles photographs.
- Terence Spencer black and white Beatles photographs.
- Tony Bramwell Beatles photographs from ''The mad day out'', 1968.

Argos Films SARL.
- Hiroshima, mon amour.

Ariane. SEE Cogelda & Ariane.

Ariane. SEE Cogelda, Ariane & Pretoria.

Aries Cinematografica Argentina, SA.
- A puerta cerrada.
- Abierto dia y noche.
- Amante para dos.
- El ano del conejo.
- Argentinisima.
- Argentinisima 2.
- El arreglo.
- Atraccion peculiar.
- Buenos Aires rock.
- Los caballeros de la cama redonda.
- El candidato.
- El canto cuenta su historia.
- Los colimbas al ataque.
- Los columbas se divierten.
- Con gusto a rabia.
- Cuando los hombres hablan de mujeres.
- De quienes son las mujeres.
- Dios los cria.
- Los doctores las prefieren desnudas.
- En mi casa mando yo.
- Los extraterrestres.
- La fiaca.
- Los fierecillos indomables.
- Los fierecillos se divierten.
- Flor de piolas.
- Galeria del terror.
- La gran ruta.
- La guerra gaucha.
- La guita.
- Hasta que se ponga el sol.
- Hay que romper la rutina.
- Un hombre hasta la muerte.
- Los hombres pienssas solo en eso.
- Hotel alojamiento.
- Jacinta pichimahuida se enamora.
- El jefe.
- Las locas del conventillo.
- El macho de America.
- Maridos en vacaciones.
- Mi novia el travesti.
- Mirame la palomita.
- El muerto.
- Las mujeres son cosa de guapos.
- Los neuroticos.
- No exit.
- No habra mas penas ni olvido.
- La noche de los lapices.
- Pasajeros de una pesadilla.
- La patagonia rebelde.
- Paula cautiva.
- Plata dulce.
- Primero yo.
- El profesor hippie.
- El profesor Patagonico.
- El profesor punk.
- El profesor tirabombas.
- Psexoanalisis.
- Rambito y rambon l'mision.
- Los reyes del sablazo.
- Sabado a la noche cine.
- Salves quien pueda.
- Sobredosis.
- Tacuara y chamorro, pichones de hombre.
- Te rompo el rating.
- Un terceto peculiar.
- Tiempo de revancha.
- Triangulo de cuatro.
- Ultimos dias de la victima.
- Los vampiros los prefieren gorditos.
- Las venganzas de Beto Sanchez.
- Viaje de una noche de verano.
- Los viernes de la eternidad.

Armstrong, Michael. SEE Lobbenberg, John Peter & Michael Armstrong.

Art Theatre Guild of Japan Co., Ltd. & Hyogensha.
- Shinju tennoamijima.

Art Theatre Guild of Japan Co., Ltd. & Katsudoya.
- Matatabi.

Art Theatre Guild of Japan Co., Ltd. & Kodosha Co., Ltd.
- Sonezaki shinju.

Art Theatre Guild of Japan Co., Ltd. & Saito Koichi Productions.
- Tsugaru jongarabush.

Art Theatre Guild of Japan Company, Ltd, Gentosha, Ltd.
- Third.

Art Theatre Guild of Japan Company, Ltd. & Anguru.
Mo hoozue wa tsukanai.
Art Theatre Guild of Japan Company, Ltd. & Cinemahaute Company, Ltd.
Kaze no uta o kike.
Art Theatre Guild of Japan Company, Ltd., Directors Company, Inc., Kokusai Hoei Company, Ltd.
Gyakufunsha kazoku.
Art Theatre Guild of Japan Company, Ltd., Gendaieigasha.
Kaigenrei.
Art Theatre Guild of Japan Company, Ltd., Hyogensha.
Himiko.
Art Theatre Guild of Japan Company, Ltd., Imamura Productions.
Seishun no satsujinsha.
Art Theatre Guild of Japan Company, Ltd., Jinrikihikokisha.
Denen ni shisu.
Art Theatre Guild of Japan Company, Ltd., Kihachi Productions.
Tokkan.
Art Theatre Guild of Japan Company, Ltd., Nikkatsu Studio, New Century Producers.
Enrai.
Kazoku geimu.
Art Theatre Guild of Japan Company, Ltd., Playguide Journal Sha.
Gaki teikoku.
Asahi Tsushinsha. SEE Toho Company, Ltd., Fuji Television, Asahi Tsushinsha, Shogakukan & O B Kikaku.
Authors Rights Restoration Corporation, Inc.
24 horas de placer.
800 leguas por el Amazonas.
96 horas de amor (en la vida de guty cardenas).
A calzon quitado.
A donde van nuestros hijos.
A garrote limpio.
A gozar, a gozar que el mundo se va a acabar.
A la orilla de un palmar.
A la prima se le arrima.
A lo macho.
A media luz los tres.
A paso de cojo.
A que le tiras cuando suenas Mexicano.
A ritmo de salsa.
A ritmo de twist.
A sablazo limpio.
A tiro limpio.
A volar joven.
Abajo el telon.
Las abandonadas.
El abanico de lady windermere.
Abismos de pasion.
Abnegacion.
Los aboneros del amor.
Abrigo de mink.
Una abuelita atomica.
La abuelita.
Aca las tortas.
Acapulco a go go.
Acapulco gigolo.
Acapulco.
Acapulquena.
Accion sobre ruedas.
Acorralado.
Acorralados.
Acuerdate de vivir.
Adan y Eva.
Adan, Eva y el diablo.
Adios cunado.
Adios juventud.
Adios mi chaparrita.
Adios nicanor.
Adorables criminales.
Adriana Del Rio, actriz.
El aduanal.
La adultera.
Agapito no me las des.
Agarrando parejo.
El agente 00-sexy.
Agente viajero.
Agnte secretisimo.
La agonia de ser madre.
La agonia del ser madre.
El aguila descalza.
El aguila negra en la ley de los fuertes.
Aguila negra vs. enmascarados de la muerte.
El aguila negra vs. los diablos de la pradera.
El aguila negra.
El aguila real.
Aguilas de acero.
Aguilas de America.
Ahi esta el detalle.
Ahi madre.
Ahi viene Martin Corona.
Ahi viene Vidal Tenorio.
Ahi vienen los argumedo.
Ahi vienen los gorrones.
El ahijado de la muerte.
Ahora es cuando chile verde.
Ahora mis pistolas hablan.
Ahora soy rico.
El ahorcado.
Al cabo que ni queria.
Al compas del rock'n roll.
Al diablo con la musica.
Al diablo las mujeres.
Al fin a solas.
Al fin solos.
Al margen de la ley.
Al rojo vivo.
Al son de la metralleta.
Al son del Mambo (El rey del Mambo).
Aladino y la lampara maravillosa.
Alarma.
Alas doradas.
El alazan y el rosillo.
Alazan y enamorado.
Los albaniles.
Albur de amor.
Los albureros.
Albures rancheros.
La alegre casada.
Los alegres aguilares.
La alegria de vivir.
Alejandra.
Algo flota sobre el agua.
Alguien tiene que morir.
Alias el rata.
Alicia en ldel el pais del dolar.
Alla en el Bajio.
Alla en el rancho de las flores (Alla en el ranch).
Alla en el rancho grande (36).
Alla en el rancho grande (48).
Alla en el tropico.
Alla en la plaza garibaldi.
Alla en la plaza garibaldi II.
Alma de acero.
Alma grande en el desierto.
Alma grande, el yaqui justiciero.
Alma Jarocha.
Alma llanera.
Alma Nortena.
Amanda, levantate y anda.
Amanecer ranchero.
Amaneci en tus brazos.
Un amante anda suelto.
La amante perfecta.
Los amantes.
Los amantes frios.
Amar fue su pecado.
Amargo destino.
La amargura de mi raza.
Ambicion mortal.
Ambicion sangrienta.
Ambicion sangrienta (67).
Ambiciosa.
Amigo.
Amigos maravilla en el mundo.
Los amigos.
Los amigos maravilla.
Las amiguitas de los ricos.
Amok.
Amor a balazo limpio.
Amor a la Mexicana.
Amor a rimo de go-go.
Amor con amor se paga.
Amor de adolescente.
Amor de adolescentes.
Amor de la calle.
Amor de lejos.
Amor de locura.
El amor de los amores.
El amor de Maria Isabel.
El amor de mi vida.
Amor de mis amores.
Amor del bueno.
Amor en cuatro tiempos.
Amor en la sombra.
Amor en las nubes.
Un amor extrano.
El amor las vuelve locas.
El amor llego a Jalisco.
El amor loco.
El amor no es negocio.
El amor no es pecado.
Amor prohibdo.
El amor tiene cara de mujer.
Amor vendido.
El amor y esas cosas.
Amor y pecado.
Amor y sexo.

Amorcito corazon.
Amore entre nubes.
Amores de ayer.
Los amores de Chucho El Roto.
Amores de Juan Charrasqueado.
Los amores de Marieta.
Amores de Satanas.
Los amores de una viuda.
Anacleto se divorcia.
El analfabeto.
Anatomia de una violacion.
Andante.
Andante (vertigo de amor en la oscuridad).
Ando volando bajo.
Andres de barba azul.
Angeitos negros.
Angel del barrio.
Angel del infierno.
El angel del silencio.
El angel exterminador.
Angel negro.
Angel river.
El angel y yo.
Angeles de arrabal.
Los angeles de la tarde.
Los angeles de puebla.
Angeles y querubines.
Angelica.
Angelitos del trapecio.
Angelitos negros.
Anillo de compromiso.
El anima de sayula.
El anima del ahorcado.
El anima del ahorcado contra el latigo negro.
Animas trujano.
Anita De Montemar.
Anonimo mortal.
Los anos han pasado.
Los anos vacios.
Los anos verdes.
Ansia de matar.
Ansiedad.
Ante el cadaver de un lider.
Antesala de la silla electrica.
El apenitas.
Aprendiendo a vivir.
Apsionada.
Apuesta contra la muerte.
Los apuro de dos gallos.
Los apuros de mi ahijada.
Los apuros de un mafios.
Aquel famoso remington.
Aquella Rosita Alvirez.
Aqui esta Heraclio Bernal.
Aqui estan los villalobo.
Aqui llego el valenton.
Aquiesta tu enamorado.
Aranas infernales (cerebros diabolicos).
Los arboles mueren de pie.
El ardiente deseo.
Arizona.
Arma infernal.
Arrabalera.
Arriba el norte.
Arriba el telon (los parperos).
Arriba las manos texano.
Arriba las mujers.
Arriba Michoacan.
Arrullo de dios.
Arruza.
El arte de enganar.
El as de oros.
El as negro.
Asalto en Tijuana.
El asalto.
Ases de contrabando.
Asesinato en la plaza garibaldi.
Asesinato en los estudios.
El asesino de metro.
Asesino de tontos.
El asesino enimascarado.
Asesino invisible.
Asesino nocturno.
Asesino por instinto.
El asesino.
El asesino se embarca.
El asesino X.
Los asesinos.
Asesinos de la lucha libre.
Asesinos de otros mundos.
Asesinos en la noche.
Asesion a sueldo.
Asi amaron nuestors padres.
Asi era pancho villa.
Asi era Pedro infante.
Asi es mi Mexico.
Asi se quiere en jalisco.
Asi son ellas.
Los astronautas.
Atacan las brujas (Santo en la casa de las brujas).
El ataud del vampiro.
ATM (A today maquina).
Los atracadores.
Atras de las nubes.
Auandar Anapu.
Audaz bravero.
La ausente.
Los automatas de la muerte.
El automovil gris.
Autopsia de un fantasma.
Ave sin nido (Anita de montemar).
Ave sin rumbo.
Aventura en el centro de la tierra.
Las aventuras de Carlos Lacroix.
Aventuras de chucho el roto.
Aventuras de chucho roto.
Aventuras de Juliancito.
Aventuras de la pandilla.
Las aventuras de las hermanas X.
Las aventuras de Pito Perez.
Aventuras de un caballo blanco y un nino.
Aventuras de un nuevo rico.
Aventuras en Rio.
Aventureas de joselito y pulgarcito.
Aventurera.
Los aventureros.
El aviador fenomeno.
El aviso inoportuno.
Ay amor como me has puesto!
Ay chabela!
Ay chaparros como abundan!
Ay jalisco cuanto apache.
Ay Jalisco no te rajes! (46).
Ay Jalisco no te rajes! (64).
Ay que rechulo es Puebla.
Ay que tiempos, senor Don Simon.
Azahares para tu boda.
Azahares rojos.
Baila conmigo.
Baila mi amor.
Bailando cha-cha-cha.
Baile de graduacion.
Baile mi rey.
Baileras, palabras tristes.
Bajo el cielo de Mexico.
Bajo el imperio del hampa.
Bajo la influencia del miedo.
Bajo la mertralla.
Bala de plata en el pueblo maldito.
Bala de plata.
Una bala es mi testigo.
Bala perdida.
Balum canan.
Baname mi amor.
Bancazo en los mochis.
La banda de la sotana negra.
Banda de los contrabandistas.
La banda del acordeon.
La banda del carro rojo.
La banda del fantasma negro.
Banda del polvo maldito.
Banda del terror.
La banda dela sotana negra.
Bandera rota.
La bandida.
Los bandidos (66).
Los bandidos (77).
Bandidos de rio frio.
Bang, bang..al hoyo.
El bano de afrodita.
El barba azul.
Los barbaros del norte.
El barbero prodigioso.
La barca de oro.
El baron del terror.
Barrack's coup.
La barranca de la muerte.
Barranca sangrienta.
El barrendero.
Barridos y regados.
Barrio bajo.
Barrio de pasiones.
Barrio salvaje.
Baru, el hombre de la selva.
Bashful.
El bastardo (37).
El bastardo (65) (Rancho solo II).
Bataclan Mexicano.
La batalla de los pasteles.
Bellas de noche.
El bello durmiente.
Bendito entre las mujeres.
Benjamin Argumedo.
Besame mucho.
Besito a papa.
El beso de ultratumba.
Un beso en la noche.
El beso mortal.
Besos en la arena.
Besos prohibidos.
Besos, besos y mas besos.
La bestia negra.

Bestia nocturna.
Bestias jovenes.
Los Beverly de Peralvillo.
La bien amada.
La bienamada.
Bikinis y rock.
Blanca nieves y sus siete amantes.
Blessed among women.
Bloody Marlene.
Blue demon contra el poder.
Blue Demon contra las diabolicas.
Blue Demon contra las invasoras.
Blue Demon contra los cerebros infernales.
Blue demon el demonio azul (El demonio azul).
Blue demon en pasaporte a la muerte.
Blue demon y la mafia amarilla.
Blue Demon y Zovek.
Blue demon, el destructor de espias.
Bodas de fuego.
Bodas de oro.
Bodas tragicas.
Bohemio de aficion.
El bolero de Raquel.
Bolero inmortal.
El bomero atomico.
Bonitas las tapatias.
Las borrachas.
Borrasca en las almas.
Borrasca humana.
El boxeador.
Braceras y mojados.
Las braceras.
El bracero delano.
Las bravuconas.
El brazo fuerte.
El bronco.
El bronco reynosa.
The brothel.
La bruja.
El bruto.
El buen ladron.
El buena suerte.
La buena, la mala y la golfa.
Buenas noches, ano nuevo.
Buenas y con movidas.
Bueno para nada.
Buenos dias Acapulco.
Bugambilia.
Burdel.
Burlada.
Burlesque.
En busca de un muro.
El buscabullas.
Buscando la muerte.
Buscando un campeon.
Buscando una sonrisa.
Cabalgando a la luna.
El caballito volador.
Caballo a caballo.
Caballo alazan lucero.
El caballo bayo.
El caballo blanco.
El caballo del diablo.
Caballo prieto afamado.
Caballo prieto azabache.
Caballo que canta.
Caballos de acero.
Caballos de acero (amor sobre ruedas).
El cabaretero y sus golfas.
Cabellera blanca.
Cabellero a la medida.
Cabeza de vaca.
La cabeza viviente.
Cabo de hornos.
Caceria de traficantes.
Caceria humana.
Caceria implacable.
El cachorro.
Los cachorros.
Los caciques.
Cada hijo una cruz.
Cada loco con su tema.
Cada oveja con su pareja.
Cada quien su lucha.
Cada quien su musica.
Cada quien su vida.
Cada voz lleva su angustia.
Cadena de mentiras.
Las cadenas del mal.
Cadetes de la Naval.
Cafe colon.
Cafe concordia.
El caifan del barrio.
El cain del bajio.
Cain y Abel.
Cain, Abel Y el otro.
Calabacitas tiernas.
La calaver negra.
Las calaveras del terror.
Calibre 44.
Una calle entre tu y yo.
Callejera.
Callejon sin salida (38).
Callejon sin salida (64).
El calvario de una esposa.
Calzontzin inspector.
La calzonuda.
Cama de piedra.
La camara del terror.
Camelia.
Caminantes si hay camino.
Caminate solitario.
Un camino al cielo.
Camino al infierno.
Camino de Guanajuato.
Camino de infierno.
Camino de la horca.
El camino de la vida.
El camino de los espantos.
El camino de los gatos.
Camino del mal.
Caminos de michocan.
Campanas rojas.
El campeon ciclista.
Campeon del barrio.
Campeon olimpico.
Los campeones justicieros.
Canaima.
Los canallas.
Cananea.
Canasta de cuentos Mexicanos.
Canasta uruguaya.
Una cancion a la virgen.
Cancion de luna.
La cancion de Mexico.
Cancion del alma (37).
Cancion del alma (63).
La cancion del huerfano.
Candelaria.
Canta claro.
El canta mariachi.
Canta mi corazon.
Cantaclaro.
Cantando nace el amor.
Canto chamo.
El canto de la sirena.
El canto de los humildes.
El cantor de la mafia.
Caperucita y pulagarcito contra los monstruous.
Caperucita y sus tres amigos.
Capitan de rurales.
El capitan Mantaraya.
La captura de chucho el roto.
Captura de Gabino Barrera.
Capulina chisme caliente.
Capulina speedy Gonzales.
Capulina vs. los monstruos.
Capulina vs. los vampiros.
Capulina, corazon de leon.
Cara de angel.
Una cara para escapar.
El cara parchada.
El cara parchada (79).
Carabina 30–30.
Las carareteras.
Caras nuevas.
La caravana de la muerte.
La carcachita.
La carcel de cananea.
La carcel de Laredo.
Carcel de mujeres.
El cardenal.
Los cargadores.
Cargamento mortal.
Cargamento prohibido (fuego infernal).
Cargamento prohibido.
Cargando el muerto.
La carinosas motorizada.
Las carinosas.
El carinoso.
Carita de cielo.
El carita.
Carnaval en mi barrio.
Carne de horca.
Carne de presido.
La carne manda.
Carperucita roja.
La carrera del million.
Carreta sangrienta.
El carro de la muerte.
Carrona.
Una carta de amor.
Cartas de amor.
Cartucho cortado.
La casa chica.
La casa Colorado.
Casa de citas.
La casa de las muchachas.
La casa de los espantos.
Casa de mujeres (66).
Casa de mujeres.
Casa de munecas para adultos.
Casa de munecas.

Casa de perdicion.
La casa de Troya.
Casa de vecindad.
La casa del farol rojo.
La casa del ogro.
La casa del rencor.
La casa del sur.
La casa del terro.
La casa del terror.
La casa embrujada.
La casa prohibida.
Casa sucia.
Las casadas enganan de 4 a 6.
Casadas infieles.
Cascabel.
Cascabelito.
La case del Pelicano.
Casi casados.
El caso de la mujer asesinadita.
Casos de alarma y, sida.
La casta divina.
El castillo de la pureza.
El castillo de los monstruos.
El Casto Susano.
Caundo habla el corazon.
Cayo de la gloria el diablo.
Cazadores de asesinos.
Cazadores de cabezas.
Cazadores de espias.
Celos.
Cementerio de mojados.
El cementerio del terror.
El ceniciento.
Las cenizas del diputado.
El centauro del norte.
El centauro pancho villa.
Central camionera.
Chabelo y Pepito contral los monstruos.
Chabelo y Pepito detectives.
Los chacales.
El chacharas.
La chamaca.
Chanco y el tesoro de los mayas.
El chanfle II.
El chanfle.
Chanoc.
Chanoc (adventuras de mar y selva).
Chanoc en el circo union.
Chanoc en el foso de las serpientes.
Chanoc en el foso de serpientes.
Chanoc en la isla de la muerte.
Chanoc en las garras de las fieras.
Chanoc vs. el tigre el vampiro.
Chanoc vs. el tigre y el vampiro.
Chanoc vs. las tarantulas.
Chanoc y el hijo de Santo.
Chanoc y el tesoro de los mayas.
Chaparro se mete en todo.
Charro a la fuerza.
Charro de las calaveras.
Charro de levita.
El charro del cristo.
El charro inmortal.
Charro negro contra la banda.
Charro negro contra la banda del cuervo.
El charro y la dama.
Chicano.
Chicano karateca.
Chicas casaderas.
Las chicas malas del padre mendez.
Chico Ramos (un hombre llamado muerte).
Un chico valiente.
Los Chiflados del rock'n roll.
Chilam balam.
Chile picante.
El Chile.
Chin-chin el teporocho.
Chiquidracula.
Chismoso de la ventana.
Las chivas rayadas.
El chivo.
La choca.
Chucho el remendado.
Chucho el roto.
Chucho el roto (34).
Chucho el roto (59).
El ciclon.
El ciclon de Jalisco (yo soy charro donde).
El ciclon del caribe.
El cielito.
Cielito lindo.
Cielo rojo.
El cielo y la tierra.
El cielo y tu.
Cien gritos de terror.
Cien mujers.
La ciguena dijos si.
Cinco asesinos esperan.
Cinco de chocolate y uno de fresa.
Cinco en la carcel.
Cinco fueron escogidos.
Los cinco halcones.
Cinco nacos asaltan Las Vegas.
Las cinco noches de Adan.
Cinco pollas en peligro.
Cinco rostros de mujer.
El cinico.
El circo.
El circo de capulina.
El circo tragico.
Una cita de amor.
La ciudad de los ninos.
La ciudad perdida.
Click, fotografo de modelos.
El club de los suicidas.
Club de senoritas.
La cobarde.
El cofre del pirata.
Las colegialas.
La colina de la muerte.
Color de nuestra piel.
La comadrita.
El comandante Furia.
Comezon a la Mexicana.
La comezon del amor.
Los comicos de la legua.
Comicos y canciones.
Como atrapar marido.
Como burro sin mecate.
Como enfriar a mi marido.
Como gallos de pelea.
Como hay gente sinverguenza.
Como Mexico no hay dos.
Como perros.
Como perros y gatos.
Como perros.
Como pescar marido.
Como te quedo el ojo.
Como todas las madres.
Como tu ninguna.
Como yo te queria.
El compadre mas padre.
El compadre mendoza.
Compadres a la Mexicana.
El complot mongol.
Las computadoras.
Con amor de muerte.
Con el dedo en el gatillo (40).
Con el dedo en el gatillo (65).
Con el nino a travesado.
Con el odio en la piel.
Con la misma moneda.
Con la muerte en ancas.
Con licencia para matar.
Con los dorados de villa.
Con mas corazon que odio.
Con quien andan nuestros locos?
Con su amable permiso.
Concurso de bellaza.
El conde de Montecristo.
Condenado a muerte.
Conexion criminal.
Confesiones de una adolescente.
Confidencias de un ruletero.
Confidencias matrimoniales.
Conl el diablo en el cuerpo.
Conqueta.
La conquisita del dorado.
El conquistador.
Conquistador de la luna.
Conserje en condominio.
Conspiracion bikini.
Contacto chicano.
Contigo a la distancia.
Contra la ley de dios.
Contra viento y marea.
Contrabando del paso.
Contrabando por amor.
Contrabando y traicion.
Coqueta.
La coralillo.
Corazon bandolero.
Corazon de fiera.
El corazon de la noche.
Corazon de nino.
Corazon de nino (39).
Corazon de nino (62).
Un corazon en el ruedo.
Corazon salvaje (55).
Corazon salvaje (67).
El corazon y la espada.
Corazones de Mexico.
Cornudo soy yo.
Corona de lagrimas.
Coronacion.
Las coronelas.
El correro del norte.
Corrido de Maria Pistolas.
Los corrompidos.
Corrupcion.
Corrupcion encadenada.
El corsario negro.
El cortado.

La corte del Faraon.
Las cosas prohibidas.
La cosecha de mujeres.
La coyota.
El coyote emplumado.
El coyote y la bronca.
Creo en dios (labios sellados).
El crepusculo de un dios.
Crepusculo.
Cri cri el grillo cantador.
La criada bien criada.
La criada maravilla.
El Criado malcriado.
Criados malcriados.
El crimen de la Hacienda.
Crimen en el puerto.
Crimen y castigo.
El criminal.
El criollo.
Cristo setenta.
Cronica roja.
El crucifijo de piedra.
Cruz de amor.
Cruz de olvido.
Cruz diablo.
Cuaatro contra el crimen.
Cuando acaba la noche (50).
Cuando corrio el alazan.
Cuando el diablo sopla.
Cuando la tierra temblo.
Cuando levanta la niebla.
Cuando lloran los valientes.
Cuando los hijos pecan.
Cuando los hijos se pierden.
Cuando los hijos se van.
Cuando los hijos se van (41).
Cuando los padres se quedan solos.
Cuando me enamoro.
Cuando me vaya.
Cuando Mexico canta.
Cuando quiere un Mexicano.
Cuando regrese mama.
Cuando se quiere, se quiere.
Cuando se vuelve a dios.
Cuando tejen las aranas.
Cuando tu me quieras.
Cuando viajan las estrellas.
Cuando viva villa! es la muerte.
Cuanto vale tu hijo.
Cuartelazo.
Cuarto cerrado.
El cuarto chino.
Los cuates de la rosenda.
El cuatrero.
Cuatro a la fuga.
Cuatro cerrado.
Cuatro contra el imperio.
Cuatro contra el mundo.
Cuatro hembras y un macho menos.
Cuatro hombres marcados.
Cuatro horas antes de morir.
Los cuatro juanes.
Las cuatro milpas (37).
Cuatro milpas (58).
Cuatro muertes a plazo fijo.
Cuatro noches contigo.
Cuatro pillos y un vivales.
La cucaracha.
Cuchillo.
Cucurrucucu paloma.
Cuentan de una mujer.
Cuentos colorados.
Cuernavaca en primavera.
Cuernavaca primavera.
Cuernos debajo de la cama.
El cuerpazo del delito.
Un cuerpo de mujer.
Cuide a su marido.
Cuido con el amor.
La culpa de los hombres.
La culta dama.
El cumpleanos del perro.
Cuna de valientes.
Un cura de locura.
Curados de espanto.
El curandero del pueblo.
La dama de las camelias.
La dama del alba.
La dama del velo.
La dama torera.
Damiana y los hombres.
El Dandy y sus mujers.
Ddurazo, la historia verdadera.
Los de abajo.
De bajo, los (con la division del norte).
De Benjamin Argumedo.
De cocula es el mariachi.
De color moreno.
De hombre a hombre.
Los de lios de barba azul.
De los EU a Mexico de mi corazon.
De pecado en pecado.
De pulquero a millonario.
De que color es el viento?
De ranchero a empresario.
De sangre chicana.
De tal palo tal astilla.
De tequila, su mezcal.
De todas todas.
Debieron ahorcarlos.
Del brazo y por la calle.
Del can can al mambo.
Del diablo a caballo.
Del odio nacio el amor.
Del rancho a la television.
Del suelo no paso.
Las del talon.
Delincuente.
Delincuentes de lujo.
El dengue del amor.
Departamento de soltero.
Deportados.
Derecho a la vida.
El Derecho de los pobres.
El derecho de nacer.
Los derechos de los hijos.
Desafio a muerte.
El desalmado.
Los desalmados.
Los desarraigados.
La desconocida.
El desconocido.
Los desenfrenados.
Deseo en otono.
El deseo.
El deseo y pasion.
Los desheredados.
Deso en otono.
Despedia de soltera.
Despedida de casada.
Despedida de casadas.
Despedidad de soltera.
El despertar del lobo.
Destino de una mujer.
Desventura de un mafioso.
El detective casa nachas.
Detectives o ladrones.
Devastaciones de los piratas.
El dia comenzo.
Dia con el diablo un.
Un dia con el diablo.
Un dia de Diciembre.
El dia de la boda.
El dia de las madres.
Dia de madres.
Dia de martires.
Un dia de vida.
El diablo desaparece.
El diablo en persona.
El diablo no es tan diablo.
Los diablos del terror.
Diablos en el cielo.
El diabolico.
Diamantes, oro y amor.
Diams de leon.
La Diana cazadora.
Diario de mi madre, el (promesa de matrimonio).
Diario intimo de una cabaretera.
Dias de otono.
Dias de viiolencia.
Los dias del amor.
Dicen que soy comunista.
Dicen que soy hombre malo.
Dicen que soy mujeriego.
Difusion del arte.
Dile que la quiero.
La diligencia de la muerte.
Dimas de Leon.
La dinastia de la muerte.
Dios los cria (53).
Dios nos manda vivir.
Dios sabra juzgarnos.
La diosa del puerto.
La diosa impura.
Director de monstruos.
Discotec fin de semana.
Discoteca es amor.
La disputa.
Distinto amanecer.
Distrito federal.
Una dita de amor.
La divina garza.
Division Narcoticos.
Divorciadas.
Las do galleras.
Los doce malditos.
El dolor de los hijo.
El dolor de pagar la renta.
Domingo salvaje.
Don Juan 67.
Don Juan Tenorio.
Don quintin el amargado.
Dona diabla.
Dona macabra.
Dona Malinche.

Dona Mariquita de mi corazon.
Dona perfecta.
La doncella de piedra.
Donde el circulo termina.
Donde esta el presidente.
Donde estas corazon?
Donde las dan las toman.
Un dorado de pancho villa.
Dormitorio para senoritas.
Dos almas en el mundo.
Los dos amigos.
Los dos apostoles.
Dos caballeros de espada.
Los dos carnales.
Dos charros y una gitana.
Dos comprades.
Dos corazones y un cielo.
Dos criados malcriados.
Dos cuates a todo dar.
Los dos cuatreros.
Dos de le vida airada.
Dos diablillos en apuros.
Dos esposas en mi cama.
Dos fantasmas y una muchacha.
Dos gallos alborotados.
Dos gallos en palenque.
Dos gallos y dos galinas.
Los dos hermanos.
Dos hermanos murieron.
Dos hijos desobedientes.
Las dos huerfanitas (50).
Las dos huerfantis (77).
Dos judiciales en aprietos.
Dos maridos baratos.
Dos meseros majaderos.
Dos monjes.
Dos mujeres y un hombre.
Dos mundos y un amor.
Las dos nacos en el planeta de.
Dos peso dejada.
Los dos pilletes.
Dos pintores pintorescos.
Dos pistorleros violentos.
Los dos rivales.
Los dos rivales (cuando los rivales se aman).
Dos tales por cuales.
Dos tipas de cuidado.
Dos tipos de cuidado.
Dos tontos y un loco.
Dos valientes.
Dos veces por semana.
Dr. Satan.
Dr. Satan y la magia negra.
La duda.
La duda (53).
Duelo al aterdecer.
Duelo de pistoleros.
Duelo de valientes.
Duelo en el dorado.
Duelo en las montanas.
Duena y senora.
El duende y yo.
La dulce enemiga.
La duquesa diabolica.
Duro pero seguro.
Duro y parejo en la casita.
Echenme al gato.
Echenme la vampiro.
La edad de la inocencia.
La edad de la tentacion.
La edad de la violencia.
Edad de menores.
La edad de piedra.
La edad peligrosa.
El.
Ella y yo.
Ella, la inolvidable.
Ellas tambien son rebeldes.
Ellos trajeron la violencia.
Emanuelo.
El embajador.
La emboscada.
La emboscada mortal.
El embustero.
Emilo Varela vs. Camelia la Texana.
En busca de la muerte.
En cada feria un amor.
En carne propia.
En condominio.
En el camino andamos (ATM2).
En el pais de los pies ligeros.
En el parque hondo.
En esta primavera.
En estas camas nadie duerme.
En la palma de tu mano.
En las garras de la ciudad.
En los altos de Jalisco.
En peligro de muerte (62).
En peligro de muerte (86).
En tiempos de Don Porfirio.
En tiempos de la inquiscion.
En un burro tres baturros.
Enamorada.
El enamorado.
Los enamorados.
Encapuchados del infierno.
Encrucijada.
Encuentro.
El encuentro de un hombre solo.
La endemoniada.
Endemoniados del ring.
Enemigos (55).
El enmascarado de plata.
Los enmascarados del ininfierno.
Los enredos de papa.
Los enredos de una gallerga.
Ensayo de un crimen.
Ensayo de una noche de bodas.
Entre bala y bala.
Entre compadres te veas.
Entre cornudos te veas.
Entre dos amores.
Entre ficheras anda el diablo.
Entre gitanos te veas.
Entre hermanos.
Entre pobretones y ricachones.
Entre tu amor y el cielo.
La entrega de chucho el roto.
Entrega inmediata.
La entrega.
Epopeyas de la revolucion.
Erotica.
Esa mi raza.
Escandalo de estrellas.
El escapulario.
Esclava del deseo.
La escondida.
Escuadron 201.
Escuadron salvaje.
Escuela de modelo.
Escuela de musica.
Escuela de placer.
Escuela de rateros.
Escuela de vagabundos.
Escuela de valientes.
Escuela de verano.
Escuela de vernano.
Escuela para brujas.
Escuela para casadas.
Escuela para solteras.
Escuela para suegras.
Ese loco, loco hospital.
Esos de penjamo.
Esos hombres.
El espadachin.
La espadachines de la reina.
Espaldas mojadas.
Especialista en chamacas.
Especialista en senoras.
El espectro de la novia.
Espejismo de la ciudad.
El espejo de la bruja.
El esperado amor desesperado.
Esperame en Siberia, vida mia.
La esperanza de los pobres.
Espionaje en el golfo.
Espiritismo.
Esposas infieles.
El esqueleto de la senora morales.
La esquina de mi barrio.
Esta noche no.
Esta noche si.
Esta y la otra por un solo boleto.
Estafa de amor.
Estafa de amor (68).
Estampida.
Estas ruinas que ves.
La estatua de carne.
Este amor si es amor.
Este era un viaje.
Este mundo en que vivimos.
Estos anos violentos.
Estoy casado ja ja.
Estoy sentenciado a muerte.
Estrategia matrimonio.
Estrella sin luz.
La estrella vacia.
Una estrella y dos estrellados.
Eterna agonia.
Eva y dario.
Los expatriados.
El extra.
Extrana cita.
Extrana pasajera.
Un extrano en la casa.
Un extrano en la escalera.
El extrano hijo del sheriff.
Las fabulosas del revention.
Las fabulosas del reventon II.
Fallaste corazon.
Falsificadores asesinos.
La falsos heroes.
Faltas a la moral.
Una familia de tantas.
La familia Perez.
Familiaridades.

Los fanfarrones.
El fantasma de la casa roja.
El fantasma de la operata.
El fantasma de medianoche.
El fantasma del convento.
El fantasma del lago.
Fantastico mundo de los hippies.
El farol de la ventana.
Los farsantes.
El fayuquero.
La fe en dios.
El federal de caminos.
Felicidad.
Felipe fue desgraciaco.
Felipe Reyes el justiciero.
Feliz ano amor mio.
Fenomenos del futbol.
La feria de las flores.
La feria de San Marcos.
Ferias de Mexico.
Los Fernandez de Peralvillo.
El festin de la loba.
Las ficheras.
Fiebre de juventud.
La fiera.
Las fieras.
Fieras contra fieras.
La fierecilla del puerto.
Fierecilla.
Fiesta en el corazon.
Las figuras de arena.
Fijate que suave.
Fin de semana en Garibaldi.
El fin de un imperio.
Fiscal de hierro III.
El fiscal de hierro.
La flecha envenenada.
Flor de cana.
Flor de canela.
Flor de durazno (45).
Flor de durazno.
Flor de fango.
Flor de mayo.
Flor de sangre.
Flor marchita.
Flor Silvestre.
Flores de papel.
Las flores del demonio.
Los forajidos.
Forajidos en la mira.
Foso de las serpientes.
Frankestein, el vampiro y cia.
Fray Don Juan.
Frente al destino.
Frente al pecado de ayer.
Frontera brava.
Frontera de fuego.
Frontera norte.
La frontera sin ley.
El fronterizo.
Fuego cruzado en el rio bravo.
Fuera de la ley (37).
Fuera de la ley (65).
Fuera de la ley.
Fuerte, audaz y valiente.
La fuerza bruta.
La fuerza de la sangre.
La fuerza de los humildes.
La fuerza del deseo.
La fuerza inutil.
La fuga (37).
La fuga (43).
La fuga de carrasco.
La fuga del rojo.
Fuga en la noche.
La fuga.
Fugitivo de sonora.
El fugitivo.
Fugitivos.
La fureza del deseo.
La furia de los karatecas.
La furia del ring.
Furia en el eden.
Furia roja.
Furias bajo el cielo.
El fusilamiento.
Futbol de alcoba.
Gabino barrera.
Una gallega baila mambo.
Una gallega en la habana.
Una gallega en Mexico.
El gallero.
Los galleros.
La gallina clueca.
Una gallina muy ponedora.
Un gallo con espolones.
Gallo corriente, gallo valiente.
Un gallo de corral ajeno.
El gallo de oro.
El gangster.
El garanon.
El garanon II.
Gargamento prohibido.
La garra del leopardo.
Gatilleros del Rio Bravo.
Gatillo veloz.
La gatita.
El gato.
El gato con botas.
El gato negro.
El gato sin botas.
El gavilan.
El gavilan pollero.
El gavilan vengador.
Los gavilanes.
Los gavilanes negros.
La gaviota.
Gemma.
Gendarme de punto.
El gendarme desconocido.
La generala.
Genio y figura.
Gigantes planetarios.
Una gira A.T.M.
La gitana blanca.
Una gitana en Jalisco.
Gitana tenias que ser.
El globero.
El globo de cantolla.
La golfa del barrio.
Las golfas.
Golfas del talon.
Golondrina presumida.
Golpe a la Mafia.
Gordo al agua.
La gota de sangre.
Goza conmigo.
Gozar, gozar, que el mundo se va a acabar.
La gran aventura.
La gran aventura del Zorro.
El gran calaver.
Gran casino.
El gran espectaculo.
Gran hotel.
El gran moyocoyo.
El gran perro muerto.
El gran pillo.
El gran premio.
El gran rabadan.
El gran relajo Mexicano.
Las grandes aguas.
Gregorio y su angel.
Una Gringuita en Mexico.
Gritenme piedras del campo.
El grito de la muerte.
Un grito en la noche.
Guadalajara en verano.
Guadalajara es Mexico.
Guadalupe la chinaca.
Guantes de oro.
Guardian de las hormigas.
Guardian el perro salvador.
La guarida del buitre.
La guerra de las monjas.
La guerra es un buen negocio.
La guerra santa.
La guerra xochil.
La guerraera vengadora.
La guerrillera de villa.
El guerrillero del norte.
La guguena distraida.
El guia de las turistas.
Guitarras de medianoche.
Guitarras, lloren guitarras.
Gutierritos.
Ha entrado una mujer.
El hacha diabolica.
El halcon solitario.
Hallazgo sangriento.
El hambre nuestra de cada dia.
Han matado a tongolele.
Hasta el viento tiene miedo.
Hasta que el cuerpo aguante.
Hasta que perdio jalisco.
Hay angeles con espuelas.
Hay chihuahua no te rajes.
Hay lugar para dos.
Hay un nino en su futuro.
He matado a un hombre.
He matado un hombre.
El hechizo del pantano.
Hembras de tierra caliente.
La herencia de la llorona.
La herencia de la mafia.
Herencia de muerte.
Herencia de valientes (un indio sostenido).
La herencia maldita.
La hermana blanca.
La hermana trinfquite.
Las hermanas Karambazo.
El hermano capulina.
Los hermanos Barragan.
Hermanos chicanos.
Los hermanos de hierro.
Hermanos de sangre.

Los hermanos del viento.
Los hermanos diablo.
Los hermanos muerte.
Hermoso ideal.
Heroe a la fuerza.
El heroe de Nacozari.
El heroe desconocido.
La hija de la otra.
La hija de nadie.
La hija del engano (Don Quintin el amargado).
La hija del ministro.
La hija del odio.
La hija del payaso.
La hija del penal.
La hija sin padre.
Hijas casaderas.
Las hijas de don laureano.
Las hijas del Amapolo.
Las hijas del general.
Las hijas del Zorro.
Hijazo de mi vidaza.
El hijo de Angela Maria.
El hijo de charro negro.
El hijo de cruz diablo.
El hijo de Gabino Barrera.
El hijo de Huracan Ramirez.
El hijo de la calavera.
El hijo de los pobres.
El Hijo de Pedro Navaja.
Los hijo de rancho grande.
El hijo del diablo.
El hijo del palenque.
Hijo del pistolero.
El hijo del viento.
El hijo desobendiente.
El hijo prodigo.
Los hijos ajenos.
Los hijos de la calle.
Hijos de la osbscuridad.
Los hijos de Maria Moreles.
Los hijos de peralvillo.
Los hijos de Satan.
Los hijos del condenado.
Hijos del criminal.
Los hijos del diablo.
Los hijos del divorcio.
Hijos del muerto.
Los hijos que yo sone.
El Hipnotizador.
Hipocrita.
Historia de un canalla.
Historia de un corazon.
Historia de un gran amor.
Historia de un marido infiel.
Historias violentas.
Hombre de aire.
El hombre de la ametralladora.
El hombre de la mandolina.
El hombre de los hongos.
El hombre de negro.
El hombre de papel.
El hombre del alazan.
Hombre del puente.
El hombre inquieto.
Hombre o demonio.
El hombre papel.
El hombre que logro ser invisible.
El hombre que me gusta.
El hombre sin rostro.
El hombre y el monstruo.
Hombres de accion.
Los hombres de Lupe Alvirez.
Hombres de mar.
Hombres de roca.
Hombres de tierra caliente.
Hombres del aire.
Los hombres no deben llorar.
La honradez es un estorbo.
Honraras a tus padres.
La hora 24.
La hora de la verdad.
La hora desnude.
Hora y media de balazos.
Horas de agonia.
Una horca para el texano.
Horizontes de sangre.
La horripilante bestia humana.
El hotel del los chiflados.
Hoy he sonado con dios.
La huella de unos labios.
La huella del chacal.
La huella macabra.
Huellas de un pasado.
Huevos rancheros.
Los humillados.
Huracan Ramirez.
Huracan Ramirez vs. la monjita negra.
El idolo.
El idolo del futbol.
Ilegales y mojados.
La ilegitima.
La ilusion viaja en tranvia.
Impaciencia del corazon.
El imperio de dracula.
El impostor.
El impostor (36).
Las impuras.
El increible profesor Zovek.
La india blanca.
India Maria.
La india.
Los indolentes.
El indomable.
Los indomables.
La infame.
Las infieles.
Infierno de almas.
El infierno de todos tan temido.
La inflacion del sexo.
Inmaculada.
La inocente.
Las inocentes.
La insaciable.
La instrusa.
Las interesadas.
Intimdad.
El intruso.
Invasion de los muertos.
La invasion de los vampiros.
Invasion siniestra.
Las invencibles.
Los invisibles.
Isla de la deseperacion.
La isla de los dinosaurios.
La isla de los hombres solos.
La Isla Encantada.
La isla maldita.
Isla para dos.
Las Islas Marias.
Itara, el guardian de la muerte.
Jacinto el tullido.
El jaguey de las ruinas.
Jalisco nunca pierde.
Los Japoneses no esperan.
Jardin de la tia Isabel.
El jardin de los cerezos.
El jefe maximo.
Jesus nuestro senor.
Jesus, el Nino Dios.
Jesus, maria y jose.
Jesusita en Chihuahua.
El jinete.
El jinete de la muerte.
Jinete enmascarado.
El jinete fantasma (67).
El jinete justiciero en retando a la muerte.
El jinete negro.
El jinete sin cabeza.
Jinete solitario en el valle de los buitres.
Jinete solitario en el valle de los desaparecido.
El jinete solitario.
Los jinetes de la bruja.
Jinetes de la llanura.
Johnny chicano.
La jornada del terror.
El jorobado.
Joselito vagabundo.
La joven.
Una joven de 16 anos.
El Joven Juarez.
La joven mancornadora.
Los jovenes amantes.
Jovenes de la zona rosa.
Jovenesy bellas.
Las joyas del pecado.
Juan Charrasqueado.
Juan Charrasqueado/Gabino Barrera.
Juan Colorado.
Juan el desalmado.
Juan el enterrador.
Juan Guerrero.
Juan nadie.
Juan Pistolas (35).
Juan Pistolas.
Juan Polainas.
Juan Polanes.
Juan sin miedo (38).
Juan sin miedo (60).
Juana Gallo.
Juana la cantinera.
Judas.
Judea.
Judical II, el (cazadores de narcos).
Judical o criminal.
El juego de la guitarra.
Juegos de alcoba.
El juez de la soga.
El jugador (el rey de espadas).
El jugador.
Jugandose la vida (59).
El juicio de los hijos.
Juicio de Martin Cortes.
Juico de arcadio.

La jujer marcada.
Los juniors.
Los juniors destrampados.
Juntos pero no revueltos.
La justicia del gavilan vengador.
La justicia del lobo.
La justicia tiene doce anos.
El justiciero vengador.
Juuarez y Maximiliano.
Juventud desenfrenada.
Juventud desnuda.
Juventud rebelde.
La juventud se impone.
Juventud sin ley.
Kaliman en el siniestro mundo.
Keiko en peligro.
Kermesse.
Kid tabaco.
KNZ Berlen.
Konga Roja.
Laberinto de pasiones.
Ladron.
El ladron fenomeno.
Ladron que roba a ladron.
Ladrones de ninos.
Lagrimas de amor.
Lagrimas de mi barrio.
Lagrimas robadas.
Lagunilla mi barrio.
Lamberto quintero.
Landru.
Lanza tus penas al viento.
Un largo viaje hacia la muerte.
The last Mexican.
Lastima de ropa.
Latigo contra satanas.
Latigo negro contra los farsantes.
El latigo.
El latigo negro.
Latin lover en acapulco.
Los laureles.
Lauro punales.
Laxos de fuego.
Lazos de sangre.
Las leandras.
Una leccion de amor.
Los legionarios.
Legitima defensa.
La leona desnuda.
Los leones del ring.
Leones del ring vs. la cosa nostra.
La ley de la sierra.
Ley de las calles.
La ley de las pistolas.
La ley del gavilan.
La ley del mas rapido.
Ley fuga.
La ley Simpson me viene Wilson.
La leyenda del bandido.
La Leyenda del bandido (65).
La leyenda del judicial.
El libro de piedra.
El lider de las masas.
La liga de las canciones.
La liga de las muchachas.
Limosneros con garrote.
Lio de faldas.
La llaga.
Llamas contra del viento.
Llanto, risas y nocaut.
El llanto de la tortuga.
El llanto de los pobres.
La llave mortal.
Llegamos, los fregamos y nos fuimos.
Llegaron los gorrones.
Llevame en tus brazos.
La llorona (33).
Llovizna.
Lluvia de abuelos.
Lluvia roja.
Lo mejor de teresa.
Lo que el viento trajo.
Lo que le paso a sanson.
Lo que mas queremos.
Lo que no se puede perdonar.
Lo que solo el hombre puede sufrir.
Lo que va de ayer a hoy.
Lo veo y no lo creo.
La loba.
Las lobas del ring.
El lobo blanco.
El lobo solitario.
La loca.
Loca academia de modelos.
La loca de la casa.
La loca de los milagros.
Locos peligrosos.
Locos por la musica.
Locos por la television.
La locura de Don Juan.
Locura de terror.
Locura musical.
Las locuras de tin tan.
Lodo y Armino.
Lola la trailera.
Longituud de guerra.
Luces de barriada.
La lucha con la pantera.
Las luchadoras v. la momia.
Las luchadoras va el robot asesino.
Las luchadoras vs. el medico asesino.
Luciano Romero.
Lucio Vazquez.
El lugar sin limites.
Luna de miel para nueve.
La luna enamorada.
El lunar de la familia.
Lupe balazos.
Luponini de chicago.
Una luz en mi camino.
Macario.
Un macho en la carcel del mujeres.
Un macho en la casa de citas.
Un macho en la torteria.
Macho rebelde.
El macho.
Maclovia.
Madre a la fuerza.
Madre adorada.
Madre querida (35).
La madrecita.
Madres del mundo.
La madrina del diablo.
La maestra inolvidable.
La maffia.
La mafia amarilla.
La mafia de la frontera.
La mafia del crimen.
Mafia en Acapulco.
Mafia Mexicana.
La mafia no perdona.
La mafia tiembla.
La mafia tiembla II.
Magdalena.
Magnum 357.
El mago.
Los maistros (Pelados Pero Sabrosos).
El mal.
Mala hembra.
El mala pata.
La malaguena.
La malcasada.
La maldicion de la llorona.
La maldicion de la momia azteca.
Maldicion de nostradamus.
La maldicion del oro.
Malditas sean las mujeres.
Los malditos.
La malquerida.
El malvado caravel.
Los malvados.
Mama Dolores.
Mama Ines.
Mama nos quita los novios.
Mama solita.
Mama soy paquito.
Manana seran hombres.
Las mananitas.
El manantial del amor.
La mancornadora.
Maniatico pasional.
Manicomio.
La mano de dios.
Mano que aprieta.
Manos arriba.
La mansion de la locura.
La mansion del terror.
Los mantenidos.
Manuel Saldivar, the Texano.
Las manzanas de Dorotea.
El mar (deseo y la pasion).
Mar sangriento.
El mar y tu.
Maraton de baile.
Maravillas del toreo.
La marca del cuervo.
La marca del gavilan.
La marca del muerto.
La marca del zorrillo.
Marcelo y Maria.
La marcha Zacatecas.
Marco Antionio y Cleopatra.
Marecelo y Maria.
Marejada.
Los margaritos.
Maria Candelaria.
Maria Cristina.
Maria de mi corazon.
Maria Elena.
Maria Eugenia.
Maria Isabel.
Maria la o.
Maria la voz.
Maria Magdalena.
Maria Montecristo.
Maria pistolas.
Maria Sabina.

El mariachi canta.
El mariachi desconocido.
Mariachi.
Mariachis.
El marichi desconocido (tintan en la habana).
El marido de mi novia.
Un marido infiel.
Los maridos enganan de 7 a 9.
Marihuana (el monstruo verde).
Marina.
La marquesa del barrio.
Martin Santos, el llanero.
La Martina.
El martir del calvario.
Mas alla de amor.
Mas alla de la muerte.
Mas alla de la violencia.
Mas alla del amor.
Mas alla del deseo.
Mas buenas quel el pan.
Mas negro que la noche.
Mas vale pajaro en mano.
El mas valiente del mundo.
Masajistas de senoras.
La mascara de carne.
Mascara de hierro.
La mascara de hierro.
La mascara de jade.
La mascara de la muerte.
La mascara roja.
Mascara vs. bikini.
Matar es facil.
Matar o morir.
Matar of morir.
Mataron a Camelia la Texana.
Maten al fugitivo.
Maten al leon.
Matenme porque me muero.
Mater nostra.
Maternidad imposible.
Matinee.
Maton de rancho.
El matrimonio es como el demond.
Matrimonios juveniles.
Me cai de la nube.
Me canse de rogarle.
Me dicen el asesino.
Me dicen el consentido.
Me gustan valentones.
Me ha besado un hombre.
Me ha gustado un hombre.
Me he de comer esa tuna (44).
Me he de comer esa tuna (70).
Me importa poco.
Me llaman el cantaclaro.
Me llaman la Chata Aguayo.
Me llaman violencia.
Me lleva el tren.
Me lleva la tristeza.
Me persigue una mujer.
Me quiero casar.
Me traes de un ala.
El medallon de crimen.
Medianoche.
El medico de las locas.
El medico modico.
El medio pelo.
Los mediocres.
Melodias involvidables.
Las memorias de mi general.
Memorias de un Mexicano.
Memorias de un visitador medico.
Menores de edad.
El mensaje de la muerte.
El mensaje de las estrellas.
La mentira.
Mercado de ninos.
Meridano 100.
Los meses y los dias.
El metiche.
Mexic de mi corazon.
El Mexicano.
El Mexicano feo.
Mexicanos al grito de guerra.
Mexico de mi corazon.
Mexico de mis recuerdos.
Mexico de noche.
Mexico lindo y querido.
Mexico nunca duerme.
Mi adarada Clementina.
Mi alma por un amor.
Mi aventura en Puerto Rico.
Mi caballo.
Mi caballo el cantador.
Mi caballo prieto rebelde.
Mi campeon.
Mi cancion eres tu.
Mi candidato.
Mi compadre capulina.
Mi corazon canta.
Mi desconocida esposa.
Mi esposa busca novio.
Mi esposa me comprende.
Mi esposa y la otra.
Mi guitarra y mi caballo.
Mi heroe.
Mi influyente mujer.
Mi lupe y mi caballo.
Mi madre es culpable.
Mi mesera.
Mi mino tizoc.
Mi mino, mi caballo y yo.
Mi mujer no es mia.
Mi mujer tiene amante.
Mi nino, mi caballo y yo.
Mi noche de bodas.
Mi nombre es gatillo.
Mi novio es un salvaje.
Mi padrino.
Mi papa tuvo la culpa.
Mi pistola y tus esposas.
Mi querido capitan.
Mi querido viejo.
Mi Reino por un torero.
Mi revolvre es la ley.
Mi vida es una cancion.
Mi viuda alegre.
El miedo llego a Jalisco.
El miedo no anda en burro.
La miel se fue de la luna.
Mientras el cuerpo aguante.
Mientras Mexico duerme.
Mientras Mexico duerme (38).
Mientras Mexico duerme (83).
Miercoles de ceniza.
Miguel Strogoff.
El mil abusos.
El mil amores.
Mil caminos tiene la muerte.
El mil hijos.
Mil mascaras.
Mil millas al sur.
La mil y una noches.
Un milagro de amor.
Milagro en el barrio.
Milagros de San Martin de Porres.
El ministro y yo.
Miradas que mantan.
Mis abuelitas ... nomas.
Mis hijos.
Mis manos.
Mis padres se divorcian.
Mis secretarias privadas.
Mis tres viudas alegres.
Los miserables.
Mision cumplida.
Mision sangrienta.
Mision suicida.
Mister barrio.
Misterio.
El misterio de Huracan Ramirez.
Misterio de la cobra.
Misterio de los hongos alucinantes.
El misterio de los mayas.
El misterio del carro express.
El misterio del latigo negro.
Misterio en las Bermudas.
Misterios de la magia negra.
Misterios de ultratumba.
Los misterios del hampa.
Misterioso Senor Maquim.
El misterioso Senor Marquina.
Las modelos.
Modisto de senoras.
El mofles en Acapulco.
Mofles y canek en mascara vs. cabellera.
El mofles y los mecanicos.
Mojado de nacimiento.
Mojados.
Mojados de corazon.
La momia Azteca.
Momias de Guanajuato.
Las momias.
El monasterio de los buitres.
La moneda rota.
La monja Alfarez.
El monje blanco.
El monstruo.
El monstruo de la montana hueca.
El monstruo de los volcanes.
El monstruo en la sombra.
El monstruo resucitado.
La montana del diablo.
Monte escondido.
Morelos ciervo de la nacion.
Morenita clara.
Morir de madrugada.
Morir de pie.
Morir mil muertes.
Morir para vivir.
El moro de cumpas.
Motin en la carcel.
Una movida chueca.
Las movidas del mofles.
Mr. Doctor.

Muchachas de uniforme.
Muchachas, muchachas, muchachas.
Muchanchas que trabajan.
Muelle rojo.
Muero de risa.
La muerte de un gallero.
La muerte del federal de caminos.
Muerte del Palomo.
La muerte en bikini.
Muerte en la feria.
Muerte en Tijuana.
La muerte enamorada.
La muerte es mi pareja.
La muerte es puntual.
La muerte llora de risa.
La muerte pasa lista.
Muertes anunciadas.
El muerto al hoyo.
El muerto murio.
Muertos de miedo.
Muertos de risa.
Los muertos hablan.
Los muertos no hablan.
La mugrosita.
Mujer.
La mujer carcada.
Una mujer con pasado.
Mujer contra mujer.
Mujer de a seix litros.
La mujer de dos caras.
La mujer de nadie.
La mujer de oro.
La mujer de todos.
Una mujer decente.
La mujer del diablo.
La mujer del puerto.
La mujer del puerto (33).
La mujer desnuda.
La mujer do otro.
Mujer en condominio.
Una mujer en la calle.
Mujer Mexicana.
La mujer murcielago.
Mujer o fiera.
Una mujer para los sabados.
La mujer policia.
Una mujer que no miente.
La mujer que no tuvo infancia.
La mujer que se vendio.
La mujer que tu quieres.
La mujer que yo perdi.
La mujer sin alma.
La mujer sin cabeza.
Una mujer sin destino.
La mujer sin lagrimas.
Una mujer sin precio.
La mujer X.
La mujer y la bestia.
Mujeres de hoy.
Mujeres de medianoche.
Las mujeres de mi general.
Mujeres de teatro.
Mujeres en mi vida.
Mujeres enganadas.
Las mujeres panteras.
Mujeres que trabajan.
Mujeres sacrificadas.
Mujeres salvajes.
Mujeres sin alma.
Mujeres, mujeres, mujeres.
La mulata de Cordoba.
Mulata.
Mulato.
El mundo de los aviones.
El mundo de los vampiros.
Mundo loco de los jovenes.
El mundo salvaje de baru.
Mundo, demonio y carne.
La muneca perversa.
Munecas de medianoche.
Las munecas infernales.
Munecas peligrosas.
Murallas de pasion.
Los murcilagos.
El museo del crimen.
El museo del horror.
Musica en la noche.
Musica y dinero.
Musica, espuelas y amor.
Musica, mujeres y amor.
Musico, poeta y loco.
Nacida para amar.
Nacidos para morir.
Nadie muere dos veces.
Nadie te querra como yo.
La nalgada de ora.
Nana.
El nano.
Napoleoncito.
Narcosecta satanica.
Narcoterror.
Narda o el verano.
Naufragio.
Los naufragos de liguria.
Nave de los dioses.
La nave de los monstruos.
Necesito dinero.
Necesito un marido.
El negocio del odio.
Negra consetida.
Lo negro del negro.
Negro es mi color.
Neutron contra el doctor Caronte.
Neutron contra los asesinos del karate.
Neutron el enmascarado negro.
Ni de aqui ni de alla.
Ni hablar del peluquin.
Ni modeo, asi somos.
Ni pobres, ni ricos.
Ni sangre, ni arena.
Ni solteros, ni casados.
Nido de aguilas.
Nido de fieras.
El nieto del Zorro.
Nimifaldas con espuelas.
La nina de la mochila azul (2da. version).
La nina de la mochila azul.
La nina popoff.
Nine pobre nino rico.
El nino fidencio.
El nino y la niebla.
No basta ser charro.
No desearas la mujer de tu hijo.
No hay cruces en el mar.
No jalen que descobijan.
No juzgaras a tus padres.
No mataras.
No me defiendas compadre.
No me olvides nunca.
No me platiques mas.
No niego mi pasado.
No soy monedita de oro.
No te ofendas Beatriz.
No tiene la culpa el indio.
No val nada la vida.
Nobleza ranchera.
Nobleza ranchera (38).
La noche avanza.
La noche avanza (yo soy el amo).
Una noche bajo la tormenta.
La noche de gavilan.
Noche de juerga.
La noche de los mayas.
La noche de los mil gatos.
Noche de muerte.
Noche de perdicion.
Noche de ronda.
La noche del halcon.
La noche del jueves.
La noche del Ku Kux Klan.
La noche del pecado.
Una noche embarazosa.
La noche es nuestra.
La noche violenta.
Noche y tu, la (el caballero varona).
Noches de cabaret.
La noches de califas.
Las noches del blanquita.
Nomas las mujers quedan.
La nortena de mi amores.
Nos dicen las intocables.
Nos lleva la tristeza.
Nos veremos en el Ceilo.
Nosotros.
Nosotros dos.
Nosotros los feos.
Nosotros los jovenes.
Nosotros los pelados.
Nosotros los pobres.
Nosotros los rateros.
Nostradamus el genio de las tinieblas.
Nostradamus, el destructor de nonstruos.
Nostradamus.
Nostradamus: el destructor.
Nostradamus: el genio de.
Nostradamus: la maldicion de.
Nostradamus: la sangre de.
La novia del mar.
Las novias del lechero.
Novias impacientes.
Un novio para dos hermanas.
Los novios de mi hijas.
Los novios.
Novios y amantes.
Nuestras vidas.
Nuestros odiosos maridos.
Nuetron contra el criminal sadico.
Nuevo amanecer.
Un nuevo modo de amar.
Nuevo mundo.
Los nuevos pistoleros famosos.
Nunca debieron amarse.
Nunca es tarde para amar.
Nunca me hagan eso.

La obligacion de asesinar.
Obsesion venganza.
La odalisca numero 13.
Odio.
Oficio mas antiguo del mundo.
El ojo de vidrio.
Ojo por ojo.
Ojos de juventud.
Ojos tapatios.
OK Cleopatra.
OK Mister Pancho.
Okay, Mister Pancho.
Olimpiada en Mexico.
Los olvidados de dios.
Ondina.
Ontono y primavera.
Operacion 67.
Operacion carambola.
Operacion contraespionaje.
Or es cuando chile verde.
Ora ponciano.
Oreja rajada.
El organillero.
Orgullo de mujer.
Orlak, el infierno de Frankestain.
Oro y plata.
Orquideas para mi esposa.
La otra ciudad.
La otra mujer.
Otra primavera.
La otra.
La otra virginidad.
El otro.
La oveja negra.
Las ovejas descarriadas.
Oye salome.
Pa'que me sirve la vida.
Pablo y Carolina.
Pachucos y muy machos.
Pacto de sangre.
Pacto diabolico.
Padra nuestro que estas en la tierra.
Un padre a toda maquina.
Padre de mas de cuatro.
El padre diablo.
El padre pistolas.
El padrecito.
Pafnucio santo.
Palabras de mujer.
Palenque sangriento.
Palo dado.
Paloma brava.
Paloma herida.
La palomilla.
La palomilla al rescate.
La panchita.
Pancho Lopez.
Pancho pistolas.
Pancho pistolas (episodio no. 4).
Pancho Tequila.
Pancho Villa y la valentina.
Pandilla en accion.
Pandilla en el misterio del jaguar.
La pandilla se divierte.
El pandillero.
Pandilleros.
Pandilleros olor a muerte.
Panico.
El pantano de las animas.
La pantera negra.
Papa en onda.
Papacito lindo.
El papelerito.
Papito querido.
Los paquetes de paquita.
Un par de robachicos.
Un para a todo dar.
Para morir iguales.
Para siempre amor mio.
Para toda la vida.
Para todos hay.
Paraiso robado.
Uno paro la horca.
Los parranderos.
El pasajero diez mil.
Pasaporte a la muerte.
Una pasion me domina.
Pasion oculta.
Pasion por el peligro.
La pasion segun Berenice.
Pasionaria.
Pasiones tormentosas.
Paso a la juventud.
Pata de palo.
Patched faced (79).
Patrulla de valientes.
El patrullero 777.
Pax?
El payo.
La paz.
La pearla.
Pecado.
Pecado (61).
El pecado de Adan y Eva.
Pecado de juventud.
El pecado de Laura.
El pecado de quererte.
El pecado de ser pobre.
El pecado de una madre.
Pecado mortal.
El pecador.
Pecadora.
Las pecadoras.
Pecados de amor.
Pedro Paramo (66).
Pedro y el capitan.
Pegando con tubo.
Pegando cont tubo.
Peligros de juventud.
Los pelotones de Juan Camaney II.
Peluquero de senoras.
Peluqueros.
El penal de la loma.
Penita pena.
El penon de las animas.
Pension de artistas.
Penthouse de la muerte.
Peor que las fieras.
Peor que los buitres.
Pepe el toro.
Pepita Jimenez.
Pepito as del volante.
Pepito y el monstruo.
Pepito y los robachicos.
La pequena enemiga.
La pequena senora de perez (70).
El pequeno Robin Hood.
Los pequenos privilegios.
Perdida.
El perdon de la hija de nadie.
Perdoname mi vida.
Peregrina.
Las perfumadas.
Perico el de los palotes.
La perla.
Los perros de dios.
Perros de presa.
La persecucion y muerte de Pancho Villa.
Perseguido por la ley.
Persiguelas y alcanzalas.
Los perturbadores.
La perversa.
Los perversos.
Pesadilla mortal.
Pescadores de perlas.
La picara Susana.
Picardia Mexicana II.
Un picaro aventurero.
Picaro con suerte.
El picaro.
El pichichi del barrio.
Una piedra en el zapato.
Piernas de oro.
Las piernas del millon.
Pies de gato.
Pilotos con alas.
Pilotos de combate.
Pilots de la muerte.
Pina madura.
La pintada.
Pintame angelitos blacos.
Las piranas aman en cuaresma.
El pirata a negro.
Un pirata de doce anos.
Pistolas invencibles.
La pistolera.
El pistolero del diablo.
El pistolero desconocido.
El pistolero fantasma.
Los pistoleros.
Pistoleros bajo el sol.
Pistoleros de la frontera.
Pistoleros del oeste.
Pistoleros famosos.
Pistoleros famosos II.
Pistoleros famosos III.
Los pistolocos.
Pitolo el guajolote de oro.
El placer de la venganza.
Placeres divertidos.
Plagio del millonario.
Planeta de las mujeres invasoras.
Los platos voladores.
La plaza de Puerto Santo.
Plazos traicionero.
El plebeyo.
Pobre . . . pero honrada.
Pobre corazon.
Pobre del pobre.
Pobre diablo.
Pobre huerfanita.
Las pobres ilegales.
Pobres millonarios.
Las podbres ilegales.
El poder Negro.
Poker de ases.

Poker de reinas.
Policia de narcoticos.
Policia rural.
Policias y ladrones.
Policica Aduanal Federal.
El polvo maldito.
Pompeyo el conquistador.
Por el mismo camino.
Por ellas, aunque mal paguen.
Por eso.
Por la puerta falsa.
Por mis pistolas.
Por que naci mujer.
Por que peca la mujer.
Por querer a una mujer.
Por ti aprendi a querer.
Por tu maldito amor.
Por un vestido de novia.
Porque naci mujer.
El porto salvaje.
La posada sangrienta.
La posesion.
El potro indomable.
El pozo (64).
El pozo (72).
El precio de la gloria (47).
El precio de la gloria (79).
El precio de una vida.
Preciosa.
Prefiero a tu papa.
El premo nobel del amor.
La presidenta municipal.
Presos sin culpa.
Prestame a tu mujer.
Prieto chaparro y panzon.
Primavera en el corazon.
Primavera sangrienta.
El primer paso . . . de la mujer.
Primera comunion, la (mi primera comunio).
Primero el dolar.
Primero soy mexicano.
El primo basilio.
La princesa hippie.
Princesa y vagabond.
El principe del desierto.
El principle de la iglesia.
Prisionera del pasado.
Prison de mujeres.
Los problemas de mama.
El proceso de cristo.
El proceso de las senoritas Vivanco.
Profanacion.
Profanadores de tumbas.
Profe no se mande.
El profe.
El profeta mimi.
Programado para matar.
Prohibido.
Pueblerina.
Pueblito.
Pueblo de odios.
El pueblo del terror.
El pueblo fantasma.
Pueblo quieto.
Pueblo sin dios.
Pueblo, canto y esperanza.
El puente del castigo.
La puerta.
La Puerta falsa.
La puerta y la mujer del carnicero.
Las puertas del presido.
Puerto de tentacion.
Puerto maldito.
Pulgarcito.
La pulqueria.
La pulqueria II.
El puma.
El puno de la muerte.
Punos de roca.
Pura vida.
Una pura y dos con sal.
Que bonito amor.
Que bonito es querer.
Que bravas son las costenas.
El que con ninos se acuesta.
Que dios me perdone.
Que familia tan cotorra.
Que haremos con papa?
Que hombre tan simpatico.
Que hombre tan sin embargo.
Que lindo cha cha cha.
Que lindo es michoacan.
Que me entierren con la banda.
Que me maten en tus brazos.
Que me maten en tus brazos (los barbaros del no).
Que me siga la tambora.
El que murio de amor el.
El que no corre vuela.
Que no me bese el mariachi.
Que noche aquella.
Que padre tan padre.
Que perra vida.
Que seas feliz.
Que te ha dado esa mujer?
Que viva Tepito! mi barrio.
Los que volvieron.
Quein mato al abuelo?
El queno corre vuela.
Quien mato a Eva.
Quien mato al abuelo.
Quien te quiere a ti.
Quiereme porque me muero.
Quiero ser artista.
Quiero vivir.
Quiero vivir (la muerte es mi paareja).
Quiero vivir mi vida!
Quietos todos.
Un quijote sin mancha.
Quinceanera.
Radio patrulla.
Rafaga de cuerno de chivo.
Rafaga de plomo.
Raffles.
Raices.
Raices de sangre.
Raices en el infierno.
Ramona.
Rancho solo.
El rapido.
El rapido de las 9:15.
Rapina.
Rapto al sol.
El rapto.
El rapto de las sabinas.
Rarotonga.
Rastro de la muerte.
Rastro de muerte.
El rata.
Ratas de vecindad.
Ratas del asfalto.
Ratero.
Rateros ultimo modelo.
El raton.
Rayando el sol.
El rayo de jalisco.
El rayo de sinaloa.
El rayo justiciero.
La razon de la culpa.
Rebelde sin casa.
El rebelde.
Rebelion.
La rebelion de los adolescentes.
La rebelion de los colgados.
Las recien casadas.
Recien casados, no molestar.
La recogida.
La recta final.
El recuerdo de aquella noche.
La red.
El rediezcubrimiento de Mexico.
Refifi entre las mujers.
Refugiados en madrid.
Regalo de reyes.
Regreso de los hermanos diablo.
El regreso del carro rojo.
Regreso del vampiro.
La reina del mambo.
La reina del rio.
El reino de los gangsters.
Reir llorando.
Relampago.
Remolino.
Remolino de pasiones.
El rencor de la tierra.
El rencor de los humildes.
El renegado blanco.
Renuncia por motivos de salud.
Repartidores de muerte.
Reportaje.
Reportera en peligro.
Requiem por un canalla.
Los resbalosos.
El rescate.
Resureccion.
Retando a la muerte.
Reto a la vida.
Reto a la vida (historia de un amor impossible).
Retorno a la juventud.
Revancha.
La revelion de los hijos.
Reventa de esclavas.
Un reverendo trinquetero.
El revoltoso.
Revolver en guardia.
El Revolver sangriento.
El rey.
El rey de Acapulco.
El rey de la pistola.
El rey de los albures.
El rey de los caminos.
El rey de los gorilas.
El rey de los ladrones.
El rey de los Tahures.
El rey de Mexico.

El rey del barrio.
Rey del los taxistas.
El rey del tomate.
El rey se divierte.
Los reyes del Palenque.
Los reyes del volante.
Los reyes magos.
La rielera.
El rifle implacable.
Rigo es amor.
Rincon brujo.
Un rincon cerca del cielo.
El rincon de las virgenes.
El rio de las animas.
Rio escondido.
Rio Grande.
Rio hondo.
Rio salvaje.
El rio y la muerte.
Riqueza de los pobres.
La risa de la ciudad.
Risa de la risa.
La rival.
Las roasas del milagro.
Robachicos.
Robinson Crusoe.
El robo al tren correro.
Robo de las momias de Guanjuato.
El robot humano.
Rocambole vs. la secta del escorpion.
Rogaciano el hupanguero.
Romance de fieras.
Romance sobre ruedas.
Romeo contra Julieta.
Romeo y Julieta.
Rondalla.
El ropavejero.
Rosa ''la tequilera.''
La rosa blanca.
Rosa de la frontera.
Rosa de las nieves.
Rosa de Xochimilco.
Rosa del caribe.
El rosal bendito.
Rosalba.
Rosario.
Rosas blancas para mi hermana negra.
Rosauro castro.
Rosenda.
Rosita.
Rosita Alvirez.
El rostro de la muerte.
Rostro infernal.
Rostros olvidados.
Rubi.
La ruletera.
Ruletero a toda marcha.
Rumba caliente.
Rumbera caliente.
Rumbo a Brasilia.
Rutilo el forastero.
S.A. Asesino.
Sablazo limpio.
Sabras que te quiero.
Sabvado negro.
Sagrario.
Salon Mexico.
Salto al vacio.
La salvaje ardiente.
Los salvajes.
San Felipe de Jesus.
San Miguel el alto.
San Simon de los magueyes.
Los Sanchez deben morir.
Sangre de Nostradamus.
Sangre de nuestra raza.
La sangre derramada.
Sangre en el rio bravo.
Sangre en la barranca.
La sangre enemiga.
La sangre manda.
Sangre torera.
Sangrey y fuego.
Santa (68).
Santa Claus.
La santa del barrio.
Santo contra la invasion de los.
Santo el enmascarado de plata vs.
Santo en el hotel de la muerte.
Santo en el misterio de la perla negra.
El Santo en el museo de cera.
Santo en el tesoro de Dracula.
Santo en la frontera del terror.
Santo en la venganza de la momia.
Santo en la venganza de las mujeres vampiro.
El Santo la tigresa.
Santo mantequilla Napoles en la venganza.
Santo mision suicida.
El santo oficio.
Santo va. las momias de Guanajuato.
Santo vs. Capulina.
Santo vs. el asesino de la television.
El Santo vs. las mujeres vampiro.
Santo vs. blue demon en la atlantida.
Santo vs. el cerebro diabolico.
Santo vs. el espectro.
Santo vs. el estrangulador.
Santo vs. el hotel de la muerte.
Santo vs. el rey del crimen.
Santo vs. la hija de Frankestein.
Santo vs. la Mafia del vicio.
Santo vs. las lobas.
Santo vs. los asesinos de otros mundos.
Santo vs. los cazadores de cabezas.
Santo vs. los jinetes del terror.
El Santo vs. los zombies.
Santo y blue demon contra los monstruos.
Santo y blue demon en el mundo.
Santo y blue demon en la Atlantida.
Santo y blue demon vs. Dracula y el hombre lo.
Santo y blue demon vs. doctor.
Santo y el aguila real.
Santo y la invasion.
Santo y los cazadores de cabezas.
Santo, blue demon y mil mascaras.
Los santos reyes.
Santos vs. el rey del crimen.
Santos vs. los zombies.
El Sargento Capulina.
La satanica.
Satanico pandemonium.
El satiro.
Se alquila marido.
Se la llevo el remington.
Se la llevo el Remington.
Se los chupo la bruja.
Se solicitan modelos.
Secreto de confesion.
El secreto de Juan Palomo.
El secreto de la monja.
El secreto de la soltrerona.
El secreto de Pancho Villa.
El secreto del texano.
Secreto profesional.
Los secretos del sexo debil.
El secuestro de Camarena.
El secuestro de Lola.
El secuestro de un policia.
Secuestro en acapulco (60).
Secuestro en acapulco (83).
Sed de amor.
Seda sangre y sol.
La seduccion.
El seductor.
Seguire tus pasos.
La segunda mujer.
Seis dias para morir.
El seite leguas.
La selva de fuego.
Semana Santa entre los coras.
El semental de palo alto.
El seminarista.
Senda prohibida.
Sendas del destino.
El Senor Alcalde.
El senor director.
El senor doctor.
El senor fotografo.
El Senor Gobernador.
El senor tormenta.
La senora de enfrente.
Una senora movida.
La senora muerte.
Senora tentacion.
Las senoritas vivanco.
Senoritas.
Sensualidad.
La sentecia.
Sentenciado a muerte.
Sentenciado por la mafia (natifas de la muerte).
Ser charro es ser Mexicano.
Serenata en Acapulo.
Serenata en noche de luna.
Serenata macabra.
Servicio secreto.
Sexo contra sexo.
El sexo de los pobres.
El sexo me da risa.
El sexo me divierte.
El sexo sentido.
Sexo vs. sexo.
Sexo y crimen.
El sexologo.
The shadow.
Los sherifs de la frontera.
Si adelita se fuera con otro.
Si ella volviera.
Si fuera una cualquiera.
Si me han de matar manana.
Si mi cama hablara.
Si quiero.

Si volvieras a mi.
Si yo fuera diputado.
Si yo fuera millonario.
Siempre en domingo.
Siempre estare contigo.
Siempre hay un manana.
Siempre tuya.
Sierra de sangre.
La sierra del terro.
El siete copas.
Las siete cucas.
Siete en la mira.
Siete Evas para Adan.
El siete machos.
Siete muertes para el texano.
Los siete ninos de ecija.
Siete pecados.
Los siete proscritos.
El siete vidas.
Sigueme corazon.
Siguiendo pistas.
Silencio de muerte.
El silencioso.
The silvermansked saint.
Simbad, el mareado.
El simio blanco.
Simitrio.
Simon del desierto.
Simon del desirto.
Simon el estilista.
Simplemente un crimen.
Simplemente vivir.
Sin fortuna.
La sin ventura.
El sinaloense.
Sindicato de telemirones.
Sinverguenza pero honrado.
El sinverguenza.
Sobre el muerto las coronas.
Sobre las olas.
Sobre las olas (32).
El socio.
Sol en llamas.
El sol sale para todos.
Sol y sombra.
Solamente una vez.
La soldadera.
Soledad.
El solitario indomable.
Solo de noche vienes.
Solo para ti.
Solo veracruz es bello.
Los solterones.
La sombra de cruz diablo.
La sombra de los hijos.
La sombra de un pasado.
La sombra del caudillo.
La sombra del mano negra.
La sombra del murcielago.
La sombra del otro.
La sombra del sol.
La sombra en defensa de la juventud.
La sombra siniestra.
Sombra verde.
Sombra vs. La mano negra.
La sombra.
El sombrero de tres picos.
Somos del otro laredo.
Son tus perjumenes mujer.
Sonata.
La sonrisa de la virgen.
La sonrisa de los pobres.
Sor alegria.
Sor Juana Ines de la Cruz.
Sor tequila.
El sordo.
La sotana del reo.
Soy charro de Levita.
Soy charro de rancho grande.
Soy chicano y Mexicano.
Soy madre soltera.
The stone book.
Su excelencia.
Su gran ilusion.
Su precio unos dolares.
Su primer amor.
Su ultima aventura.
Su usted no puede yo si.
El suavecito.
Sube y baja.
Sublime melodia.
Sucedio en Garibaldi.
Sucedio en jalisco.
Sucedio en Mexico.
Sucesion de las brujas.
Un sueno de amor.
Suenos de amor.
Suenos de oro.
Suerte te de dios.
Suicidate mi amor.
El sultan descalzo.
Supeerolicia ocho ochenta.
El superhombre.
El supermacho.
El superman ... Dilon.
El superman ... Dilon II.
Los supervivientes de los andes.
Superzam.
Suprema ley.
Susana.
Tabare.
Tacos al carbon.
El tahur.
Tal para cual.
Los tales for cuales.
Tambien de dolor se canta.
Tampico.
Tan bueno el giro como el colorado.
Las tapatias nunca pierden.
Tarahumara.
Tarde de agosto.
Tarjeta verde.
Te besare en la boca.
Te odio y te quiero.
Te quiero.
Te sigo esperando.
Te solte la rienda.
Te vi en T.V.
Teatro del crimen.
Teatro follies.
Tehuantepec.
El temerario.
Los temibles.
Las tendatora.
Tengo que matarlos.
La tercera palabra.
Teresa.
Terremoto en Guatemala.
El terrible gigante de las nieves.
El terror de la frontera.
Terror en los barrios.
Terror, sexo y brujeria (cautivo del mas alla).
El tesoro de Atahualpa.
El tesoro de chucho el roto.
Tesoro de la Isla de Pino.
El tesoro de la muerte.
Tesoro de mentiras.
El tesoro de Moctezuma.
El tesoro de Pancho Villa.
El tesoro del indito.
El tesoro del rey Salomon.
El testamento del vampiro.
El testamento.
Testigo silencioso.
El Texano.
Thaimi, la hija del pescador.
Thanatos.
La tia Alejandra.
La tia de las muchachas.
Tiburon.
Tiburon (33).
Tiburoneros.
Tiempo y destiempo.
Tierra baja.
La tierra de fuego se apaga.
Tierra de hombres.
Tierra de pasiones.
Tierra de rencores.
Tierra de sangre.
Tierra de valientes.
Tierra de violencia.
Tierra muerta.
La tierra prometida.
El tigre de guanajuato.
El tigre de Jalisco.
El tigre de la frontera.
El tigre de yautepec.
El tigre enmascarado.
El tigre negro.
Los tigres del desierto.
Tigres del ring III.
Los tigres del ring.
La tigresa.
La tijera de oro.
Timoteo, el incomprendido.
Tin tan en la habana.
Tin-tan y las modelos.
Tinieblas.
Tintanson cruzoe.
Tio de mi vida.
Un tipo a todo dar.
Un tipo dificil de matar.
Tirando a gol.
Tirando a matar.
Tizoc.
Tlayucan.
Los toda la vida (machos destrampados).
Toda maquina.
Todo el horizonte para morir.
Todo por nada.
Todo un caballero.
Todo un hombre (82).
Todos los Mexicanos somos mujeriegos.
Todos son mis hijos.

Tonta tonta pero no tanto.
Torero por un dia.
Tormenta en el ring.
Tormenta en la cumbre.
Un toro me llama.
El toro negro.
La torre de los suplicios.
La tortola del ajusco.
Traficantes de ninos.
El tragabalas.
Tragedia en michoacan.
Traicionera.
Traiganlos vivos o muertos.
Traigo mi 45.
Las traigo muertas.
El trampa.
La trampa mortal.
Trampa para un cadaver.
Trampas de amor.
Los tre huastecos.
Los tre salvajes.
Treinta segundos para morir.
Tren que corria.
La trenza.
Las tres alegres comadres.
Los tres alegres compadres.
Los tres amores de Lola.
Tres angelitos negros.
Tres balas perdidas.
Los tres bohemios.
Tres bribones.
Los tres calaveras.
Tres citas con el destino.
Los tres compadres.
Tres contra el destino.
Las tres coquetonas.
Tres corneados apaleados.
Tres de la vida airada.
Tres de presidio.
Los tres Garcia.
Tres hermanos.
Tres hombres malos.
Los tres huastecos.
Tres lecciones de amor.
Las tres magnificas.
Tres melodias de amor.
Tres mil kilometros de amor.
Los tres mosqueteros de dios.
Tres mosqueteros y medio.
Los tres mosqueteros.
Tres Muchachasde Jalisco.
Tres mujeres en la hoguera.
Tres noches de locura.
Tres palamas alborotadas.
Las tres pelonas.
Las tres perfectas casadas.
Tres romeos y una julieta.
Tres trinqueteros en Acapulco.
Tres tristes tigres.
Las tres tumbas.
Tres valientes camaradas.
Los tres villalobos.
Las tres viudas alegres.
Los tres vivales.
Tribu.
Tribunal de justicia.
La trinchera.
El trinquetero.
Un trio de tres.
Trio y cuarteto.
Triste recuerdo.
Triunfa la pandilla.
Los triunfadores.
El triunfo del lobo.
Tropicana.
Trotacalles.
Tu hijo debe nacer.
Tu mujer es la mia.
Tu vida contra mi vida.
Tu vida entre mis manos.
Tu vida entre mis manos (mi vida entre tus manos).
Tu y las nubes.
La tumba de matias.
La tumba del mojado.
Tumba para un narco.
La tumba.
El tunel seis.
Tuya para siempre.
Tuyo hasta que la migra nos separe.
Twist, locura de juventud.
La ultima aventura de chaflan.
La ultima lucha.
La ultima noche.
El ultimo cartucho.
El ultimo dispara.
El ultimo disparo.
El ultimo Mexicano.
El ultimo pistolero.
El ultimo round.
El ultimo tunel.
Los ultimos dias de pompeyo.
Ultraje al amor.
Un alma pura.
Un sabado mas.
Una cancion para recordar.
Uno para la horca.
Uno y medio contra el mundo.
Ustedes los ricos.
Vacaciones en Acapulco.
Vacaciones misteriosas.
Vagabunda.
Vagabundo en la lluvia.
Vagabundo y millonario.
El vagabundo.
Un vago sin oficio.
El vagon de la muerte.
Valente quintero.
Valentin armienta.
Valentin de la sierra.
La valentina.
El valiente vive hasta que el cobarde quiere.
Los valientes no mueren.
El valle de los meserables.
El valor de vivir.
Valses venian de Viena y los nino de paris.
Vamonos con pancho villa.
Vamonos para la feria.
Las vampiras.
Vampiro sangriento.
El vampiro.
El vampiro teporocho.
Vanessa.
Vanilla bronce y morir.
Variedades de medianoche.
Vaya tipos.
Vecindario.
Vecindario II.
Ven a cantar conmigo.
Veneno para las hadas.
La venenosa.
Veng nza sangrienta.
El vengador de sinaloa.
El vengador solitario.
Vengadoras enmascaradas.
Venganza apache.
Venganza de Gabino Barrera.
La venganza de Huracan Ramirez.
La venganza de la coyota.
La venganza de la sombra.
La venganza de los villalobos.
La venganza de ramona.
Venganza del diablo.
Venganza del resucitado.
La venganza del rojo.
Venganza en el circo.
La venus maldita.
Verano ardiente.
Verano salvaje.
Verano violento.
La verdad de la lucha.
La verdadera vocacion de Magdalena.
El verdugo de sevilla.
Verdugo de traidores.
Los verduleros III.
El vergonzoso.
Vertigo.
Vestidas y alborotadas.
El vestido de novia.
El vestido de novia.
Una vez en la noche.
El viaje (L.S.D. viaje).
Un viaje a la luna.
Viaje al paraiso.
Viaje fantastico en globo.
El viaje.
Las viboras cambian de piel.
Victimas de la pobreza.
Victimas de un asesino.
Victimas del divorcio.
Victimas del pecado.
La vida cambia.
La vida de agustin lara.
La vida de chucho el roto.
Vida de pedro infrante.
La vida intima de Marco Antionio y Cleopatra.
La vida no vale nada.
Vidita negra.
La vidua negra.
Viejo nido.
Los viejos somos asi.
Vienticuatro horas de vida.
Viento distante.
Viento Negro.
Viento salvaje.
La vinida del rey olmos.
Vino el remolino y nos alevanto.
Violacion.
Violada y bandonada.
El violadar infernal.
El violetero.
La virgen de Guadalupe.
La virgen de la calle.
La virgen de la sierra.

Virgen de medianoche.
La virgen del cielo.
La virgen desnuda.
La virgen que forjo una patria.
Las virgenes locas.
Una virgin moderna.
La virtud desnuda.
La visita que no toco el timbre.
Las visitaciones del diablo.
Vistete Cristina.
Una viuda sin sosten.
Viva benito canales!
Viva chihuahua.
Viva el amor.
Viva Jalisco que es mi tierra.
Viva la juventud.
Viva la parranda.
Viva Mexico!
Viva mi desgracia.
Viva quien sabe querer.
Vive como sea.
El vividor.
Vivillo desde chiquillo.
Vivir a todo dar.
Vivir de suenos.
Vivir del cuento.
Vivir para amar.
Vivire orta vez.
Vivire otra vez.
Vivo o muerto.
El vizconde de Montecristo.
Voces de primavera.
Volver, volver.
La voragine.
Voy de gallo.
Voz de la sangre.
El vuelo 701.
El vuelo de la ciguena.
El vuelo de la muerte.
Vuelta al paraiso.
La vuelta del latigo negro.
La vuelta del Mexicano.
Vuelva el sabado.
Vuelve el Dr. Satan.
Vuelve el lobo.
Vuelve el ojo de vidrio.
Vuelve el sabado.
Vuelve el Texano.
Vuelve en norteno.
Vuelven los cinco halcones.
Vuelven los Garcia.
Vuelvne los argumedo.
Xoxontla.
Y dios la llamo tierra.
Y la mujer hizo al hombre.
Y llego la paz.
Y manana seran mujeres.
Ya llegaron los gorrones.
Ya somos hombres.
Ya tengo a mi hijo.
Yanco.
El yaqui.
Yegua colorada.
Yesenia.
Yo amo, tu amas, nosotros.
Yo baile con don porfiro.
Yo dormi con un fantasma.
Yo fui novio de Rosita Alvirez.
Yo fui una callejera.
Yo mate a Juan Charrasqueado.
Yo mate a Rosita Alvirez.
Yo no creo en los hombres.
Yo no me caso compadre.
Yo pecador.
Yo quiero ser mala.
Yo sabia demasiado.
Yo soy gallo dondequiera.
Yo soy la ley.
Yo soy muy macho.
Yo soy tu padre.
Yo soy usted.
Yo tambien soy de Jalisco.
Yo y mi marichi.
Yo, el aventurero.
Yo, el mujeriego.
Yo, el valiente.
Zacazonapan.
La zandunga.
Zangano.
Zapata en chinameca.
Las zapatillas verdes.
El zarco.
Zindy, el nino de los pantanos.
La zona del silencio.
Zona roja.
Zonga.
Zorina.
El Zorro blanco.
El Zorro vengador.
El Zurdo.

Baron, Joseph Alexander a.k.a. Alexander Baron.
The victors.

BECTU.
The final test.

Berger, Diamant. SEE Pathe, Diamant Berger & Rene Clair.

Bruselas, Ltd.
El brazo de oro.
El ultimo tunel.

Bryanston Films, Ltd.
The boy who stole a million.
The change of wind.
Cone of silence.
The impersonator.
Light up the sky.
Panic.

Bulgari, SPA.
Parenthesis bracelet mod. 270.
Project for MODI parenthesis.

Calderon, SA, Cinematografica.
Cenicienta del circo.
La corista.
Han robado una estrella.
Heroes de blanco.
La momia azteca vs. robot humano.
Su alteza la nina.

Camargo, SA, Cinematografica.
Dos esposas en mi cama.
La llamada del sexo.
Mision suicida.
Mojados de corazon.
Primero el dollar.
Santo en oro negro.
El sexo de los pobres.

Canal+. SEE Progefi, TF1 Films Production, Canal+, Hachette Premiere & Productions Fox Europa.

Carlton Film Distributors, Ltd.
City of play.
Downhill.
Journey's end.
Sunshine Susie.
Take my tip.
The upturned glass.

Carlton Film Distibutors, Ltd. (formerly known as Rank Film Distributors Limited), & Columbia Pictures Industries, In
A matter of life and death.

CEIAD. SEE Columbia Tristar Films Italia, SRL formerly known as CEIAD.

Chilovkaia, Elena Evuenievna.
Adam i Eva.
Bagovys Ostrov.
Beg.
Belaia gvardiia.
Benefis Lorda Kerzona.
Bogena.
Bulgakov: six plays.
Cetyre portreta.
D'Javoliada.
Dana Zoyka.
Diaboliad & other stories.
Dni Turbinyh.
The early days of Mikhail Bulgakov.
The Elpit-Rabkommun building.
Flight & bliss.
Kabala sviatos.
Kiev gorod.
Kitaiskaia istoriia.
The Komarov case.
Krasnaia korona.
Master i Margarita.
Moskovskie sceny.
Moskva Krasnokamnaia.
The night of the third.
Noskva krasnoka menaia.
Noskva-zokh godov.
Notes on the cuff & other stories.
Pohozdenda cicikova.
Povesti.
Psalom.
Pushkin.
Ranniaia proza.
Rokovye jajca.
Sobac'e serdce.
Traktat o zicisce.
Travel notes.
Zapiski na marzeta.
Zizn gospodina de nolera.
Zizn gospodinade nol era.
Zoikina kvartira.

Chukovskaya, Elena Tsezarevna.
Aibolit.
Barmalei.
Bibigon.
Chudo-derevo.
Criticheskie rasskasy.
Criticheskie Statyi 1908–1968.
Crocodile.
Doctor Aibolit.
Fedorino Gore.
Kradenoye solntse.
Moidodyr.
Mukha-zokotukha.

Ot dvuch do pyati.
Putanitza.
Serebryani gerb.
Sovremenniki.
Tarakanishche.
Telephone.
Toptygin i Lisa.
Vysokoe iskusstvo.
Zakalyaka.
Cima Films, S.A. de C.V.
Adios amore.
Alerta auta tension.
Arrullo de dios.
El caballo del diablo.
La cama.
Las cautivas.
Confesiones de una adolescente.
Los corrompidos.
Cronica de un amor.
Elena y Raquel.
En estas camas nadie duerme.
Los enamorados.
La endemoniada.
Fin de fiesta.
La hermanita dinamita.
Mujeres de media noche.
Nadie te querra como yo.
El oficio mas antiguo del mundo.
Operacion 67.
La otra mujer.
Que hombre tan sin embargo.
El quelite.
Santo contra el estrangulador.
El secuestro.
El tesoro de Moctezuma.
Verano ardiente.
La viuda blanca.
Cine Phonic. SEE Cogelda, SGGC & Cine Phonic.
Cineproducciones Internacionales, SA de CV, Producciones EGA, SA de CV, Producciones Rosas Priego, SA de CV & Gazcon Fil.
El hijo de Pedro Navaja.
Pedro Navaja.
Cineproducciones Internacionales, SA de CV, Producciones Rosas Prieco, SA de CV, Producciones EGA, SA de CV, Gazcon Film.
Conexion criminal.
Cite Films. SEE Pathe & Cite Films.
City Entertainment Corporation.
Green grow the rushes.
Mikres Aphrodites.
Pygmalion.
La vie conjugale: Francoise.
La vie conjugale: Jean-Marc.
Clair, Rene. SEE Pathe, Diamant Berger & Rene Clair.
Cogelda.
Le bateau d'Emile.
Les cino gentuemen maudits.
En effeuillant la marguerite.
Huis clos.
Maxime.
Ombre et lumiere.
Retour de manivelle.
La tete d'un homme.
COGELDA. SEE Films Vendome (A.Osso & COGELDA) co-producers.
Cogelda & Ariane.
Le diable et les dix commandments.
Cogelda & Regina.
Marianne de ma jeunesse.
Cogelda & Vandal.
David Golder.
Cogelda & Vera.
Les espions.
Cogelda, Ariane & Pretoria.
Une parisienne.
Cogelda, Plazza & Victoria.
La loi du nord.
Cogelda, SGGC & Cine Phonic.
Rue de l'estrapade.
Columbia Pictures Corporation, Ltd.
Toi qui m'amais.
Columbia Pictures Corporation. SEE Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures.
Columbia Pictures Industries, Inc.
Africa segreta.
Agent nr. 1.
Anastasia mio fratello.
Bell bottom George.
Il caso Pisciotta.
Conserje en condominio.
Decameron nights.
Don Quijote cabalga de nuevo.
Fantasia chez les ploucs.
George in Civvy Street.
Get cracking.
Il gioco delle spie.
He snoops to conquer.
I didn't do it.
Mihai viteazul.
El ministro y yo.
Much too shy.
El patrullero 777.
Por mis pistolas.
El profe.
South American George.
Uppdraget.
La verite.
Winnetou.
Zbehova a eutnici.
Columbia Pictures Industries, Inc. SEE Carlton Film Distibutors Limited, (formerly known as Rank Film Distributors Limi.
Columbia Pictures Industries, Inc. & Columbia TriStar Films (France) SA.
Les dimanches de ville d'Avray.
Columbia Pictures Industries, Inc. (assignee of Tele-Hachette & Mondex Films, SA) & Vides Cinematografica, SaS (Rome).
Pourquoi l'Amerique?
Columbia Pictures Industries, Inc. (successor to Columbia Pictures Corporation).
Bande a part.
Une femme mariee.
Columbia Pictures Industries, Inc. (successor to Columbia Pictures Corporation) & Columbia TriStar Films (France), SA (formerly known as Columbia Films, SA, successor-in-interest to Orsay Films, SA).
L'imprevista.
Vaghe stelle dell'orsa.
Columbia Pictures Industries, Inc. (successor-in-interest to Columbia Pictures Corporation, assignee of Documento Film.
Come quando perche.
Columbia Pictures Industries, Inc., as successor by mesne mergers to Columbia Pictures Corporation, assignee of author.
La resa dei conti.
Columbia Pictures Industries, Inc., assignee of Documento Film, SRL.
Amore mio aiutami.
Columbia Pictures Industries, Inc., assignee of Documento Films, SRL, and Columbia Tristar Films (France) SA, f.k.a. Col.
Le fate.
Columbia Pictures Industries, Inc., assignee of Hammer Film Productions, Ltd.
Never take sweets from a stranger.
Columbia Pictures Industries, Inc., assignee of Vera Film, SPA.
Indagine su un cittadino al di sopra di ogni sospetto.
Columbia Pictures Industries, Inc., Columbia TriStar Films (France) SA & Vides Cinematografica, SAS.
La poudre d'escampette.
Columbia Pictures Industries, Inc., succcessor by mesne mergers to Columbia Pictures Corporation, assignee of Telcia Fil.
A quelque jours pres.
Columbia Pictures Industries, Inc., succcessor by mesne mergers to Columbia Pictures Corporation, & Columbia Pictures Co.
Idle on parade.
In the nick.
Columbia Pictures Industries, Inc., succcessor by mesne mergers to Columbia Pictures Corporation, assignee of Produzioni.
La panne.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, assignee of Vides Cinem.
La cina e vicina.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, assignee of Vides Cine.
Colpo di stato.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, assignee of Fair Film.
La congiuntura.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, assignee of authors.
Der schatz im silbersee.
Do you know this voice?

Don't panic chaps.
The hi-jackers.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation.
Na garganta do diabo.
Odissea nuda.
Requiem per un agente segreto.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, assignee of Vides Cinem.
Una rosa per tutti.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, assignee of Zebra Film.
Senilita.
La steppa.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation.
To koritsi me ta mavra.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, assignee of Vides Cinem.
Toh, e morta la nonna.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, assignee of Fair Film.
Una vergin e per il prineipe.
Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, assignee of author.
The virgin goddess.
Wanpaku oji no orochitaiji.
Columbia Pictures Industries, Inc., successor-in-interest to Columbia Pictures Corporation, assignee of author.
Cabriola.
Columbia Pictures Industries, Inc., successor-in-interest to Columbia Pictures Corporation, assignee of Vides Cinematogr.
Fai in fretta ad uccidermi, ho fredd.
Columbia Pictures Industries, Inc., successor-in-interest to Documento Film, SRL and Columbia Tristar Films (France) SA.
Bambole!
Columbia Pictures International Corporation. SEE Columbia Tristar Film Distributors International, Inc., f.k.a. Columbi.
Columbia Tristar Film Distributors International, Inc., f.k.a. Columbia Pictures International Corporation.
Der letzte akt.
Reich mir die Hand mein Leben.
Columbia Tristar Films (France) SA, formerly known as Columbia Films SA, & Columbia Pictures Industries, Inc.
Juste avant la nuit.
Columbia TriStar Films (France) SA.
Bande a part.
Une femme mariee.
Raphael ou le debauche.
Columbia Tristar Films (France) SA. SEE Columbia Pictures Industries, Inc., successor-in-interest to Documento Film, SR.
Columbia TriStar Films Distributors International, Inc., (formerly known as Columbia Pictures International Corporation).
O cangaceir.
Columbia Tristar Films Italia, srl formerly known as CEIAD.
Nene.
Columbia TriStar Films Italia, SRL.
La verite.
Columbia Tristar Films Italia, SRL. SEE Columbia Pictures Industries, Inc. (successor-in-interest to Columbia Pictures).
Compton Film Productions.
That kind of girl.
CPT Holdings, Inc., successor by mesne mergers to Screen Gems, Inc, assignee of author.
Pampa salvaje.
Crystal Pictures, Inc.
Adventures de gil blas de santillane.
Doctor des grandes.
The mongols.
One step to eternity.
Tamango.
Danvalley Film, AG.
Il giardino dei Finzi Contini.
DEG Sale Company, BV.
Zulu.
Denver Film Productions, Inc.
Io sto con gli ippopotami.
Diana Internacional Films, SA de CV.
Cartas a eufemia.
La casa del ogro.
El dinero no es la vida.
Ella, lucifer y yo.
Eugenia grandet.
Martes trece.
Retorno al quinto patio.
Salon de belleza.
Secretaria particular.
Tacos joven.
La tienda de la esquina.
Un divorcio.
Directors Company, Inc. SEE Art Theatre Guild of Japan Company, Ltd., Directors Company, Inc., Kokusai Hoei Company, Lt.
Douglas, Norman, Estate of.
Birds and beasts of the Greek anthology.
In the beginning.
Late harvest.
Looking back.
E.M. Films, CA.
Con el corazon en la mano.
Macho y hembra.
La maxima felicidad.
EC Investments Ltd., Inc.
Una cruz en el infierno.
Don Juan.
Fata morgana.
La llama.
Ello Productions.
The traitors.
ELP Communications.
La decima vittima.
La donna scimmia.
L' eroe di Babilonia.
Goliath e la schiava ribelle.
I crudeli.
L' idea fissa.
Ieri, oggi, domani.
Italiani brava gente.
Lo scatenato Italian.
Maciste, Il galdiatore di Sparta.
Le mepris.
Le monachine.
La noia.
Risate di gioia.
Sfida e sangue.
Spade senza bandiera.
Spara forte piu fore ... non capisco.
Ti ho sposato per allegria.
Il tigre.
Gli uomini del passo pesante.
L'ultimo gladiatore.
Zulu.
Enoch & Cie.
Symphonie concertante, op. 8 pour violoncello et piano.
Ergo Media, Inc.
Hill 24 doesn't answer.
Faber Music, Ltd.
Death in Venice.
Fair Film, SPA. SEE Columbia Pictures Industries, Inc., successor by mesne mergers to Columbia Pictures Corporation, as.
Filmadora Mexicana, S.A.
La adultera.
Alejandra.
Alla en eu bajio.
As negro.
El bano afrodita.
Bel ami.
Club verde.
Un corazon burlado.
Cuando se quiere se quiere.
Dios nos manda vivir.
El embajador.
La esquina de mi barrio.
Infierno de almas.
El ladron.
Lo que el viento trajo.
Magdalena.
Maria Montecristo.
Medianoche.
La mujer que enganamos.
No soy monedita de oro.
Pecado.
La picara Susana.
El que murio de amor.
El secreto profesional.
Yo soy tu padre.
Filmadora Mexicana, SA.
Cinco minutos de amor.
Con todo el corazon.
Las dos herfanas.
Duena y senora.

Enredate y veras.
Lagrimas de sangre.
Quien te quiere a ti?
El regreso del monstruo.
El secreto de Pancho Villa.
La sin ventura.
La sombra vengadora.
La sombra vengadora contra la mano negra.
El tesoro de Pancho Villa.
Tinieblas.
Una piedra en el zapato.
La vida intima de marco antonio y cleopatra.
Una virgen moderna.
Yo fui una ursupadora.
El zorro escarlata.
Films A2. SEE Pathe, Gefirex & Films A2.
Films de la Pleiade.
L'affaire du courrier de Lyon.
Ballerina.
Bestiaire d'amour.
De l'amour.
Denonciation.
Etes-vous financee a un marin grec oua un pilote de ligne?
Olivia.
Le temps du ghetto.
Films du Jeudi.
Attention les yeux.
Emilienne.
Monsieur la Souris.
Sophie et la crime.
Voyage sans espoir.
Films Vendome (A. Osso and UGC DA) co-producers.
La maison dans la dune.
Films Vendome (A. Osso & COGELDA) co-producers.
La table aux creves.
Films Vendome (Adolphe Osso) producer.
Les amours finissent a l'aube.
La demande en mariage.
Le grand rendez-vous.
Rue des Saussaies.
FR3 Cinema. SEE Progefi, FR3 Cinema & UGC/Pathe.
G. Schirmer, Inc.
Adagio.
Allegretto.
Allegro disperato.
Andante.
Five etudes.
Largo.
Galindo, SA de CV, Grupo.
El abandonado.
Aguilas de acero.
Al diablo las mujeres.
Amaneci en tus brazos.
Asesinos en la noche.
Ay! que reschula eas Puebla.
El beisbolista fenomeno.
Bendito entre las mujeres.
Buscando una sonrisa.
Caceria de un criminal.
Cara sucia.
Carabina 30–30.
La carrera del millon.
Cascabelito.
Los cinco halcones.
La ciudad perdida.
Cuando los hijos se van.
Cuentos coloracdos.
Cuna de valientes.
De tal palo tal astilla.
Debieron ahorcarlos antes.
El desalmado.
Dicen que soy hombre malo.
La diligencia de la muerte.
Dos locos en aprietos.
Dos tontos y un loco.
En cada puerto un amor.
En la hacienda de la flor.
Espuelas de oro.
Estafa de amor.
El fantasma de la casa roja.
El fronterizo.
Gatilleros del Rio Bravo.
Los gavilanes negros.
Horas de agonia.
El ladron fenomeno.
Lanza tus penas al viento.
Limosnero con garrote.
El llanto de los pobres.
El mar y tu.
Mi revolvers es la ley.
Mi ultimo fracaso.
No me platiques mas.
Nosotros los pelados.
Pancho Tequila.
Perdoname mi vida.
Pesadilla fatal.
Por que ya no me quieres.
Que padre tan padre.
Rayito de luna.
El regreso del carro rojo.
El rey de los albures.
El rey del tomate.
Romeo contra Julieta.
Ruletero a toda marcha.
Se los chupo la bruja.
Secreto de confesion.
Serenata en noche de luna.
La sexta carrera.
Siete en al mira II.
El terror de la frontera.
Traiganlos vivos o muertos.
Los tres salvajes.
Tu recuerdo y yo.
Vacaciones de terro II.
Vestidas y alborotadas.
Las viudas del cha cha cha.
Yo no me caso compadre.
Yo y mi mariachi.
Zacazonapan.
Gaumont.
Absences repetees.
Accroche-toi y a du vent.
Action immediate.
Les actualites Eclair Journal (1923–1969).
Les actualites Gaumont (1923–1969).
Allo Mademoiselle.
Les amants du Tage.
Amour de poche.
L'anglais te qu'on parle.
Les aristocrates.
Arlette et l'amour.
Arretez le massacre.
L'assassin est dans l'annuaire.
L'assassin n'est pas coupable.
Atout coeur a Tokyo pour OSS 117.
L'aventure du ciel.
Banco a Bangkok pour OSS 117.
La bande a bouboule.
Bande a part.
Le beau voyage.
La belle et la bete.
Belle et Sebastien.
Belle etoile.
La belle image.
Blondine.
Le bossu.
Bouboule 1er, roi negre.
British sounds.
Les cadets de l'ocean.
La cage aux rossignols.
Le capitaine pantoufle.
Carambolages.
Les carnets du Major Thompson.
Les casse-pieds.
Le cavalier noir.
Ce joli monde.
Ce n'est pas moi.
Le chemin des ecoliers.
Chourinette.
Le ciel sur la tete.
Cinematomobile.
Clerambard.
Cocagne.
Coeur de coq.
Comme un pot de fraises.
Comment ca va?
Le Comte de Monte Cristo.
Coplan prend des risques.
Couleur chair.
Courrier d'asie.
Le cri du cormoran le soir au-dessus des jonques.
La croisee des chemins.
Croisiere pour l'inconnu.
La dame de Chez Maxim.
Le defroque.
Les demon's de l'aube.
Le deserteur.
Deux sous de violettes.
Le distrait.
Les dossiers noirs.
Dracula pere et fils.
Elle bois pas, elle fume pas, elle drague pas mais elle cause.
En avant la musique.
En legitime defense.
Les enqueteurs associes.
Escalier de service.
Estouffade a la caraibe.
Et ta soeur.
Eugenio.
Eve memoire.
F. comme Fairbanks.
La famille Fenouillard.
Famille nombreuse.
Fantomas.
Fantomas contre Scotland yard.
Fantomas se dechane.

La femme enfant.
Une femme mariee.
Les femmes sont folles.
Les femmes sont marrantes.
Feu sacre.
La fiancee des tenebres.
Le fil a la patte.
Florence est folle.
La folie des grandeurs.
Folles de leur corps.
Les Franciscains de Bourges.
Fripouillards et compagnie.
Furia a Bahia pour OSS 117.
Le gang des otages.
Gangster malgre lui.
Le gentleman de Cocody.
Le glaive et la balance.
Le gout de la violence.
Le grand blond avec une chaussure noire.
Grand bluff.
La grande Paulette.
Les gueux aux paradis.
Hardi les gars.
Hardi Pardaillan.
Les heritieres.
L' homme de Londres.
L' homme orchestre.
Horizons sans fin.
Ici et ailleurs.
L' illustre Maurin.
Ils etaient cinq permissionnaires.
L' inevitable Monsieur Dubois.
L' invite de la onzieme heure.
L' invite du mardi.
Je l'aiete trois fois.
Je reviendrais a Kandara.
Jeannou.
Le jeune Fabre.
Le journal d'une femme en blanc.
La jument verte.
Jusqu'au bout du monde.
Kung fu wu-su.
Laisse aller, c'est une valse.
Lecon de conduite.
Lettre a Freddy Buache.
La lumiere d'en face.
Mademoiselle Beatrice.
Le majordome.
Malefices.
Les malheurs D'Alfred.
Marcel Pagnol et son temps.
Marguerite de la nuit.
Le mariage du figaro.
Marie la misere.
Marie-Martine.
Le masque de fer.
Maurin des maures.
Mefiez-vous mesdames.
La menace.
Une mere, une fille.
Metiers de fous.
Le miroir a deux faces.
Mission a Tanger.
Mon premier amour.
Monsieur Brotonneau.
Le monte-charge.
Moulin Rouge.
Les mysteres de Paris.
Napoleon.
Nathalie.
Ne le criez pas sur les toits.
Nord Atlantique.
Notes sur le film ''Federico Fellini—la cite des femmes.''
Nous ne vieillirons pas ensemble.
Les nouvelles aventures de Vidocq.
Nu comme un ver.
La nuit des espions.
La nuit des traques.
Numero deux.
OSS 117 se dechaine.
Le paria.
Pas de pitie pour les femmes.
Pas de roses pour OSS 117.
Passeport 13.444.
Les patates.
La peau de l'ours.
La pelle (la peau).
La petite de Montparnasse.
La petite vertu.
La plus belle fille du monde.
Le pont de singe.
Le puits aux trois verites.
Quai des blondes.
Quai Notre-Dame.
Quatre du moana.
La rage au corps.
Razzia sur la chnouf.
Le refuge.
Relaxe-toi cherie.
Rendez-vous a Paris.
Les revoltes de Lomanach.
Le rideau rouge.
Romance a l'inconnue.
Le rosaire.
Le rouge est mis.
Les saintes nitouches.
La salamandre d'or.
Salut l'artiste.
Sauve qui peut (la vie).
Scenario de je vous salue Marie.
Scenario de sauve qui peut (la vie).
Sebastien et la Mary-Morgane.
Sebastien parmi les hommes.
Sebastien parmi les hommes 1.
Sebastien parmi les hommes 2.
Sept hommes et une garce.
Un seul amour.
Si Paris nous ete conte.
Si tu veux.
Si Versailles m'etait conte.
Sortilege exotique.
La souriciere.
Tant d'amour perdu.
Un taxi pour Tobrouk.
Taxi, roulotte et corrida.
Un temoin dans la ville.
Tendre et violente Elisabeth.
Touchons du bois.
Tous les trains du monde.
Tout va bien.
Train d'enfer.
Transit a Saigon.
Trente et quarante.
Les truands.
Va voir maman, papa travaille.
Vacances.
Les veces etaient fermes de l'interieur.
Vent d'est.
La verte moisson.
Le vice et la vertu.
Vidocq.
La vie chantee.
La vie de Paul Gauguin.
Les vingt-huit jours de Clairette.
Vive Henri IV, vive l'amour.
Le voyageur sans bagage.
Week-end.

Gaumont. SEE Progefi & Gaumont.

Gazcon Films SA de CV.
- El nino y la estrella.
- El nino y la estrella.
- Perro callejero I.
- Perro Callejero I.

Gazcon Films, SA de CV, Producciones Rosas Priego, SA de CV, Producciones EGA, SA de CV & Productora Filmica Real SA de.
- Buenaas y con . . . movidas.
- Escuela de placer.

Gazcon Films, SA de CV. SEE Cineproducciones Internacionales, SA de CV, Producciones Rosas Prieco, SA de CV, Produccion.

Gendaieigasha.
- Eros + gyakusatsu.

Gendaieigasha. SEE Art Theatre Guild of Japan Company, Ltd., Gendaieigasha.

Gordon Films, Inc.
- Fiend without a face [trailer].
- Green grow the rushes. The man and the snake.
- Return to Glennascaul.
- The return.

Gorky Film Studio.
- Ah zori zdes tikhiye.
- Alenkiy tsvetochek.
- Alitet ukhodit v gory.
- Alyoshkina okhota.
- Anna na sheye.
- Balamut.
- Ballada o Beringe i yego druzyakh.
- Begushchaya po volnam.
- Bela (Geroy nashego vrjemeni).
- Beliy bim chyornoye ukho.
- Bessonnaya notch.
- Bezbiletnaya passazhirka.
- Bolshiye I malenkiye.
- Bolshoye kosmicheskoye puteshestviye.
- Budyonovka.
- Cariera Dimy Gorina.
- Chelovek s drugoy storony.
- Chelovek s planety zemlya.
- Chelovek v zelyonoy pertchatke.
- Chempion mira.
- Chestnoye volshebnoye.
- Chetvertaya vysota.
- Chto s toboy proiskhodit?
- Chudak iz pyatogo ''B''.
- Chuk I guek.
- Dai lapu, drug.
- Dalniye strany.
- Den I vsya zhizn.
- Derevensky detektiv.

Derevnya utka.
Derzhis za oblaka (2 parts).
Desyat tysyach malchikov.
Devichya vesna.
Dnevnik Karlosa Espinoly.
Dobrota.
Dobrovoltsy.
Dochki-matyeri.
Dom v kotorom ya zhivu.
Donetskiye shakhtyory.
Dostoyaniye respubliki.
Dozhivyem do ponedelnika.
Dragotsenniy podarok.
Druzhok.
Dva dnya chudes.
Dva druga.
Dvye ulybki (almanac).
Dvye zhizni (2 parts).
Esli ty prav.
Eta trevozhnaya zima.
Eto bylo v razvedke.
Eto my ne prokhodili.
Eto nachinalos tak.
Eto sluchilos v Penkove.
Fantazyory.
Finist-yasniy sokol.
Foma Gordeyev.
Georgy Sedov.
Geroy nashego vrjemeni (Maxim Maximych, Taman).
Giperboloid inginera Garina.
Gorozhane.
Hura! u nas kanikuly.
I togda ya skazal nyet.
Im pokoryaetsa nebo.
Ishchu chelovyeka.
Istoki (2 parts).
Ivan Brovkin na tzeline.
Ivan da Marya.
Ivanov kater.
Izcheznoveniye.
K novomu beregu.
Kak stat muzhchinoy (almanac, 2 novelettes) 1. Zhenya 2. Buba.
Kakoye ono, morye.
kaplya v morye.
Khomut dlya markiza.
Khotyite verte, khotyite nyet.
Khrustalniy boshmatchyok.
Khutorok v stepi.
Knyazhna Mary.
Kogda derevya bili bolshimi.
Kogda ya stanu velikanom.
Koltsa Almanzora.
Kolybelnaya dlya muzhchin.
Komandirovka.
Komissar.
Konets imperatora Taigi.
Konets Staroy Beryozovki.
Konets svyeta.
Korol-olen.
Korolevstvo krivyh zerkal.
Kosolapiy drug.
Krasniy chernozyom.
Krasniy galstuk.
Krasnoye I chernoye (4 parts).
Krestyansky syn.
Kuznechik.
Leon Garros ishet druga.
Lubit cheloveka (2 parts).
Lyana.
Lyegkaya zhizn.
Lyudi I zveri (2 parts).
Malchik i los.
Malchik S okrayini.
Malenkiy beglets.
Maria iskussnitsa.
Marka strany Gondelupy.
Mayaya notch ile utoplennitsa.
Mayskiye zvezdy.
Menyayu sobaku na parovoz.
Mimoletniye vstrechi.
Minuta molchaniya.
Mishka, Seryoga i ya.
Molodaya gvardiya.
Morozko.
Morye studyonoye.
Moskva-Kassiopeya.
Moy papa kapitan.
Mramorniy dom.
Muzhskoy razgovor.
My vas lubim.
Myatezhnaya barrikada.
Na gore stoit gora.
Na semi vetrah.
Nadezhda.
Nashi znakomiye.
Ne samiy udachniy den.
Nedopyosok Napoleon III.
Neobiknovenniy gorod.
Neobiknovenniye priklutcheniya Mishki Strekacheva.
Nesovershennoletniye.
Neytralniye vody.
Ni slova o futbolye.
Nochnoy patrul.
Novenkaya.
Noviye pokhozhdeniya kota v sapogakh.
Novye priklyucheniya Kapitana Vrungelya.
O chom molchala tayga.
O chyom ne uznayut tribuny.
O lyubvi.
Ob etom zabyvat nelzya.
Obelisk.
Obyknovennoye chudo.
Odnazhdy lyetom (almanac, 2 parts) 1. Ty prikhodi K nam, prikhodi. 2. Zhenikh I nevesta.
Ofitsery.
Ognennoye detstvo.
Ogni na reke.
Ogon, voda I medniye truby.
Ogonki.
Okh uzh eta nastya.
Oleko Dundich.
Oni byli pervymi.
Orlyata chapaya.
Osennie kolokola.
Oshibka rezidenta (2 parts).
Ostrov sokrovishch.
Otchiy dom.
Otroki vo vselennoy.
Otryad trubacheva srazhaetsa.
Pamyat serdtsa.
Parol ne nuzhen (2 parts).
Passajir s ekvatora.
Perekhodniy vozrast.
Perestupi porog.
Perviy den mira.
Perviy snyeg.
Perviy trolleybus.
Pervoklasnitsa.
Pismo iz yunosti.
Plata za istinu.
Podarok chernogo kolduna.
Poka byut chasy.
Pole pereyti.
Ponedelnik—den tyazheliy.
Poseydon speshit na pomoshch.
Posledniy shans.
Poslednyaya dvoyka.
Poslednyaya vstryecha.
Potryasayushiy Berendeyev.
Poyedinok v Tayge.
Predatelnitsa.
Prestupleniye I nakazaniye (2 parts).
Pri ispolneniyi sluzhebnyh obyazannostey.
Prijezhajte na Baikal.
Priklucheniya Krosha.
Priklucheniya toli klukvina.
Priklyucheniya zholtogo chemodanchika.
Printsessa na goroshine.
Prisovyit zvaniye geroya.
Prizvaniye.
Probuzdeniye.
Propal I nashelsa.
Propavshaya expeditsiya (2 parts).
Prostaya istoriya.
Prosto devochka.
Pryamaya liniya.
Pryzhok na zare.
Ptitsy nad gorodom.
Pust on ostanetsya s nami.
Puteshestvennik s bagazhom.
Rano utrom.
Razbudite Mukhina.
Razniye sudby.
Raznotsvetniye kameshki.
Risk-blagorodnoye dyelo.
Rusalochka.
Ryadovoy Alexander Matrosov.
Ryzhik.
Sadis ryadom, Mishka!
Samiy krasiviy kon.
Schitayte menya vzroslym.
Selskaya uchitelnitsa.
Selskiy vratch.
Seraya bolezn.
Serdtse druga.
Serebryaniye truby.
Sertse materi, vernost materi (dilogy).
Shkolniy vals.
Shla sobaka po royalyu.
Shtorm na sushe.
Shtrafnoy udar.
Sinyaya tetrad.
Slutchay v tayge.
Smyateniye chuvstv.
Soldat Evan Brovkin.
Sombrero.
Spasennoye pokoleniye.
Spasite utopayushego.
Stariy dom.

Steklyannye busy.
Stranniye lyudi.
Stuchis v lubuyu dver.
Sudba barabanshika.
Sudba rezidenta (2 parts).
Suprugi Orlovy.
Svistat vsekh na verkh.
Svoy paren.
Svoya golova na plechakh.
Svoyimi rukami.
Tak nachinalas legenda.
Takoy bolshoy maltchik.
Talanty I poklonniki.
Tam za gorizontom (2 parts).
Tatyanin den.
Tayna gornogo podzemelya.
Tayna zheleznoy dvery.
Techyot Volga.
Tikchiy Don (3 parts).
Tovarish Arseny.
Tree tpolya na plushchikhe.
Tri dnya Victora Chernyshova.
Tri plyus dva.
Tropy altaya.
Troye.
Tryener.
Tsentrovoy iz podnebesya.
U krutogo yara.
U nikh yest Rodina.
U ozera (2 parts).
Udivityelnoye voskresenye.
Ukradenniy poezd.
Unga syevernogo flota.
Usatiy nyan.
V dobriy chas.
V Moskve proyezdom.
V ozhidaniyi chuda.
V styepi.
V trudniy tchas.
Valera.
Varvara krasa-dlinnaya kosa.
Vash syn I brat.
Vasyok Trubachev i yego tovarishchi.
Vchyera, segodnya I vsegda.
Velikiye golodrantsy.
Verte mnye lyudi.
Vesenniy prizyv.
Vesyoliye istoriyi.
Vesyoliye Rasplyuyevskiye dni.
Vesyoloye volshebstvo.
Vetchera na khutore bliz dikanki.
Veter nadezhdy.
Veter stranstviy.
Vkus khalvy.
Volshebnaya lampa Alladina.
Vooruzhon I ochyen opasyen.
Vperedi den.
Vsadnik nad gorodom.
Vsadnik S molniyey v ruke.
Vsye delo v bratye.
Vsye dlya vas.
Vzorvanniy ad.
Ya kupil papu.
Ya vas lubil.
Yekaterina Voronina.
Yeshyo mozhno uspet.
Yesli eto sluchitsya s toboy.
Yest ideya!
Yevdokiya.
Yunost (almanac, 2 parts).
Yunost nashikh otsov.
Za oblakami-nyebo.
Za vlast sovyetov.
Zakrytiye sezona.
Zamurovannye v stekle.
Zapasnoy aerodrom.
Zasekrechenniy gorod.
Zastava ilyicha.
Zdrastvuyte dyeti.
Zdravstvuy, reka.
Zemlya do vostrebovaniya (2 parts).
Zemlya i lyudi.
Zhenshchiny.
Zhivyet takoy paren.
Zhrebiy.
Zhurnalist (2 parts).
Zloy dukh Yambuya.
Zolotaya rechka.
Zolotiye roga.
Zolotoy eshelon.
Zosya.
Zvezda ekrana.

Gray Film Sipirs, SA.
Barnabe.
Le chanteur inconnu.
Confidential report.
Conflit.
Demain il sera trop tard.
Les enfants de l'amour.
Le fruit defendu.
L' homme de la Tour Eiffel.
Les hommes veulent vivre.
Ignace.
Le long des trottoirs.
Le mioche.
Narcisse.
Operation Cinderella.
Parade.
Paris by night.
Prison sans barreaux.
La revanche de Roger la Honte.
Roger la Honte.
Les roi des resquilleurs.
Les rois du sport.
Terrain vague.
Two by two.

Gray Films. SEE Pathe, Gray Films & Progefi.

Greenwich Film Production.
Ave Maria.Cent francs l'amour.
Une corde, un colt.
Les cousines.
Le dix septieme ciel.
Le dos an mur.
Le fil a la patte.
Le grand bidule.
Liebelei.
La loi du nord.
Les longues annees 39–45.
Les mal partis.
Un millard dans un billard.
Ouvert contre X.
La peau de torpedo.
Le reflux.
Les revoltes de Lomanach.
Le rideau rouge.
Sabra.
Le soleil des voyous.
Le tonnerre de Dieu.
Un veuve en or.
Vanina.
Le voie lactee.
Le voyage du pere.

Hachette Premiere et Cie. SEE Progefi, TF1 Films Production, Hachette Premiere & Hachette Premiere et Cie.

Hani Productions/Art Theatre Guild for Japan Company, Ltd.
Hatsukoi: jigokuhen.

Harcourt Brace & Company.
Books and characters.
Characters and commentaries.
Portraits in miniature.

HarperCollins Publishers Inc. SEE Lewis (C.S.) PTE Limited & HarperCollins Publishers Inc., by license.

Hartley, Annie Norah, Estate of.
The boat.
The hireling.
My fellow devils.
A perfect woman.
Two for the river.
The white wand and other stories.

Heywood, Anne.
The flesh is weak.
Hell is sold out.
The man who watched trains go by.
Rough shoot.
Star of India.
Tall headlines.
Vengeance.
The very edge.

Hyogensha. SEE Art Theatre Guild of Japan Co., Ltd. & Hyogensha.

Ina, Masaharu.
No regrets for our youth.

Ina. SEE Progefi & Ina.

Independent-International Pictures Corporation.
L' altra.
Un Americano a Roma.
Amor non ho. pero' * * * pero'!
Anema e core.
Arrivano i nostri.
Le avventure di Pinocchio.
Ball at Savoy.
Bella non piangere!
Biraghin.
La bisbetica domata.
Blonde captive.
Il canto della vita.
Cavalleria rusticana.
Congolaise.
Il conte di Montecristo.
La corona di ferro.
Il Cristo proibito.
Davanti a lui tremava tutta Roma.
Der tiger akbar.
Il diavolo va in collegio.
Die verschleierte Maja.
Domani e'un altro giorno.
La donna del fiume.
Dopo divorzieremo.
Due notti con Cleopatra.
E'arrivato II cavaliere!
Era lei che lo voleva!

Eugenia Grandet.
Fangelse.
Fiacre no. 13 (1st episode: The crime).
Fiacre no. 13 (2nd episode: The punishment).
La fiammata.
Il fidanzato di mia moglie.
La figlia del diavolo.
Finisce sempre cosi'.
Fratelli d'italia.
Gabriela.
Gelosia.
Giorni felici.
La grande speranza.
Herz der welt.
I cadetti di Guascogna.
I due orfanelli.
I maracoli non si repetono.
II Sacco di Roma.
Le infedeli.
Jag-en Oskuld.
Knock-out.
Koenigsmark.
Lo sai che i papaveri.
Londra chiama polo nord.
M.A.S.
A man and a maid.
La marca del hombre lobo.
Miseria e nobilta.
Musik I morker.
Natale at campo 119.
La nave delle donne malledette.
Noi cannibali.
Orphan of the wilderness.
Pagliacci.
Peppino e violetta.
La portatrice di pane.
La Presidentessa.
Ragazze Dooggi.
The rats of Tobruk.
La Regine di Saba.
La resa di titi'.
Rigoletto.
La risaia.
La rivincita di Montecristo.
Roma citta aperta.
La Romana.
Senza una donna.
The throne of the gods.
Toto all'inferno.
La tratta delle bianche.
Two white arms.
Ubangi.
Gli ultimi cinque minuti.
Un giorno in pretura.
Vendetta * * * Sarda.
Victor Frankenstein.
Virgins of Bali.
La vispa Teresa.
La vita ricomincia.
Voice of Syama.
Wanted!
Initial Groupe.
Roi blanc dame rouge.
Jalisco. S.A. de C.V., Cinematografica.
El desconocido.
La furia de los karatecas.
Muerte a sangre fria.
El puno de la muerte.
Ser charro es ser Mexicano.
Tampico.
Jellicoe, Ann.
The knack.
Jinrikihikokisha. SEE Art Theatre Guild of Japan Company, Ltd., Jinrikihikokisha.
Kindai Eiga Kyokai & Art Theatre Guild of Japan Co., Ltd.
Kosatsu.
Kindai Eiga Kyokai.
Akuto.
Hadaka no shima.
Kodosha Co., Ltd. SEE Art Theatre Guild of Japan Co., Ltd. & Kodosha Co., Ltd.
Kokusai Hoei, legal successor to Shin Toho.
Tokaido Yotsuya kaidan.
Yukifujin ezu.
Kokusai Hoei.
Jigoku.
Lalique, SA.
2 dancers.
2 fish.
2 swans oval.
Apple.
Cactus.
Capucines.
Champs Elysees.
Champs Elysees jardiniere.
Chene.
Concarneau.
Dampierre.
Danseuse arms out.
Danseuse arms up.
Diane.
Double doves.
Double swans.
Dove of peace.
Ermenonville.
Faune.
Ganymede.
Gregoire (toad).
Honfleur.
Horse head.
Ingrid.
Ispahan.
Leda.
Lion head.
Nogent.
Ondines.
Paquerettes.
Reverie.
Rosine.
Seville.
St. Nicholas.
Swan head down.
Swan head up.
Swan.
Sylvie.
Tang.
Two swans.
Verone.
Virgin, hands clasped.
Laydu, Christiane. SEE Laydu, Claude and Christiane Laydu.
Laydu, Claude and Christiane Laydu.
Nounours, Oscar, Primrose, Nicholas, and the Sandman characters.
Lenfilm Studios.
(Blokada) Leningradsky metronom.
(Blokada) Operatsiya ''iskra.''
(Blokada) pulkovsky meridian.
20-e Dekabrya.
713-y prosit posadku.
72 gradusa nizhe nulya.
A krepost byla nepristupnaya.
A vy lyubily kogda-nibud?
Afrikanych.
Akademik Ivan Pavlov.
Aktyer Nikolay Cherkasov.
ALeko.
Alexander Popov.
Alyesha Ptitsyin vyirabatyivaet kharakter.
Anafema.
Andreika.
Anyuta.
Asya.
Avariya.
Baltiyskaya slava.
Baltiyskoe nebo.
Barbos v gostyakh u Bobika.
Baryer neizvesnosti.
Baryshnya i khuligan.
Beda.
Belinsky.
Belyi flyuger.
Bereg yunosti.
Bessmertnaya pesnya.
Bez semyi.
Biletik na vtoroy seans.
Blagochestivaya Marta.
Blokada, luzhsky rubezh.
Boba i slon.
Bolshaya semya.
Bolyshaya igra.
Braslet-2.
Bratya Komarovyi.
Budni i prazdniki.
Chapliniana.
Chelovek amfibiya.
Chelovek s budushim.
Chelover, kotoromu vezlo.
Cheryemushki.
Chesty tovarischa.
Chetyre stranitsky odnoy molody zhizni.
Chiornye sukhari.
Cholpin-utrennyaha fvezda.
Chto by ty vybral?
Chuzhaya.
Chuzhaya beda.
Chuzhaya rodnya.
Chuzhaya zhena i muzh pod krovatyu.
Chuzhiye pisma.
Chyernaya chayka.
Dauriya.
Delo.
Dela davno minuvshikh dney.
Delo Rumyantseva.
Den pervyi.
Den priyoma po lichnym voprosam.
Den schastuya.
Den solntsa i dozhdya.
Deti kak deti.

Devochka i krokodil.
Devochka, khochesh snimatsya v kind?
Devochka, s kotoroyi ya druzhil.
Dikaya sobaka Dingo.
Dikiy Gavrila.
Dlinnoye, dlinnoye delo.
Dnevnik direktora shkoly.
Do budu schey vesny.
Doker.
Dolgaya schastlivaya zhizn.
Dom naprotiv.
Dom stroitsya.
Domoy.
Don Kikhot.
Don Sezar de Bazan.
Donskaya povest.
Doroga na ryubetsal.
Doroga pravdy.
Doroga ukhodit vdaly.
Dorogoy mdy chelovek.
Dosledivie dni Pompei.
Dostigaev i drugie.
Doverie.
Dozhit do rassveta.
Dragotsennyie Ziorna.
Drama iz starinnoy zhizni.
Druzyya i gody.
Dusha zovyet.
Dva bileta na dnevnoyi seans.
Dva kapitana.
Dva voskreseniya.
Dvadisatyi vek nachinaetsya.
Dvadtsat dney bez viony.
Dvde v novom dome.
Dvenhdtshtaya noch.
Dvennadtsat mesyatsev.
Dver bez zamka.
Dzhek Vosymyerkin-Amerikanets.
Edinstvennaya.
Ego vremya pridiot.
Ego zvali Robert.
Eiyo imya-vesna.
Ekskursant.
Esli pozovyet tovarasch.
Esop.
Eti nevinnye zabavy.
Evgeniy Onegin.
Ezcho ne vecher.
Ezhir.
Faantazii Faryatieva.
Ferentc Liszt.
Filipp Traum.
Fro.
Gaamlet.
Gde etovidano, gde eto slykhano?
Gde ty, lyubov Dunyasheva?
Geroi Shipki.
Golos.
Goluboy liod.
Gonschiki.
Gori, gori yasno.
Gorizont.
Gorod shzhigaet ogni.
Gorod. Osen. Ritm.
Goryachaya dlisha.
Goryachee serdtse.
Gosudarrstvennyi prestupnik.
Goya, ill tyazhky put poznaniya.
Greshny angel.
Grossmeyster.
Groza nad beloy.
Gryaduschemu veku.
Guschak iz Rio-De-Zhaneyro.
Gvozd programmiy.
I drugie ofitsianye litsa.
I snova utro.
Iapasnoya igrok.
Idu na grozu.
Igra.
Igrok.
Ihma s sobachkoy.
Iskaneli.
Ispolnyayuschii obyazannosti.
Istochnik.
Ivan i Kolombina.
Iz Nyu-Yorka v Yasnuyu Polyanu.
Izhorsky Batalion.
Jobache serdtse.
Kadkina vsyakiy znaet.
Kain XVIII.
Kak Ivanushka durachok za chudom khodil.
Kak vereyvochka ni vyetsya.
Kapitan.
Kapronovaya yelochka.
Karpukhin.
Katerina Izmailova.
Khanuma.
Khleb-imya suschestvitelnoe.
Khod beloy korolevy.
Kholodno-goryacho.
Khoreograficheskie miniatyuryi.
Khoristka.
Khozyain.
Khronika pikiruyuschego bombardirovschika.
Kino i vremya.
Knyaz Igor.
Kochubeyi.
Kogda pesnya ne konchaetsya.
Kogda razvodyat mosty.
Kolovraschenie Zhizni.
Kolye sharlotty.
Komediya oshibok.
Komissiya po rassledovaniyu.
Konchina.
Kontsert masterov iskustv.
Korol Lir.
Kortik.
Krakh inzhinera garina.
Krasny diplomat.
Krasnye pchioly.
Krepostnaya aktrisa.
Krik o pomoschi.
Krotkaya.
Krug.
Krutye gorki.
Kseniya, Lyubimaya zhena Fiodora.
Kto pridumal koleso.
Kyluch bez prava peredachi.
La vetlugoy rekoy.
Lavina.
Lebedinaya pesnya.
Lebedinoy ozero.
Lenfilm.
Les.
Letnyaya poesdka k moryu.
Letuchaya mysh.
Liberal.
Lichnaya Zhizn direktora.
Lichnaya Zhiznkuzyaeva Valentina.
Lichnde delo.
Lubov s pervoga vzglyada.
Lyalka-Ruslan i ego drug Sanka.
Lyublyu tebya zhizny!
Lyubov yarovaya.
Lyudi golubykh rek.
Makar-sledopyt.
Maksim perepelitsa.
Malchik i devochka.
Malchik s konkamo.
Malchishki. Eto imenno ya.
Malchishki. Novenky.
Mama vyshla zamuzh.
Mandat.
Maritsa.
Mastera Russkoga baleta.
Maty i machekha.
Mechenyi atom.
Medovyi mesyats.
Menya eto ne kasaetsya.
Meschane.
Mesto deystviya.
Mesyats Avgust.
Mif.
Mikhayilo Lomonosov.
Miortvyi sezon.
Mir Nickolaya Simonova.
Mishel i Mishutka.
Missiya v Kabule.
Mister Iks.
Mladshiyi nauchnyiyi sotrudnik.
Moabitskaya tetrad.
Moiya zhizn.
Moladaya zhena.
Monolog.
Most pereyati nelyzya.
Moy dobry papa.
Musorgsky.
Musykanty odnogo polka.
Myatezhnaya zastava.
Na beregarh plenitelnoy Nevy.
Na dikom brege.
Na odnoyi planete.
Na ostrove dalnem.
Na perelome.
Na puti v Berlin.
Na voine kak na voine.
Nachalnik Chukotki.
Nachalo.
Nad nemanom rassvet.
Naidi menya, Lyonya.
Nash korrespondent.
Navstrechu Zhizni.
Ne bolit golova u dyatla.
Ne imey sto rubley.
Ne zabud...stantsiya Lugovaya.
Nebesnyie lastochki.
Neobyknovennoye leto.
Neobyknovennye ppikllyucheniya khrikaivali.
Neokonchennaya povest.
Neoplachennyi dolg.
Neveroyatny Ieegudil Khlamida.
Nevesta.
Nevskie melodu.

Neznakomyi naslednik.
Nikkold Paganini.
Nikudyshnaya.
Noch na 14-y paralleli.
Nochnaya smena.
Nochnoy gost.
Novogodniye priklyucheniya Mashi i Viti.
O tekh, kogo pomnyu i nyublyu.
Ob yasnenie v lyubvi.
Obratnaya svyaz.
Obychny mesyats.
Obyknovennaya arktika.
Odinnadtsat nadezhd.
Odinozhdy odin.
Odna noch.
Ogni Baku.
Ona vas lyubit.
Opoznaniye.
Oshibki yunosti.
Ostorozhno, Babushka!
Ostrov pogibshikh korabley.
Ostrov sokrovisch.
Otkrytaya kniga.
Otpusk v Sentyabre.
Ottsy i deti.
Ovod.
Pamyat.
Pavlovsk.
Pered sudom istorii.
Perikola.
Perv yi posetitel.
Pervaya Bastilya.
Pervorossiyane.
Pervyi myach.
Pervyi reis.
Pervyie radosti.
Peystryie rasskazzyi.
Phkhita.
Pikovaya dama.
Pirogov.
Plokhaya primeta.
Plokhov khokoshiy chelovek.
Plyvi, korablik.
Pobeditel.
Pod kamennym nebom.
Pod stuk kolyes.
Poddubenskiye Chastushki.
Podnyataya tselina.
Podzornaya truba.
Poezd miloserdiya.
Poka front v oborone.
Poka stoyat gory.
Poka zhiv chelover.
Polkovnik v otstavke.
Polosatya reyas.
Pomni, Kaspar.
Poputnogo vetra, ''sinyaya ptitsa.''
Porozhniy reys.
Posledniy dyuym.
Posledny den zimy.
Povesty o molodozhena.
Poymanny monakh.
Pozhar vo fligele.
Poznavaya belyi svet.
Praktikant.
Premiya.
Pri otkryitikh dveryakh.
Priklyucheniya Artyomki.
Priklyucheniya Printsa Florizelya.
Priklyucheniya Sherlocka Holmsa.
Prinimayu boy.
Prints i nizchiy.
Pristan na tom beregu.
Privatny syurpriz.
Prizvanie.
Proishestviyi, kotorogo nikto.
Proshlym letom.
Proshu slova.
Prostranstvo dlya manevra.
Protivostoyanie.
Prozchaniye S Peterburgom.
Pryizhok s kryishyi.
Puchina.
Pusle svadby.
Pyat dnei.
Pyataya chetvert.
Pyatero sneba.
Pyatiorka za leto.
Rabochiy posyelok.
Rafferti.
Raslom.
Rasskaz o prostoy vezchi.
Rasskazhi mne o sebe.
Razdumya.
Razreshite vzliot.
Razvyazka.
Rebyachiy patrul.
Rebyata s Kanonerskoga.
Respublika Shkid.
Rimsky-Korsakov.
Rodnaya krov.
Rokirovka v dlinnuyu storonu.
Rudolfio.
Ry tsar iz knyazh-Gorodka.
Ryadom s drugom.
Ryadom s nami.
The salt of the Earth.
Salyut, Mariya!
Samye peystrye.
Schastie Anny.
Schastlivogo plavaniya.
Schastye Andrusa.
Seas odnovremennoy igry.
Sedmoy sputnik.
Segodnya ili nikogda.
Segodnya-novyi attraktsion.
Sekundomer.
Sem nevest efreirona Zbrueva.
Sem not v tishine.
Sem schastlivyrh not.
Sentimentalny roman.
Seryi volk.
Serzhant militsii.
Shag navstrechu.
Shapka monomakha.
Shelmenko-denschik.
Sherlock Holms i Doktor Watson.
Shofyer ponevole.
Shopeniana.
Shtorm.
Shutite? 1. Shutite.
Shutite? 2. Vanderbulle bezhitza gorizont.
Shutite? 3. Inache my propali.
Shyinel.
Silva.
Siniye zaitsy.
Sinyaya ptitsa.
Skrepki.
Sladkaya zhenschina.
Sled na lemle.
Sled rosomakhi.
Sledynasnegu.
Slomannaya podkova.
Sluchayinyie dassazhiryi.
Sluga dvukh gaspot.
Smert Pazukhina.
Snegurochka.
Snegurochku vyzyvali?
Snezhnaya koroleva.
Sobaka Baskerviley.
Sobaka na sene.
Sobirayshchni oblaku.
Sofia Kovalevskaya.
Sokrovizcha agry.
Sol zemli.
Soldaty.
Solionyi pios.
Solomennaya shlyadka.
Spyaschaya krasavitsa.
Ssora v Lukashakh.
Staraya, staraya skazka.
Starik Khottabych.
Starozhil.
Starshiy syn.
Staryie steny.
Stepan Kolchligin.
Stepanova pamyatka.
Stepen riska.
Strannyie vzroslye.
Strogaya muzhskaya zhizn.
Strogovy.
Sud.
Sumka inkassatora.
Svadba Krechinskogo.
Svadba v Malinovke.
Svet v kordi.
Svet v okne.
Syn Iristona.
Tabachny kapitan.
Talanty i poklonniki.
Tambu-Lambu.
Ten.
Tent.
Trassa.
Tretyya molodosty.
Tri tolstyaka.
Trostinka naavetru.
Troye v lodke, ne schitaya sobakt.
Truffaldino 12 bergamd.
Tsarevich prosha.
Tsement.
Tyetya Lusha.
U tebya est ya.
Ubit pri ispolnenii.
Uchitel peniya.
Udar! escho edar!
Udivitelny zaklad.
Ugol padeniya.
Ukhodya-ukhodi.
Ukrotitelnitshatigrov.
Ulitsa hyyutona dom 1.
Ulitsa polna neozhidannostey.
Umnyie vezchi.
V chiornykh peskas.
V den svadby.

V dni Oktyabrya.
V gorde S.
V ogne broda net.
V to daliokoie leto.
V tvoikh rukakh zhizny.
Vasyka.
Vdovy.
Vedyma.
Velikaya sila.
Versiya.
Vesennie khlopoty.
Vesennie pereviortyshi.
Vesioloye snovideniye, ila smekh i sliozy.
Vesna v moskve.
Vezuchiy chelovek.
Viktoriya.
Virineya.
Vodyanoyi.
Volnyi veter.
Volshebnaya sila.
Vozdukhoplavatel.
Vozvraschenie s pobedoy.
Vozvraschyennaya muzyka.
Vozvrazchionny god.
Vracha vyzyvali?
Vragi.
Vsadnik bez golovy.
Vsegda so mnoyu.
Vsego dorozhe.
Vsego odna zhizn.
Vsye ostaaaayetsya lyudyam.
Vsye reshaet mgnovenie.
Vtoraya popyitka viktora krokhina.
Vysokaya proba.
Vzryvniki.
Ya sluzhu na granitse.
Yardsslavna, Koroleva Frantsii.
Yavlenie Venery.
Za ichik.
Za tekh, kto v more.
Zagadka N.F.I.
Zalp avrory.
Zavtra, tretiego Aprelya.
Zavtrashnie zaboty.
Zdes nash dom.
Zdravstvui i proschai.
Zelionaya karet.
Zelionye tsepochki.
Zelyeniy dol.
Zhavoronok.
Zhdite menya, ostrova.
Zhenitba.
Zhenityba Balyzaminova.
Zhenya, Zhenechka i ''Katyusha.''
Zherebyenok.
Zhiteiskoye delo.
Zhivoy trup.
Zhizn Berlioza.
Zhizn v tsitadeli.
Zhizny klima samgina.
Zimnee utro.
Znak vechnosti.
Znakdmytes, Baluev.
Znoyinyyi iyul.
Zolotaya mina.
Zolotaya pugovitsa.
Zoloushka.
Zvannyi uzhin.
Zveda plenitelnogo schastiya.
Zvezda.
Les Films Du Losange.
La feme de l'aviateur.
La marquise d'o.
Perceval.
Les Productions J. Roitfeld.
Cause toujours mon lapin.
Nana.
Lewis (C.S.) PTE Limited & HarperCollins Publishers Inc., by license.
A grief observed.
Linaje, Rogelio Agrasanchez.
A la orilla de un palmar.
A lo macho.
A los cuatro vientos.
Abismos de pasion.
Aca las tortas.
Adan Eva y el diablo.
Adios cunado.
Adios Mariquita Linda.
Adios Nicanor.
Agente 00 Sexy.
La agonia de ser madre.
Ahi viene Vidal Tenorio.
Ahi vienen los gorrones.
Al caaer la tarde.
Al fin solos.
Al son del Charleston.
Alazan y enamorado.
Albur de amor.
Alla en el rancho de las flores.
Alla en el rancho grande.
Alma grand (Jaqui justiciero).
Alma grande en el desierto.
Alma jarocha.
Alma nortena.
Amapola del camino.
Amor a ritmo de go-go.
Amor Chinaco.
Amor de lejos.
El amor de los amores.
Amor de mis amores.
El amor no es negocio.
Amor y pecado.
Amorcito corazon.
El andariego.
El angel negro.
Angeles de la calle.
Los angeles de Puebla.
Anillo de compromiso.
Los anos verdes.
Aqui esta los villalobos.
Aqui esta tu enamorado.
El as de oros.
Atacan las brujas.
La ausente.
Aventuras del guardian las (yanco guardian de la selva).
Ay calipso no te rajes.
Bailando cha-cha (cien muchachas).
Bajo el cielo de Mexico.
Bala de plata en pueblo maldito.
Bala de plata.
Balaju.
La banda del polvo maldito.
Los bandidos de Rio Frio.
Los bandidos de Rio Frio 2a. version.
El barbero prodigioso.
La barraca.
Barrio de pasiones.
El bartardo.
El baul macabro.
Bello amanecer.
El beso de ultratumba.
Beso mortal.
La bestia magnifica.
La bestia negra.
La bien amada.
Billetero el.
Blue demon (el demonio azul).
Blue demon vs. poder satanico.
Bodas de fuego.
Las borrachas.
Las braceras.
Braceras y mojados.
El bronco de Reynosa.
Bruja la.
Bruto el.
El buen ladron.
Buena suerte el.
Burlada.
Caballo alazan lucero.
Caballo prieto afamado.
La cabeza de Pancho Villa.
Cada quien su musica.
Cadetes de la naval.
Cafe Concordia.
Cain y Abel.
Calaveras del terror.
La calle de los amores.
Calumnia.
Calvario de una madre.
Camino de Guanajuato.
El camino de la vida.
Los campheones justicieros.
Canasta de cuentos Mexicanos.
Cancion del alma.
Canciones unidas.
Candelaria.
Cantaclaro.
Capitan de rurales.
El Capitan Mantarraya.
Caras nuevas.
Carcel de mujeres.
Caribena (amores de fuego).
Carnaval en el tropico.
Carne de cabaret.
Carne de presidio.
La carne manda.
La casa de los espantos.
La casa del ogro.
Casa embrujada.
Case de mujeres.
El castillo de las momias de Guanajuato.
Cazadores de espias.
Chanoc.
El Chicano justiciero.
Un chico valiente.
China hilaria.
Chiquidracula.
Chismoso de la ventana el.
Chucho el roto (1a. version).
Cien gritos de terror.
El circo tragico.
Club de senoritas.

El cobarde.
El comandante furia.
Como yo te queria.
El compadre mas padre.
Con amor de muerte.
Con la division del norte (los de abajo).
Con licencia para matar.
Concurso de belleza.
Confidencias de un ruletero.
Confidencias matrimoniales.
Conozco a los dos.
Contrabando por amor.
El corazon y la espada.
Corazones de Mexico.
Corazones en derrota.
Corona de un campeon.
Las coronelas.
El Cristo de los milagros.
El Cristo negro.
Cristo te ama.
Cronica de un cobarde.
Cruel destino.
Cruz diablo.
Cuando levanta la niebla.
Cuando los hijos odian.
Cuando los hijos pecan.
Cuando los hijos pierden.
Cuando Mexico canta.
Cuando tu me quieras.
Cuarto de hotel.
Cuatro contra el mundo.
El cuatro copas.
Cuernavaca en primavera.
El cuerpazo del delito.
La culpable.
La culta dama.
Curvas peligrosas.
De Cocula es el mariachi.
De Nueva York a Huapanguillo.
De pecado en pecado.
De tequila su mezcal.
Las del talon.
El derecho a la vida.
La desconocida.
Los desheredados.
Desnudate Lucrecia.
Despues de la tormenta (Isla de lobos).
Un dia de vida.
Diario de una mujer.
Los dias del amor.
Dicen que soy comunista.
Dile que la quiero.
Dios no lo quiera.
Disotec fin de semana.
Doctor satan vs. la magia negra.
Doctor satan.
Don Juan Tenorio.
Donde estas corazon.
Dos almas en el mundo.
Dos caminos.
Dos caras tiene el destino.
Dos corazones y un tango.
Dos pesos dejada.
Dos tenorios de barrio.
La duda.
Dulce madre mia.
Durazo la verdadera historia.
Edad peligrosa.
Ella y yo.
En busca de la muerte.
En cada feria un amor.
En la mitad del mundo.
En los altos de jalisco.
En un burro tres baturros.
Encrucijada.
Enemigos (viva la revolucion).
Ensayo de una noche de bodas.
Ensename a besar.
Entre tu amor y el cielo.
El escapulario.
Escondida la (viva la revolucion).
Esos de penjamo.
Espaldas mojadas.
Esposas infieles.
El esqueleto de la Sra. Morales.
Este amor si es amor.
Estos anos violentos.
Estoy casado ja-ja.
Estoy tan enamorada.
Extrana cita.
Fallaste corazon.
Los falsos heroes.
Los fanfarrones.
Fantasia ranchera.
El Fantasma de media noche.
Fantasma del convento.
El fantasma se enamora.
Felicidad.
Flor marchita.
El forastero vengador.
La fuerza de los humildes.
La fuga.
La fuga de Carrasco.
Furia en el Eden (Furia en el Paraiso).
Furia en el paraiso.
El fusilamiento.
Los galleros de Jalisco.
Un gallo en corral ageno.
Garra de leopardo.
El gato.
Gendarme de punto (gendarme de la esquina).
El genial detective Peter Perez.
La gitana blanca.
El globero.
Las golfas del talon.
La Golondrina.
La gota de sangre.
La gran cruz.
Gregorio y su angel.
Una gringuita en Mexico.
El grito de la carne.
Un grito en la noche.
Guadalajara en verano.
Guadalajara es Mexico.
Guadalupe la chinaca.
Guardian el perro salvador.
La guerra de las monjas.
Guitarras de media noche.
El hacedor del miedo.
El hacha diabolica.
El hambre nuestra de cada dia.
Hasta el viento tiene miedo.
Hay angeles con espuelas.
Hay un nino en su futuro.
La herencia macabra.
Las hermanas Karambazo.
Los hermanos Centella.
Hermoso ideal.
El heroe de Nacozari.
La hija de la otra.
El hijo de alma grande.
El hijo de cruz diablo.
Hijos de la mala vida.
Los hijos del divorcio.
Historia de un amor.
Historia de un corazon.
Historia de un marido infiel.
El hombre de la furia.
El hombre que me gusta.
El hombre que quiso ser pobre.
Honraras a tus padres.
La hora de la verdad.
Hoy comienza la vida.
Huapango.
La huella de unos labios.
El impostor.
El increible Profesor Zovek.
India bonita la.
El indio.
El insurgente.
Intimidades de una secretaria.
La isla de la pasion.
Jalisco nunca pierde.
Janitzio.
El jinete fantasma.
El jinete negro.
Jorge Garcia Besne.
La joven mancornadora.
Juan Pistolas.
El juego de la guitarra.
La justicia de los villalobos.
Kid Tabaco.
Laberinto de pasiones.
Ladron de Cadaveres.
La Ladrona.
Ladronzuela.
Lagrimas robadas.
Un largo viaje hacia la muerte.
El latigo.
Lazos de fuego.
Leyendas macabras de la colonia.
Las limpias.
Lio de faldas.
La llorona.
Lluvia de abuelos.
El Lobo blanco.
Luna Criolla.
Luponini de Chicago.
Una luz en mi camino.
Madre a la fuerza.
Madres solteras.
La mafia del crimen.
Maniatico pasional.
Manicomio.
Mansion de las siete momias.
Los mantenidos.
Maravillas del toreo.
La marchanta.
Maria.
Maria del mar.
Maria Elena.
Un marido infiel.
Martin Garatuza.
Martin Santos el llanero.
Mas alla de la muerte.

Mas fuerte que el amor.
La mascara de hierro.
La mascara de la muerte.
Los matones del norte.
Matrimonios juveniles.
Me cai de la nube.
Me caiste del cielo.
Me dicen el consentido.
Me persigue una mujer.
Los mediocres.
Lo mejor de Teresa.
Las memorias de mi general.
Menores de edad.
El Mexicano.
Mexico de noche.
Mexico lindo y querido.
Mi influyente mujer.
Mi lupe y mi caballo.
Mi madrecita.
Mi nino, mi caballo y yo.
Mi novio es un salvaje.
Mi reyno por un torero.
Mientras Mexico duerme.
Un milagro de amor.
Mis abuelitas nomas.
Mis hijos.
Los miserables.
Mision cumplida.
Mision Seoul.
Misterio de la magia negra.
El misterio del rostro palido.
Misterio en las Bermudas.
Mojados.
Las momias de san angel.
Monja casada virgen y martir.
El monstruo de la sombra.
El Monstruo de los volcanes.
El monstruo resucitado.
La morena de mi copla.
Morir de pie.
Morir para vivir.
Muchachas inpacientes.
La muerte en este jardin.
La muerte enamorada.
Los muertos hablan.
Una mujer con pasado.
Mujer de media noche.
La mujer de nadie.
La mujer del minstro.
La mujer del puerto.
Mujer en condominio.
Mujer o fiera.
La Mujer que se vendio.
Mujeres en trabajan.
Las mujeres mandan.
Mujeres y toros.
Los mujeriegos.
Mundo demonio y carne.
El mundo loco de los jovenes.
Las munecas de King-Kong.
Munecas peligrosas.
Murallas de pasion.
El muro del silencio.
El museo del crimen.
Music, mujeres y amor.
Ni hablar del Peluquin.
El nino de las monjas.
El nino y la niebla.
El nino y las monjas.
No basta ser madre.
Nobleza ranchera.
La noche de la bestia.
La noche del halcon.
La noche del jueves.
La noche violenta.
La nortena de mis amores.
El norteno enamorado.
Nos dicen las intocables.
Nos veremos en el cielo.
Nosotros.
La novia del mar.
Novias impacientes.
Nuestros maridos.
Nunca debieron amarse.
El organillero.
Oro y plata.
La pachanga.
Padre de mas de cuatro.
Padre mercader.
Palillo Vargas Heredia.
Paloma brava.
Pancho Lopez.
Panico.
Papa en onda.
Papa mama y problemas.
El Papelerito.
Pasion Jarocha.
Patrulla de valientes.
Payasadas de la vida.
Pecado de juventud.
El Pecado de quererte.
Pecado de ser pobre.
Pecados de amor.
Pepito y los robachicos.
Las perfumadas.
La Perversa.
Pescadores de perlas.
Pies de gato.
Pistolas de oro.
Pistoleros famosos II.
Los pistolocos.
El Plagiario.
Pobre corazon.
Poker de ases.
Policia judicial federal.
Por culpa de una mujer.
Por el mismo camino.
Por ellas aunque mal paguen.
Por mis pistolas.
Por querer a una mujer.
Porfirio Diaz.
Porque naci mujer?
La Posada sangrienta.
La posesion.
Presagio.
Prestame tu cuerpo.
Prision de suenos.
El Proceso de las senoritas Vivanco.
Pueblito.
Las puertas del presidio.
Pura vida.
Que bonito amor.
Que haremos con Papa?
Los que no debieron nacer.
Que seas feliz.
Quien mato a Eva?
Quiero ser torero.
Radio patrulla.
El raton.
La rebelion de los adolecentes.
La rebelion de los colgados.
La rebelion de los fantasmas.
Las recien casadas.
Refugiados en Madrid.
Regalo de reyes.
El regreso de los Villalobos.
El regreso del guardian.
El rencor de la tierra.
Requiem de un canalla.
Los resbalosos.
El rescate.
Revolver en guardia.
El rey de los detalles.
El rey de Mexico.
Reyna de Mexico.
Los robachicos.
Robinson Crusoe.
El robo de las momias de Gto.
Romance sobre ruedas.
Rondalla.
Rosa de las nieves.
Rosa del Caribe.
Una rosa sobre el ring.
El rosal bendito.
Rosalba y los llaveros.
El rosario de Amozoc.
Rosauro Castro.
El ruisenor del barrio.
Rumbo a Brasilia.
Sabado negro.
Sagrario.
Los salvajes.
Los Sanchez deben morir.
Sangre en las montanas.
La sangre manda.
Sangre torera.
Santa (2 degree version).
Santa y pecadora.
Santo frente a la muerte.
Santo vs. cerebro del mal.
Santo vs. los hombres infernales.
Santo vs. hacha diabolica.
Se acabaron las mujeres.
Se alquila marido.
Secreto de la monja.
Secreto entre mujeres.
Secreto eterno (corazon de mujer).
Los secretos del sexo debil.
Seda sangre y sol.
Seis meses de vida.
El senor alcalde.
Las Senoritas Vivanco.
Sentenciados a muerte.
Siempre estare contigo.
Siempre tuya.
Los siete proscritos.
El siete vidas.
Siguiendo pistas.
Silencio sublime.
El Sinaloense.
Sitiados por la muerte.
El sol sale para todos.
Solamente una vez.
Solo para damas.
Soltera y con gemelos.
Los solterones.
La Sombra blanca.

La sombra de cruz diablo.
Sor algeria.
Soy Chicano y Mexicano.
Su adorable majadero.
Su ultima aventura.
Sublime melodia.
El superflaco.
Superzan el invencible.
Superzan y el nino del espacio.
Susana (carne o demonio).
Te besare en la boca.
Teatro follies.
Terremoto en Guatemala.
El terrible gigante de las nieves.
El tesoro de la Isla de Pinos.
El tesoro de mentiras.
Tierra brava.
Tierra muerta.
Tigre.
El tigre de Santa Julia.
El tigre de Yautepec.
Tigre enmascarado.
Tintanson Crusoe.
La torre de los suplicios.
Torre de marfil.
Traigo mi 45.
Trampa mortal.
Los tres compadres.
Tres melodias del amor.
Tres mil kilometros de amor.
Tres noches de locura.
Tres Romeos y una Julieta.
El triunfo de los campeones justicieros.
Tu hijo.
Tu y la mentira.
La ultima aventura del chaflan la.
El ultimo cartucho.
Un dia de diciembre.
Un mundo nuevo.
Una cita de amor.
Una familia de tantas.
Una golfa.
Una mujer en venta.
Una mujer sin amor (destino de una mujer).
Una vida por otra.
La valentina.
Los valientes de Guerrero.
El valor de vivir.
Vamonos con Pacho Villa.
El venganza de la sombra.
Venganza suprema (mujeres sin alma).
La venus de fuego.
Verano violento.
La vida en broma.
La vida inutil de Pito Perez.
La vida no vale nada.
Viejo nido.
Viento negro.
Las virgenes locas.
La visita que no toco el timbre.
La viuda celosa.
Viva Benito Canales.
Vuelven las calaveras del terror.
Vuelven las campeones justicieros.
Vuelven los pistoleros famosos 3.
Vuelven los pistoleros famosos II.
Vuelven los pistoleros famosos 3.
Vuelven los pistoleros famosos II.
Y dios la llamo tierra.
Y manana seran mujeres.
Y si ella volviera (guantanamera).
Yanco guardian de la selva.
Yanco.
Yo dormi con un fantasma.
Yo fui una callejera.
Yo fui una usurpadora.
Yo quiero ser hombre.
Yo soy el asesino.

Lindgren, Astrid.
Pippi Langstrump.
Pippi Langstrump gar ombord.
Pippi Langstrump I soderhavet.

Literary Trustees of Walter DeLaMare.
A beginning and other stories.
Inward companion.
O lovely England.
Pleasures and speculations.
The wind blows over.
Winged chariot.

LM Productions. SEE Pathe & LM Productions.

Lobbenberg, John Peter & Michael Armstrong.
Awakening of Rollo.
Bill the conqueror.
Buried treasure.
Came the dawn.
Cocktail time.
Enter Psmith.
French leave.
Jeeves makes an omelette.
Luck of the Bodkins.
The mating season.
Mike and Psmith.
Mike at Wrykyn.
Over seventy.
Podmarsh.
The right approach.
The story of Otis.
To.
Uncle Dynamite.
The world of Jeeves.

Lujan Rodriguez, Rosa Elena.
El barco de la muerte.
Die Baumwollpflucker.
Die Brucke im Dschungel.
Der bush.
Dodsskeppet.
Der Karren.
Land des fruhlings.
Der Marsch ins Reich der Caoba.
Regierung.
Sierra Madre Skatt.
El tesoro de la Sierra Madre.
Das Toten Schieff.
Die weisse Rose.

Lumiere & Teledis.
Signe Arsene Lupin.

Lumiere.
Une affaire d'hommes.
Amici piu di prima.
L'amour en douce.
L'antechrist.
Argoman.
Assaut sur la ville.
Les aventures d'Arsene Lupin.
La bande a papa.
Un caprice de Caroline cherie.
Caroline cherie.
Un cave.
La chute d'un corps.
Conduite a gauche.
La coupe a dix francs.
Crazy capo.
Cyclo.
De l'enfer a la victoire.
La derniere bourree a Paris.
Les deux filleuls du parrain.
Dis bonjour a la dame.
Django tire le premier.
Due deputati.
Due mafiosi.
Due mafiosi nel far west.
Due sergenti del General Custer.
Et qu'ca saute.
Fais-moi mal mais couvre-moi de baisers.
Faut s'les faire... ces legionnaires.
Fernand clochard.
Fernand cow-boy.
La fille au fouet.
La fille au violoncelle.
Une fille nommee amour.
La fils de Caroline cherie.
Les fils du parrain.
Four marmittoni alle grandi manovre.
France, societe anonyme.
Fureur sur le Bosphore.
La gloire des canailles.
Le grand delire.
Les gros bras.
La grosse pagaille.
Hard sensation.
Un homme en or.
Les hommes ne pensent qu'a ca.
Incognito.
Les intrus.
Les joyeux lurons.
Kakkientruppen.
Lavie a l'envers.
Le lien de parente.
Les malabars sont au parfum.
Maman colibri.
La mort d'un tueur.
La mort de la belle.
Nous les femmes.
L'oeil ecarlate.
Operation jaguar.
Operation Lady Chaplin.
Operation Lotus bleu.
Pas de panique.
Paulina 1880.
Les petites alliees.
Pomme d'amour.
Poupees nazies.
Les predateurs du futur.
Pulsion cannibal.
Qui chauffe le lit de ma femme?
Qui etes-vous Inspecteur Chandler?
Les rangers defient les Karatekas.
Le roi des Mirmidous.
Le Roquevillard.
Salut Berthe.
Si elle dit oui ... je dis non!
Un solo grande amore.

La soupe aux poulets.
La soupe froide.
Special magnum.
Una sull'altra.
Tabarin.
Themroc.
Tornavara.
Touche-a tout.
La triple mort du troisieme personnage.
Trique, gamin de Paris.
Troika sur la piste blanche.
Trois pour cent.
Tuez-les tous et revenez seul.
Les vacationists.
Vices prives et vertus publiques.
Voila que le nonnes dansent le tango.
Y'a un os dans la moulinette.
Les zozos.
Mackenzie, Lilian.
Literature in my time.
Realms of silver.
Madeleine Films, Ets.
Island of terror.
A time to kill.
McCartney, Michael.
Mike Mac's white and blacks plus one colour.
Medusa Film. SEE Progefi, Iduna Film, France2 Cinema & Medusa Film.
Merchant Ivory Productions, Inc. & Sony Pictures Classics Inc.
Aparajito.
Apur sansar.
Charulata.
Devi.
Jalsaghar.
Jana aranya.
Mahanagar.
Pather panchali.
Teen kanya.
Merchant Ivory Productions.
Gharbar.
Metro-Goldwyn Mayer, Inc.
Appointment in London.
The betrayal.
Canasta de cuentos Mexicanos.
Captain blackjack.
Checkpoint.
Child and the killer.
Compelled.
Copacabana palace.
Crash drive.
Dangerous exile.
Depraved.
Doctor blood's coffin.
Feet of clay.
Gang war.
Innocent meeting.
It happened here.
It happened in Rome.
Large rope.
Lemon popsicle.
Man accused.
Mexican trio.
Middle course.
Moment of indiscretion.
Operation murder.
The possessed.
Rebellion of the hanged.
Revolt of the slaves.
The secret place.
Sentenced for life.
She always get their man.
Son of a stranger.
Spanish gardener.
Spanish sword.
Take it all.
Taste of money.
They who dare.
Three crooked men.
Three spare wives.
Three Sundays to live.
The trails of Oscar Wilde.
Transatlanic.
Triple deception.
Twist of fate.
Woman of mystery.
A woman possessed.
Your past is showing.
Metro-Goldwyn-Mayer Studios, Inc.
Le dernier des justes.
MGM. SEE Progefi & MGM.
Mifune Productions.
Akage.
Million Dollar Video Corporation.
30 segundos para morir.
Bajo el cielo de Mexico.
Botas negras, latigo de cuero.
El carro de la muerte.
Como una perra caliente.
Corazon de nino.
Las coronelas.
Cuando corrio el alazan.
Destrampados en Los Angeles.
La estrella vacia.
Un gallo en corral ajeno.
Habia una vez un marido.
Los lavaderos.
Mafiosos manosos.
Mojado power.
Muerte en el Caribe.
Mulato.
Los penitentes del PUP.
La sangre enemiga.
Si mi vida.
Tequileros del Rio Grande.
Traigo mi 45.
La tumba del mojado.
La venganza del rojo.
La vida no vale nada.
Viento negro.
Yanco.
El zorro de Jalisco.
Mondex Films, SA. SEE Columbia Pictures Industries, Inc., (assignee of Tele-Hachette & Mondex Films, SA) & Vides Cinema.
Murry, John Middleton, Estate of.
The betrayal of Christ by the churches.
Countries of the mind: essays in literary criticism, 2nd series.
Keats.
Studies in Keats.
Things to come.
William Blake.
Mushi Productions Kabushiki Kaisha.
Janguru taitei.
Shin Janguru taitei susume leo.
Tetsuwan atom.
National Film Board of Canada.
A is for architecture.
Angotee: story of an Eskimo boy.
The discovery of insulin.
How to build an igloo.
An introduction of jet engines.
Sky.
The story of Cinderella.
New Century Producers. SEE Art Theatre Guild of Japan Company, Ltd., Nikkatsu Studio, New Century Producers.
Nikudan O-Tsukuru-Kai/Art Theatre Guild for Japan Company, Ltd.
Nikudan.
Nippon TV Hosomou. SEE Toho Company, Ltd., Nippon TV Hosomou, Yomiuri TV Hoso & Tokyo Movie Shinsha.
Ordo Templi Orientis.
The book of Thoth.
Confessions of Aleister Crowley, vols. 1 & 2.
Magick in theory and practice.
Orex Films.
Le septieme jure.
OroFilms, SA de CV.
El cristo del oceano.
La duda.
Marianela.
La muralla.
Pepa Doncel.
Susana y yo.
Valentina.
OroFilms, SA. SEE Cineproducciones Internacionales, SA de CV, Producciones Rosas Prieco, SA de CV, Producciones EGA, SA.
Orphee & Cogelda.
Le chant du monde.
Orsay Film, SA. SEE Columbia Pictures Industries, Inc., successor-in-interest to Documento Film, SRL and Columbia Trist.
Our Lady Queen of Peace House of Prayer.
Matrix medal.
Pathe & Cite Films.
Parole de flic.
La vie conjugale.
Pathe & Films Agiman.
Voici le temps des assassins.
Pathe & LM Productions.
Le passage.
Pathe & UGC.
Flic story.
Pathe Televison & UGC DA.
Les trois mosquetaires.
Pathe, Diamant Berger & Rene Clair.
Paris qui dort.
Pathe, Gefirex & Films A2.
Le toubib.
Pathe, Gray Films & Progefi.
La femme et le pantin.
Pathe.
Bobosse.

Les cinq tulipes rouges.
L' equipage.
Faubourg montmartre.
Les femmes s'en balancent.
Fortune carree.
Les gaietes de l'escadron.
Le gang.
Gringalet.
L' impossible monsieur Pipelet.
Je suis a vec toi.
Justin de Marseille.
Lemmy pour les dames.
Ma femme est formidable.
Maison de danses.
La malibran.
Marie-octobre.
La mariee est trop belle.
Massacre en dentelles.
Mathias Sandorf.
Les mauvais coups.
Mefiez-vous des blondes.
Memoires d'un flic.
Milionnaires d'un jour.
Le miracle des loups.
Les miserables.
La mome vert-de-gris.
Mon mari est merveilleux.
Le monde tremblera.
Le monocle noir.
Monsieur taxi.
Mort d'un pourri.
Mort ou vif.
Nous les gosses.
Obsession.
L' oeil du monocle.
Opera musette.
Parade en sept nuits.
Paradis perdu.
Partir.
Le petit chose.
La petite lise.
Le poignard malis.
Pontcarral, colonel d'empire.
Port d'attache.
Les portees de la nuit.
Pour la peau d'un flic.
Premier de cordee.
Le revolte.
Romance de Paris.
Secrets.
Seul dans la nuit.
Si ca peut vous faire plaisir.
Suivez-moi jeune homme.
Tartarin de Tarascon.
Theodore et compagnie.
Tout ca ne vaut pas l'amour.
Les trois mosquetaires.
Une si jolie petite plage.
Pathe. SEE Progefi & Pathe.
Pedraza, Salvador E. Celis.
El que espera en la oscuridad.
Peliculas Rodriguez, SA de CV.
A.T.M.
Amores de ayer.
Angelitos negros.
Animas trujano.
Apuesta contra la muerte.
Arriba las mujeres.
Asi era Pancho Villa.
Asi era Pedro Infante.
Autopsia de un fantasma.
Las aventuras de Bozo.
Ay jalisco no te rajes.
Baile mi rey.
Blanca nieves y sus siete amantes.
Borrasca en las almas.
Burdel.
Cada quien su vida.
El Capitan Mala Cara.
Chachita la de Triana.
Los chicles.
Como Mexico no hay dos.
Corrupcion.
Cuando lloran los valientes.
Cuando viva villa es la muerte.
La cucaracha.
Cuernos debajo de la cama.
Cupido pierde a Paquita.
Del rancho a la television.
Dicen que soy mujeriego.
Las dos huerfanitas.
Dos tipas de cuidado.
Ellos trajeron la violencia.
En el camino andamos.
Escandalo de estrellas.
Faltas a la moral.
El gran premio.
La hiena humana.
La hija del payaso.
Los hijos de la calle.
El hombre de papel.
Huracan Ramirez.
Las Islas Marias.
Llanto, risas y nocaut.
Maldita ciudad.
Mama nos quita los novios.
Masacre en el Rio Tula.
Matenme porque me muero.
Mexicanos al grito de guerra.
Mi guitarra y mi caballo.
Mi nino Tizoc.
El monstruo de la montana hueca.
Morenita clara.
Moriras con el sol.
La mujer que yo perdi.
Las mujeres de mi general.
No desearas la mujer de tu hijo.
Noche de buitres.
Nostros los feos.
Obsesion de matar.
El ogro.
Olor a muerte.
La oveja negra.
Pancho Villa y la valentina.
Pandilleras.
Pandilleros.
Los paquetes de Paquita.
Pasaporte a la muerte.
Pepel el toro.
La pequena madrecita.
Prefiero a tu papa.
La puerta y la mujer del carnicero.
Que lindo es michoacan.
Que te ha dado esa mujer.
Queverde era mi padre.
Ratero.
Romance de fieras.
El secreto del sacerdote.
La secta de la muerte.
El secuestro de los cien millones.
El seminarista.
Sobre las olas.
Solicito marido para enganar.
Somos del otro laredo.
Los tes Huastecos.
Tierra de hombres.
El tigre de la frontera.
Todos son mis hijos.
Traficantes de ninos.
Trampa para una nina.
Trebol negro.
Los tres Garcia.
Una calle entre tu y yo.
Ustedes los ricos.
Viva mi desgracia.
Vivire otra vez.
Vuelven los Garcia.
Ya tengo a mi hijo.
Yebra sangrienta.
Yo soy galo donde quiera.
Pereda Films, SA.
Carnaval en Brasil.
El ciclon del caribe.
Un cuerpo de mujer.
El herrero.
Jesus de Nazareth.
Los olvidados de dios.
La reina del mambo.
Perez Padilla, Juan Jose.
El 30-30.
Blue demon contra el poder satanico.
Blue demon el demonio azul.
Conozco a los dos.
La gallera.
El hacha diabolica.
El jugador.
Kid tabaco.
La novia del mar.
Sur violento.
Playguide Journal Sha. SEE Art Theatre Guild of Japan Company, Ltd., Playguide Journal Sha.
Ploquin, Raoul.
L'entraineuse.
L'heritier des mondesir.
Pretoria. SEE Cogelda, Ariane & Pretoria.
Producciones Aguila, SA de CV.
El anima de sayula.
Benjamin Argomedo.
El chivo.
Contrabando y muerte.
Domingo Corrales.
Don Herculano enamorado.
Emiliano Zapata.
Los gemelos alborothdos.
La Guera Chabela y Jesus Cadenas.
El hijo de Lamberto Quintero.
Lamberto Quintero.
Los marcados.
Mi aventura in Puerto Rico.
Mi caballo el caxitador.
El moro de cumpas.
La muerte de Pancho Villa.
La muerte de un gallero.
Noche de carnaval.
Las noches del blanquita.

El ojo de vidrio.
Peregrina.
Pesecusion y muerte de Benjamin Argumedo.
Que viva Tepito.
El rey.
El rey de oros.
La sangre de un valiente.
Simon Blanco.
Soy el hijo del gallero.
Triste recuerdo.
Los triunfadores.
Valente Quintero.
Viva el chubasco.
Viva Mexico y sus corridos.
Volver, volver, volver.
Vuelve el ojo de vidrio.
La yegua colorada.
Zapata en chinameca.
Producciones EGA, S.A. de C.V.
Mexiccano hasta las cachas.
Traigo la sangre caliente.
Producciones Galubi, S.A.
Agarrando parejo.
Agarrando parejo.
El agente viajero.
Al son del mambo.
La alegria de vivir.
Los amores de Juan Charrasqueado.
La bandida.
Barridos y regados.
Caballos de acero.
Cafe colon.
Camino del mal.
Cantando nace el amor.
Cielito lindo.
Como perros y gatos.
Como si fueramos novios.
El derecho de nacer.
Los desalmados.
Los desaraigados.
La doncella de piedra.
Los dos carnales.
La golfa del barrio.
El gran campeon.
Gritenme piedras del campo.
El halcon solitario.
El hijo de los pobres.
El hijo del palenque.
Impaciencia del corazon.
Los invisebles.
Juan charrasqueado.
Ladron que roba a ladron.
Ladrones de ninos.
El luchador fenomeno.
Magnum 357.
La malaguena.
Manos de seda.
Me quiero casar.
Mi preferida.
La muerte del soplon.
La muerte enamorada.
Muertos de miedo.
La mugrosita.
La mujer de dos caras.
Nido de fieras.
La nina de la mochila azul.
No me quieras tanto.
La noche del Ku Kux Klan.
Nostras las sirvientas.
Orgullo de mujer.
Un padre a toda maquina.
Un par a todo dar.
Pecado mortal.
Pegando con tubo.
Pilotos de combate.
El pistolero del diablo.
Pistoleros bajo el sol.
El plebeyo.
Pobre del pobre.
Que perra vida.
El rey de la selva.
Santo vs los asesionos de otros mundos.
Se solicitan modelos.
Serenata en Acapulco.
La sombra en defensa de la juventud.
El Sr. Gobernador.
Sucedio en acapulco.
Un sueno de amor.
Los tales por cuales.
Ventarron.
Vuelven los cinco halcones.
Yo fui novio de Rosita Alvirez.
El zarco.
Producciones Matouk, SA.
La calle de los amores.
Crisol.
Cruces sobre el yermo.
Cuanto vale tu hijo.
Division narcoticos.
Encrucijada.
Guantes de oro.
El hombre del Alazan.
Luciano Romero.
Mi heroe.
El senor tormenta.
El toro Negro.
Tu vida entre mis manos.
Producciones Pereda, SA.
Acapulquena.
Cana brava.
Casa de perdicion.
El centauro del norte.
Las cuatro milpas.
Flor de canela.
Maria Cristina.
Mi noche de bodas.
Necesita un marido.
La nina Popof.
Nuestras vidas.
Romance en Puerto Rico.
Sucedio en Mexico.
Una estrella y dos estrellados.
Vamonos para la feria.
Viva Jalisco que es mi tierra.
Voy de gallo.
Producciones Ramirez, SA de CV.
Alguien tiene que morir.
El cabaretero y sus golfas.
La carinosa morotizada.
El cornudo soy yo.
Cuando los hijos no vienen.
De pulquero a millonario.
Donde el circulo termina.
Dos mundos y un amor.
El gran autor.
El gran relajo Mexicano.
Ilegales y mojados.
La isla de Rarotonga.
Juan el enterrador.
Malditos polleros.
Mecanicos ardientes.
El Mexicano feo.
Mi querida vecindad.
La mujer del diablo.
El muro de la tortilla.
Ninos sobre pedido.
Penthouse de la muerte.
Pesadilla mortal.
Los psquiatras ardientes.
Rarotonga.
La salvaje ardiente.
La satanica.
Talp.
Una mujer en la calle.
El vendedor de munecas.
Vuelven los mecanicos ardientes.
Zapatero bailarin.
Producciones Raul de Anda, SA de CV.
Ardiente deseo el.
La gran aventura del Zorro.
El hombre.
Jugandose la vida.
Servicio secreto.
Sucedio en jalisco.
Producciones Rosas Priego, SA de CV.
Acorralados.
El aguila negra.
El aguila negra en el tesoro de la muerte.
El aguila negra en la ley de los fuertes.
El aguila negra vs. el vengador solitario.
El aguila negra vs. los diablos de la pradera.
El aguila negra vs. los enmascarados de la muerte.
Ambiciosa.
Amor con amor se paga.
Amor del bueno.
Azahares rojos.
La bien pagada.
La comezon del amor.
Como gallos de pelea.
Cortesana.
Crucifijo de piedra.
Cuando habla el corazon.
El dia de las madres.
Los dos apostoles.
Dos corazones y un cielo.
Dos maridos baratos.
En carne viva.
Especialista en senoras.
Estrella sin luz.
Eterna agonia.
La fiera.
Fiesta en el corazon.
Gallo corriente, gallo valiente.
Gatillo veloz.
Hijos de tigre.
Humo en los ojos.
Los indomables.
El juez de la soga.
El juicio de los hijos.
Llamas vs. el viento.
Los novios de mis hijas.

Los malditos.
El marido de mi novia.
Me lleva la tristeza.
Melodias inolvidables.
Musica, espuelas y amor.
Noche de perdicion.
Novia a la medida.
Pueblo quieto.
Quinceanera.
La segunda mujer.
Tan bueno el giro como el colorado.
Traicionera.
Las tres coquetonas.
Una mujer sin precio.
Uno para la horca.
La Venus maldita.
La virgen de coromoto.
Producteurs associes.
Le vol du sphinx.
Production Belles Rives. SEE Progefi, FR3 Films Production & Production Belles Rives.
Production Marcel Dassault.
Le maestro.
Oublie moi Mandoline.
Profanadores de Authors Rights Restoration Corporation, Inc.
Amor en las nubes.
Progefi.
L' affaire d'une nuit.
Les amities particulieres.
Les aveux les plus doux.
Bruno, l'enfant du dimanche.
Le canard en fer blanc.
Le concierge.
Le gorille a mordu l'archeveque.
Un mari a prix fixe.
Le protecteur.
La sentence.
Le tigre aime la chair fraiche.
Le tigre se parfume a la dynamite.
Progefi. SEE Pathe, Gray Films & Progefi.
Progefi & Gaumont.
L'amant de poche.
Progefi & Iduna Film.
Martha et moi.
Progefi & Ina.
La confusion des sentiments.
Progefi & MGM.
Vie privee.
Progefi & Pathe.
24 heures de la vie d'une femme.
Progefi, FR3 Cinema & UGC/Pathe.
L' ironie du sort.
Progefi, FR3 Films Production & Production Belles Rives.
Le faux cul.
Progefi, Iduna Film, France2 Cinema & Medusa Film.
Soleil.
Progefi, TaurusFilm & France2.
Clarissa.
En desespoir de cause.
Le doigt de dieu.
La marche de Radetzky.
Meurtre sur rendez-vous.
Les temoines de l'oubli.
Progefi, TaurusFilm, Canal & TFI.
Des enfants dans les arbres.
Progefi, TaurusFilm & France3.
La derrniere fete.
Progefi, TaurusFilm & TFI.
La femme de l'amant.
Progefi, TaurusFilm, Canal & France2.
Les cahiers bleus.
Progefi, TF1 Films Production, Canal+, Hachette Premiere & Productions Fox Europa.
Train d'enfer.
Progefi, TF1 Films Production, Hachette Premiere & Hachette Premiere et Cie.
La rumba.
Progefi, TFI & Taurus.
Au bon beurre.
Ce que savait Maisie.
La femme abandonne.
La femme abandonnee.
L'ivresse de la metamorphose.
La pitie dangereuse.
Progefi, UGC/Alpes Cinema & TF1 Films Production.
Une chambre en ville.
Progress Film-Verleih GmbH.
Affaire blum.
Berlin um die ecke.
Dein unbekannter bruder.
Ehe im schatten.
Der fall Gleiwitz.
Der geteilte Himmel.
Goya.
Ich war neunzehn.
Jahrgang 45.
Jakob, der lugner.
Das kaninchen bin ich.
Die legende von Paul und Paula.
Lissy.
Die morder sind unter uns.
Der nackte mann auf dem sportplatz.
Rotation.
Die schauspielerin.
Solo Sunny.
Sonnensucher.
Spur der steine.
Sterne.
Der untertan.
Die verlobte.
Wenn du grob bist, lieber Adam.
Winter ade.
Pynn, Barbara, Estate of.
Excellent women.
RA, SA, Cinematgrafica.
El angel y yo.
Asi amaron nuestros padres.
Blue demon vs. las invasoras.
Blue demon vs. cerebros infernales.
Blue demon vs. las diabolicas.
Bonitas las tapatias.
Chantaje al desnundo.
El charro immortal.
El chicano vengador.
Done las dan las toman.
Historia de un hogar.
Los derechos de los hijos.
Los hijos de rancho grande.
Los valses venian de viena y los ninos de Paris.
Marcelo y Maria.
Mexico de mis recuerdos.
Ramorp Sierra.
Rutilo el forastero.
El ultimo Mexicano.
Una pasion me domina.
Rachmaninoff, Alexander.
Aleko.
Piano concerto no. 1 in F sharp minor.
Symphony no. 1 (full score).
Symphony no. 1 (full score-rev. percussion).
Symphony no. 1 (piano duet arr. by composer).
Rachmaninoff, Alexandre.
Four improvisations for piano solo.
Rank Film Distributors Limited. SEE Carlton Film Distibutors Limited, (formerly known as Rank Film Distributors Limited.
Renn Productions.
A gauche en sortant de l'ascenseur.
L'africain.
Banzai.
Les charlots font l'espagne.
Le chaud lapin.
Le cinema de papa.
Le corps de Diane.
La course a l'echalote.
Deux heures moins le quart avant Jesus Christ.
Les enrages.
La femme de mon pote.
Le fou de guerre.
Les fous du stade.
Garcon.
Une histoire simple.
Hotel de France.
Inspecteur la bavure.
Je vous aime.
Jean de Florette.
Le jouet.
Le maison.
Le maitre d'ecole.
Le male du siecle.
Manon des sources.
Le mariage ou Mazel Tov.
Un moment d'egarement.
L'ours.
Pleure pas la bouche pleine.
Le poeme de l'eleve Mikovsky.
Le poulet.
La premiere fois.
Un sac de billes.
Sex shop.
Tchao pantin.
Tess.
Trois places pour le 26.
Vas-y maman.
La vengeance du serpent a plumes.
Le vieil homme et l'enfant.
Vous n'aurez pas l'Alsace et la Lorraine.
Zig zig.
Renn Productions & Columbia TriStar Films (France) SA.
L'oeuf.
Republic Entertainment, Inc.
Sands of Beersheba.

Rigma America Corporation.
''Poseidon'' is rushing to the rescue.
''SOS'' nad taigoy.
100 soldat I dve devuskki.
20 dney bez voini.
34-i skoriy.
40:0 v pol'zu BG.
713-iy prosit posadku.
A bil il Karotin?
A shto yesli eto lyubov.
A u nas byla tishina.
A-un!
Aborigen.
Adam i heva.
Adam zhenitsya na Yeve.
Admiral Nakhimov.
Admiral Ushakov.
Aelita.
Aelita, ne pristavay k muzhchinam.
Aerograd.
Aeroport so sluzhebnogo vkhoda.
Afonya.
Afrikanich.
Agoniya.
Ai-Gul'.
Aibolit—66.
Akademik iz Askaniyi.
Akseleratka.
Aktrisa.
Aktsiya.
Akvanavti.
Al'bidum.
Aleksandr Nevskiy.
Aleksandr Popov.
Alitet ukhodit v gori.
Aliy kamyen'.
Aliye parusa.
Almazi dlya Mariyi.
Alyonka.
Alyosha Ptytsin virabativayet kharakter.
Alyoshkina lyubov.
Alyoshkina ohkota.
Amulanga.
Ana Karenina.
Andrey Rublyov.
Anna na sheye.
Anna Pavlova.
Annushka.
Anton Ivanovich serditsya.
Antosha Rybkin.
Antratsit.
Apassionata.
Aplodismenti, aplodismenti.
Aram Khachaturyan.
Arena.
Arena smelykh.
Artistka iz Gribova.
Asaf Messerer.
Assa.
Ataka.
Atlantida.
Attestat zrelosti.
Auktsion.
Avariya—couch menta.
Avtomobil, skripka i sobaka klyaksa.
Babiye tsarstvo.
Babyi log.
Bahby ryazanskiye.
Bahby.
Baika.
Bal gospoden'.
Balamut.
Balerina (poema o tantse).
Ballad about old weapon.
Ballada o Beringye i yego druzyakh.
Ballada o doblestnom ritsare aivengo.
Ballada o sokole i zvezde.
Ballada o soldate.
Ballada o sporte.
Balladi batki Knisha.
Baltiyskaya slava.
Baltiyskoye nebo.
Barkhatniy sezon.
Bash sin i brat.
Beg.
Beg inokhodtsa.
Begstvo mistera McKinley.
Beguni.
Bei, Baraban!
Bela.
Beleyet parus odinokiy.
Beliy bim chyornoye ukho.
Beliy oryol.
Beliy sneg rossiyi.
Beliy voron.
Beliye golubi.
Beliye nochi.
Belorusskiy vokzal.
Beloye solntse pustini.
Ben vini vinovatiye.
Bereg.
Berega.
Berega v tumane.
Beregis' avtomobilya.
Berequite muzhchin.
Bermen iz ''Zolotogo yakorva.''
Besheniye den'gi.
Beshenoye zoloto.
Beskriliy utyonok.
Bespokoinoye khozyaistvo.
Bespredel.
Bespridannitsa.
Besprizorniy sportsmen.
Bessmertniy garnozon.
Bessonnaya noch.
Besstrashniy ataman.
The best.
Bez prava na oshibku.
Bez semyi.
Bez solntsa.
Bez sroka davnosti.
Bez strakha i upryoka.
Bez svideteley.
Bez tryokh minut rovno.
Bez vidimikh prichin.
Bezhin lug.
Bezimyannaya visota.
Bezottsovshchina.
Bezotvetnaya lyubov.
Bezumniy den.
Bill mesyats may.
Bistreye sobstvennoy teni.
Bitva v puti.
Bitva za moskvu.
Bkus khleba.
Blastelin mira.
Blistayushchiy mir.
Blizkaya dal'.
Bliznetsi.
Blokada.
Blondinka za uglom.
Boina i mir.
Bol'shaya semya.
Bol'shaya zizn'.
Bol'shiye limalen'kiye.
Bol'shoye kosmicheskoye puteshestbiye.
Bolotniye soldati.
Bolshaya doroga.
Bolshaya ruda.
Bolshaya zemlya.
Bolshoy attraktsion.
Bolshoy kontsert.
Bombist.
Bomzh.
Bor'ba prodolzhayetsya.
Borets i kloun.
Boris Godunov.
Boris Livanov.
Bortsi.
Boy pod sokolom.
Boy posle pobedi.
Boy s tenyu.
Boyevoy kinosbornik #1.
Boyevoy kinosbornik #3.
Boyevoy kinosbornik #4.
Boyevoy kinosbornik #5.
Boyevoy kinosbornik #6.
Boyevoy kinosbornik #10.
Boyevoy kinosbornik #12.
Brat geroya.
Bratya Karamazovi.
Bratya Vasilyevi.
Bravo lyubit'.
Brelok s sekretom.
Brilliantovaya ruka.
Brizgi shampanskogo.
Brod.
Bronenosets potyomkin.
Budni.
Budte moim muzhem.
Budyonovka.
Buket fialok.
Bukhta smerti.
Bulat-Batyr.
Bumazhniye glaza Prishvina.
Bursa.
Byelaya tsaplya.
Byez osobogo riska.
Byez prava na proval.
Byezbiletnaya passazhirka.
Captain's daughter.
Chaika.
Chapayev.
Chaplinina.
Charodeiy.
Chasha terpeniya.
Chastnaya zhizn'.
Chastnaya zhizn' Petra Vinogradova.
Chastniy detektiv ili operatsiya ''Kooperatsiya.''
Chegemskiy detektiv.
Chelovek iz restorana.
Chelovek rodilsya.
Chelovek s planeti Zemlya.
Chelovek s ruzhyom.

Chelovek v zelyonoy perchatke.
Chelovyek #217.
Chelovyek byez pasporta.
Chelovyek chelovyeku.
Chelovyek na svoyom meste.
Chelovyek niotkunda.
Chelovyek rodilsya.
Chelovyek s akkordeonom.
Chelovyek s bul'vara Kaputsinov.
Chelovyek v shtadskom.
Chelovyek, kotoriy somnevayetsya.
Chelovyek, kotoriy zakril gorod.
Chelovyek, kotorogo ya lyublyu.
Chelovyek-nevidimka.
Chempion mira.
Cherez Gobi i Khingan.
Cherez terniyi k zvyozdam.
Cherez vsye godi.
Chest tovariscca.
Chest'.
Chestniy, umniy, nezhenatiy.
Chestnoye volshebnoye.
Chetireh vizita Samuelya Wolfa.
Chetirye i pyat'.
Chetvero.
Chetvyorka druzye.
Chetvyortaya visota.
Chetvyortiy.
Chini i lyudi.
Chipollino.
Chistiye prudi.
Chistoye nyebo.
Chlen pravitel'stva.
Chornaya kuritsa.
Chto s toboy proiskhodit?
Chuchelo.
Chudak iz pyatogo ''B''.
Chudesnitsa.
Chudesniy kharakter.
Chudesnoye yabloko.
Chudo s kosichkami.
Chudootvornaya.
Chuk i Gek.
Chuzhaya belaya i ryaboy.
Chuzhaya kompaniya.
Chuzhaya rodnya.
Chuzhaya shuba.
Chuzhaya.
Chuzhiye pis'ma.
Chyormaya roza—emblema pechanli, krasnaya roza—emblema lyubvi.
Chyornaya strela.
Chyorniy biznes.
Chyorniy koridor.
Chyorniy monakh.
Chyorniy prints.
Chyort s portfelyem.
Columb i Leonardo.
Contsert v Rossii.
Contsert.
Da zdravstvuyet Meksika!
Dacha.
Dachniki.
Dai lapu, drug!
Daite zhalobnuyu knigu.
Dal'niye strani.
Daleko na zapade.
Daleko ot Moskvi.
Dama s sobachkoy.
Dami priglashayut kavalerov.
Damskoye tango.
Dauriya.
Dav-bul'di'va.
David Oistrakh.
Dedushkina dudochka.
Deena-Dza-Dzu.
Dela i lyudi.
Dela serdechniye.
Delay-raz!
Delo #306.
Delo artamonovikh.
Delo pyostrikh.
Delo rumyantseva.
Deloviye lyudi.
Den' gneva.
Den' i vsya zhizn'.
Den' komandira diviziyi.
Den' molodogo chelovekha.
Den' priyoma po lichnim voprosam.
Den' rozhdeniya.
Den' svad'bi pridyotsya utochnit'.
Deputat baltiki.
Derevenskiy detektiv.
Dersu Uzala.
Desyat' tisyach mal'chkov.
Deti Don Kikhota.
Deti kapitana granta.
Deti Vanyushina.
Detskiy mir.
Detskiy sad.
Detstvo Gor'kogo. V lyudyakh.
Detstvo Nikiti.
Devchata.
Devichya vesna.
Deviy gori.
Devochka i del'fin.
Devochka na share.
Devushka bez adresa.
Devushka s guitaroy.
Devushka s Kamchatki.
Devushka s kharakterom.
Devushka s korobkoy.
Devyat' dney odnogo goda.
Dezetir.
Dikaya sobaka dingo.
Dikiy khmel'.
Dikiy myod.
Direktor.
Ditya gostsirka.
Dlinnoye, dlinnoye leto.
Dlja tekh tko svalilsja s luny.
Dnevnik direktora shkoli.
Dnevnik Karlosa Espinoli.
Dnevniye zvyozdy.
Dni i nochi.
Do budushchei vesni.
Do pervoy krovy.
Do svidaniya, malchiki.
Dobro pozhalovat', ili postoronnim vkhod vospreshchyon.
Dobrota.
Dobrovol'tsi.
Dobroye utro.
Dobryaki.
Doch isterzannoy Pol'shi.
Dochki-materi.
Dodumalsya, pozdravlyayu!
Dokot Vera.
Doktor Aibolit.
Dolgi nashi.
Dolgiv put'.
Dolina slyoz.
Doloy kommertsiyu na lyubovnom fronte.
Dom l khozyain.
dom na Trubnoy.
Dom s privideniyami.
Dom, kotoriy postrovil swift.
Dom, v kotorom ya zhivu.
Domovoy i khozyaika.
Domovyonok Kuzya.
Domoy!
Don Diego i Pelageya.
Donetskyiye shakhtyori.
Donskaya povest'.
Doroga.
Doroga domoy.
Doroga k schstyu.
Dorogaya Yelena Sergeyevna.
Dorogoy malchik.
Dorogoy moy chelovyek.
Dorogoye udovolstviye.
Dostoyaniye respubliki.
Dosye cheloveka v ''Mersedesye.''
Doveriye.
Dozhdi.
Dozhivyom do ponedel'nika.
Dragotsenniy podarok.
Droga k moryu.
Drug.
Drug my Kol'ka.
Drushok.
Druzya iz tabora.
Druzya moyi.
Dublyor nachinayet deistvovat.
Dubrovskiy.
Duel.
Duenya.
Duma na Kavkazye.
Dusha.
Dva berega.
Dva bileta na dnevnoy seans.
Dva chasa s bardami.
Dva dnya trevogi.
Dva druga, model' i podruga.
Dva druga.
Dva dyna chudes.
Dva kapitna.
Dvadtsat' bakinskikh komissarov.
Dvadtsat' shest' dney iz zhizni dostoyevskogo.
Dvazhdi rozhdyonniy.
Dve glavi iz semeynoy khroniki.
Dve materi.
Dve sterli.
Dve zhizni.
Dvenadtsat' stulyev.
Dvenadtsataya noch.
Dvoryanskoye gnezdo.
Dvoye I odna.
Dvoye na goloy zemly.
Dvoye v stepi.
Dvoynoy obgon.
Dvye dorogi.
Dvye ulibki.
Dvye vstrechi.
Dvye zhizni.

Dyadya Vanya.
Dyadyushkin son.
Dzhamilya.
Dzhentl'meni udachi.
Dzhulbars.
Ego no mozhet bit'.
Ei, na tom beregu.
Ekh, yablochko.
Ekho dalyokikh snegov.
Ekipazh.
Ekzamen na bessmertiye.
Eskadron gusar letuchikh.
Eta trevozhnaya zima.
Eto bilo v Donbasse.
Eto bilo v razvedke.
Eto mi ne prokhodili.
Eto nachinalos' tak.
Eto sil' neye myenya.
Eto sladkoye slovo svoboda.
Fakti minuvshego dnya.
Fantaziya na tyemu lyubvi.
Fantaziyi Faryatyeva.
Fantazyor.
Fantazyori.
Faxhizm budyet razbit.
Fevral'skiy vetyer.
Filippok.
Fokusnik.
Foma Gordeyev.
Fontan.
Frak dlya shalopaya.
Frantsuz.
Front byez flangov.
Front v tilu vraga.
Front za liniyei fronta.
Furtuna.
Gaichy.
Gamlyet.
Garazh.
Garmon'.
Garry zanimayetsya politikoy.
Gavosh.
Gde nakhoditsya nofelet?
Gde ti tyeper', Maksim?
Gde-to plachet ivolga.
Gdye vash sin?
Georgyi Sedov.
Georgyi Sviridov.
Geroy nashego vremeni.
Geroy yeyo romana.
Gibel ''Orla.''
Gibel' Marini Tsvetayevoy.
Gibel' sensatsiyi.
Giperboloyid inzhenera Grina.
Glinka.
Glush povolzhskaya.
Glvniy svidetel'.
Gobsek.
God, kak zhizn'.
Golos.
Golova Gorgoni.
Golubaya strela.
Goluboy myach.
Goluboy ogonyok.
Goluboy portret.
Gonka veka.
Gonki bez finisha.
Gonshchiki.
Gori, gori, moya zvezda.
Gorizont.
Gorod na zarye.
Gorod nevest.
Gorod pervoy lyubvi.
Gorod pod udarom.
Gorod prinyal.
Gorod zero.
Goroda i godi.
Gorodskiye pogrobnosti.
Gorozhane.
Goryachaya dusha.
Goryachiy sneg.
Goryachiye denyochki.
Goryanka.
Gospoda skotininy.
Gospodin gimnazist.
Gospodin oformitel.
Gospodin velikiy Novgorod.
Gost's Kubani.
Gosudarstvenniy chinovnik.
Govorit Moskva.
Grafinya Sheremetyeva.
Granatoviy braslet.
Granitsa na zamke.
Grazhdane vselennoy.
Grazhdanin lyoshka.
Grekh i iskupleniye.
Greshnitsa.
Grozniy vek.
Grunya Kornakova.
Guards.
Gulyashchiye luydi.
Gusarskaya ballada.
Guttapercheviy mal'chik.
Gvadtsat' let spustya.
Hodga Nasreddin.
I bil vecher, i bilo utro.
I drugiye ofitsial'niye litsa.
I na tikhom okeane.
I togda ya skazal—nyet!
I vsya lyubov'.
I vsyo-taki ya veryu.
I zhizn', i slyozi i lyubov'.
Iban Grosniy.
Ideal'noye prestupleniye.
Idealniy muzh.
Idi l smitri.
Idiot.
Idushchiy sledom.
Ilya muromets.
Imenem revolyutsii.
Improvizatsiya na temu biografiyi.
Imya.
Inache nelzya.
Incognito iz Petarburga.
Inoplanetyanka.
Inspektor GAYI.
Interdevochka.
Interventsiya.
Ischeznoveniye.
Ishchitye zhenschchinu.
Ishchu cheloveka.
Iskrenne vash.
Iskusheniye.
Ispahiya.
Ispitaniye vernosti.
Ispitatel'.
Ispitatel'niy srok.
Ispolneniye zhelaniy.
Ispoved'. Khronika otchuzhdeniya.
Istoki.
Istoriya Asi Klyachinoy kotoraya lyubila da ne vishia zamuzh.
Istoriya odnoy bilyardnoy komandi.
Ivan Brovkin na tselinye.
Ivan Nikulin--pusskiy matros.
Ivan Rybakov.
Ivan Vasiliyevich menyayet professiyu.
Ivan Velikiy.
Ivanov katyer.
Ivanov, Petrov, Sidorov.
Ivanovo detstvo.
Iz zhizni Fedora Kuz'kina.
Iz zhizni nachal'nika ugolovnogo rozisha.
Iz zhizni otdikhayushchikh.
Iz zhizni Potapoa.
Izbranniye.
Izbrannoe.
Izhorskiy batalyon.
Izmennik Rodini.
Izyashchnaya zhizn'.
Ja ne Rafael.
Jubilejnyj kontsert.
K novomu beregu.
Kabare moyey zhizni.
Kadkina vsyakiy znayet.
Kafe ''Izotop.''
Kak doma, kak dela?
Kak Ivanushka-durachok za schastyem khodil.
Kak Petyun'ka yezdil k llyichu.
Kak possorilis' Ivan Ivanovich s Ivanom Nikiforovichem.
Kak starik korovu prodaval.
Kak stat' muzhuchinoy.
Kak stat' schastlivim.
Kak stat' zvezdoy.
Kakoye ono, morye?
Kalina krasnaya.
Kaliostro.
Kalle i Buka.
Kamenniy gost'.
Kamenniy tsvetok.
Kamishoviy ray.
Kapitan Pronin—vnuk mayora Pronina.
Kapitanskaya dochka.
Kaplya.
Kaplya v moye.
Kapronomiye seti.
Karantin.
Karatel'.
Karnaval.
Karnaval'naya noch.
Karusel' na bazarnoy ploshchadi.
Karyera Dimi Gorina.
Karyera Ruddy.
Kashchey bessmertniy.
Katala.
Katyenka.
Kayin 18.
Kazhdiy desyatiy.
Kazyonniy dom.
Kentavri.
Kerepostnaya aktrisa.
Keshka i boroda.

Keshka i Freddy.
Keshka i frukti.
Keshka i gangsteri.
Keshka i gumanoid.
Keshka i mag.
Keshka i spetsnaz.
Keshka i terroristi.
Khleb i rozi.
Khleb, zoloto, nagan.
Khmuroye utro.
Khochu bit' ministrom.
Khochu, chtob on prishol.
Khod konyom.
Khod slonom.
Khokkeyisti.
Kholodnoye leto pyat'desyat tretyego.
Khomut dlya Markiza.
Khorosho sidim!
Khotite ver'te—khotite—net.
Khovanshchina.
Khozhdeniye za tri morya.
Khozyain taigi.
Khozyayeva Geoni.
Khromoy barin.
Khronika pikiruryushchego bombardirobshchika.
Khrozyaika gostinitsi.
Khrustal'niy bashmachok.
Khutorok v stepi.
Kin-Dza-Dza!
Kino za dvadtsat' lyet.
Kinoal'manakh ''Molodost'' (vipusk vtoroy).
Kinoal'manakh ''Molodost'' (vipusk tretiy).
Kinoal'manakh ''Molodost'' (vipusk chetvyortiy).
Kinokontsert k 25-letiyu Krasnoy Armiyi.
Kirk delfina.
Kirk dushi.
Kirpihiki.
Kish i dva prtfelya.
Klad.
Kletka dlya kanareyek.
Klyatva Timura.
Klyuch bez prava peredachi.
Knyaz' Udacha Andreyevich.
Knyazhna Mary.
Ko mnye, Mukhtar!
KOAPP.
Kogda derevya bili bol'shimi.
Kogda nastupayet sentyabr'.
Kogda raskhoditsya tuman.
Kogda ya stanu velikanom.
Kogda zyemlya drozhit.
Kol'chuga velikogo Davida.
Kolibel'naya dlya brata.
Kolibelnaya dlya muzhchin.
Kollegi.
Kollezhskiy registrator.
Kolokol svyashchennoy kuzni.
Koloniya Lanfier.
Koltso iz Amsterdama.
Kolye Sharlotti.
Komandir stchastivoy shchuki.
Komandirovka.
Komediya davno minuvshikh dney.
Komediya o Lisistrate.
Komendant ptichyego ostrova.
Kometa.
Komitet devyatnadtsati.
Kommentariy k prosheniyu o pomolovaniyi.
Kommunist.
Kompositor Glinka.
Kompozitor Shostakovich.
Kompozitor Sviridov.
Komu na Rusi zhit'.
Konets deryagina.
Konets i nachalo.
Konets imperatora taigy.
Konets Lyubavinikh.
Konets operatsiyi ''Rezident.''
Konets polustanka.
Konets Sankt-Peterburga.
Konets Saturna.
Konets Staroy Beryozovki'.
Konets sveta.
Konets vechnosti.
Koney na perepravye ne manyayut.
Kontsert dlya dvukh skripok.
Kontsert-val's.
Konveiyer smerti.
Konyok-gorbunok.
Korabl' prishel'tsev.
Korabl'.
Korabli shturmuyut bastioni.
Korel' Leer.
Korol' manezha.
Korolevskaya regata.
Korona Rossiyskoy imperiyi.
Korona Rossiyskoy imperiyi ili sonova neulovimiye.
Korotkoye leto v gorakh.
Korpus generala Shubnikova.
Kortik.
Kosmicheskiy reis.
Kosolapiy drug.
Kostyor v beloy nochy.
Kot v meshkye.
Kotovskyi.
Krakh.
Krakh inzhenera Garina.
Krakh operatsiyi ''Terror.''
Krasavets-muzhchina.
Krasavitsa Kharita.
Krashniy galstuk.
Krasivo zhit' na zpretish.
Krasnaya palatka.
Krasnaya ploshchad'.
Krasniy chernozyom.
Krasniye kokokola.
Krasnoye i chornoye.
Kreiser ''Veryag.''
Kreitserova sonata.
Kremlyovskiye kuranti.
Krepkiy oreshek.
Krest i mauzer.
Krestyanskiy sin.
Krilya kholoda.
Krilya.
Kriminalniy kvartet.
Krotkaya.
Krug.
Krusheniye emirata.
Krutoye polye.
Kruzhevah.
Kshka l biznes.
Kto rasskazhet nebilitsu.
Kto silneye yego.
Kto stuchitsya v dver' ko mnye.
Kto tam?
Kto ti takoy?
Kto zaplatit za udachu.
Kubanskiye kazaki.
Kukla s millionami.
Kulkolka.
Kurier.
Kutuzov.
Kuvirok cherez golovu.
Kuznechik.
Larets Mariyi Medichi.
Lavina s gor.
Lebedev protiv lebedeva.
Lebedi.
Lebedinoye ozero.
Ledi Makbet Mtsenskogo uyezda.
Ledolom.
Ledyanoy dom.
Legenda.
Legenda o ledyanom serdtse.
Legenda o Tilye.
Lenin v 1918 godu.
Lenin v oktyabrye.
Lenin v Parizhe.
Lenin v Pol'she.
Leon Garros ishchet druga.
Lermontov.
Lestnitsa.
Letargiya.
Letniye sni.
Letyat zhuravli.
Lgushchiye bogu.
Lichnoye delo sudyi Ivanovoy.
Lichnoye delo.
Lider.
Liloviy shar.
Lisa.
Lishniy bilet.
Litso vraga.
Litsom k litsu.
Liven'.
Lnchnoye delo Anni Akhmatovoy.
Lobtsi gubok.
Loskutik i yabloko.
Lovkachi.
Luch smetri.
Lunnaya raduga.
Lunniye nochi.
Lyana.
Lyogkaya zhizn'.
Lyotchiki.
Lyubimaya devushka.
Lyubimaya zhenschchina mekhanika Gavrilova.
Lyubit' cheloveka.
Lyublyu. Zhudu. Lena.
Lyubov Yarovaya.
Lyubov' i golubi.
Lyubov' i nenavist'.
Lyubov' moya vechnaya.
Lyubov' moya, pechal' moya.
Lyubov' Orlova.
Lyubov' Serfima Frolova.
Lyubov' zemnaya.
Lyubov'—predvectiye pechali.

Lyubovyu za lyubov'.
Lyubushka.
Lyudi i manekeni.
Lyudi i zveri.
Lyudi na mostu.
Lyudi na Nile.
Lyudi v okeane.
Lyudmila.
M.
Machekha.
Maiskaya noch ili Utoplennitsa.
Maiskiye zvyozdi.
Maksima perepelitsa.
Mal'chik i devorchka.
Mal'chik i los'.
Mal'chik s okrayini.
Mal'chiki.
Malen'kiy rizhik.
Malinovka i medved'.
Mama.
Mama vishla zamuzh.
Marionetki.
Marite.
Marka strani Gondelupi.
Mart-aprel'.
Marusina karusel'.
Mary Poppins, do svidanya.
Mashen'ka.
Masoni.
Mat'.
Mat' Mariya.
Mat'i machekha.
Mater' chelovecheskaya.
Matros s ''Kometi.''
Matveyeva radost'.
Maya Plisetskaya—znakomaya i neznakomaya.
Mayakovskyi smeyotsya.
Mayor Vikhr.
Mechta.
Mechtateli.
Medniy angel.
Mednoy gori khozyaika.
Medoviy mesyats.
Medvezhya svad'ba.
Mekhanicheskiy predatel'.
Meksikanets.
Melodiyi beloy nochi.
Melodiyi Dunayevskogo.
Menyayu sobaku na parovoz.
Mesta tut tikhiye.
Metel'.
Mi iz dzhaza.
Mi iz Kronshtadta.
Mi russkiy narod.
Mi s Urala.
Mi s vami gde-to vstrechalis'.
Mi smerti smotreli v litso.
Mi vas lyubim.
Mi veseli, schastlivi, talantivi.
Mi za mir.
Mi zhili po sosedstvu.
Michman Panin.
Michurin.
Miliy, dorogoy, lyubimiy, yedinstvenniy.
Million priklyucheniy.
Mimino.
Mimo okon iddut poyezda.
Minin i Pozharskyi.
Minuta molchaniya.
Mir domu tvoyemu.
Mir Ulanovoy.
Mir v tryokh izmereniyakh.
Mir vkhodyashchemy.
Mishelovka.
Mishka na severye.
Mishka, Seryoga i ya.
Miss Mend.
Miss Millionersha.
Missiya v Kabule.
Mnogo shuma iz nichego.
Molchaniye doktora Ivensa.
Molitva Sergiyu.
Molodaya gvardiya.
Molodiye.
Molodiye kapitani.
Molodiye lyudi.
Molodo-zeleno.
Molodost's nami.
Moneta.
Monolog.
Monolog o Pushkine.
Moonzund.
More v ogne.
Moroka.
Morozko.
Morskiye rasskasi.
Morskoy kharakter.
Morskoy okhotnik.
Morye studyonoye.
Mosfilmu—50 let.
Moskva slezam ne verit.
Moskva v Oktyabrye.
Moskva—Cassiopeya.
Moskva—lyubov' moya.
Motilyok.
Moy dom—teatr.
Moy drug.
Moy izbrannik.
Moy laskoviy i nezhniy zver'.
Moy lyubimiy kloun.
Moy mladshiy brat.
Moy nezhno lyubimiy detektiv.
Moy papa-idealllist.
Moy pappa—kapitan.
Moy perviy drug.
Moya Anfisa.
Moyi universiteti.
Mramorniy dom.
Mumu.
Mushketyori dvadtsat' let spystya.
Muzh i doch Tamari Aleksandrovni.
Muzhiki!
Muzhskiye portreti.
Muzhskoy razgovor.
Muzikal'naya istoriya.
Muzikal'naya smena.
Myatezhnaya barrikada.
Myortviy dom.
Myortviy sezon.
Myortviye dushi.
Na boikom mestye.
Na dal'nem vostoke.
Na dne.
Na dorogakh voini.
Na gorye stoyit gora.
Na grafskikh razvalinakh.
Na granatovikh ostrovakh.
Na iskhode nochi.
Na krai sveta.
Na novom mestye.
Na okrayine, gde-to v gorode.
Na podmostkakh stseni.
Na pomoshch, bratsi!
Na puti k Leniny.
Na puty v Berlin.
Na Rusi.
Na semy vetrakh.
Na severe, na yuge, na vostoke, na zapade.
Na uglu Arbata i ulitsi Bubulinas.
Na voine kak na voine.
Na yasniy ogon'.
Na zavrtashney ulitse.
Na zlatom kril'tse sideli.
Nabat na rassvetye.
Nachal'nik.
Nachalo nevedomogo veka.
Nachalo.
Nachni s nachala.
Nad Tissoy.
Nadezhda i opora.
Nadezhda.
Nagradit' (posmertno).
Nakanunye.
Nakhalyonok.
Nakhlebnik.
Nakoval'nya ili molot.
Nam ne dano predugadat'.
Nam nekogda zhdat'.
Narodniye talanti.
Nas venchali ne v tserkvi.
Nash dom.
Nash obshchiy drug.
Nashe serdtse.
Nashestviye.
Nashi znakomiye.
Naslednitsa po pryamoy.
Nasledstvo.
Nasten'ka Ustinova.
Nastoyashchiy muhchina.
Navazhdeniye.
Ne bilo pechali.
Ne khochu bit' vzroslim.
Ne khoditye, dyevky, zamuzh.
Ne mozhet bit'!
Ne pokiday.
Ne stav'tye leshenu kapkani.
Ne strelyaite v belikh lebedey.
Ne uletay, Zemlyanin.
Nebesniy tihokod.
Nebesniye lastochki.
Nebival'schina.
Nebo I zemlja.
Nebo Moskvi.
Nebo so mnoy.
Nedopyosok Napoleon treity.
Negasimoye plamya.
Neilson 100%.
Neispravimiy lgun.
Neitral'niye vodi.
Neizvestniye stranitsi iz zhizni razvedchika.
Nemnogo ljubvi.
Neobichainiye priklyucheniya mistera vesta v strane bol'shevikov.

Neobiknovenniy gorod.
Neobiknovenniye priklyucheniya Karika i Valy.
Neobiknovennoye leto.
Neobiknovennoye priklyuheniye Mishky Strekatchova.
Neokonchennaya povest.
Neokonchennaya pyesa dlya mekhaniheskogo piaino.
Neoplachennoye pis'mo.
Neotpravlennoye pis'mo.
Nepobedimiy.
Nepoddayushchiyesya.
Nepodsuden.
Nepovtorimaya vesna.
Nepridumannaya istoriya.
Neprikayanniy.
Neproshennaya lyubov'.
Neskol'ko dnei iz zhini L. L. Oblomova.
Neskol'ko moyikh zhizney.
Nesovershennoletniye.
Net i da.
Neudobniy chelovek.
eulovimiye mstiteli.
Neveroyatniye prokluycheniya italyantsev v Rossiyi.
Nevesta.
Nevezhi.
Nezabivayemaya zhenshchina.
Nezabivayemiy 1919 god.
Nezhdanniy gost'.
Nezhdanno-negadanno.
Nezhniy vozrast.
Nezvanniy drug.
Ni slova o futbolye.
Nicolo Paganini.
Nihei.
Nikolai Bauman.
Nikolai Podvoiskiy.
Nizami.
No goryuy.
Noch bez miloserdiya.
Noch nad Chili.
Noch rozhdeniya.
Noch v sentyabre.
Nochnoy ekipazh.
Nochnoy gost.
Nochnoy patrul'.
Nochnoye proyisshestviye.
Normandia—Neman.
Noven'kaya.
Noviy Guliver.
Noviye pokhozhdeniya Shveika.
Noviye priklyucheniya kapitana Vrungelya.
Noviye priklyucheniya kota v sapogakh.
Noviye priklyucheniya neulovimikh.
Novoselye u bratsa krolika.
Novoye platye korolya.
Nye samiy udachniy den'.
Nyurkina zhizn'.
O bednom gusare zamolvite slovo.
O chyom molchala taiga.
O chyom ne uznayut tribuni.
O druzyakh-tovarishchakh.
O lyubvi.
O sport, ti-mir!
O strannostyakh sud'bi.
O, noche volshebnaya, polnaya negi.
Ob etom zabivat' nel'zya.
Obelisk.
Obeshchayu bit'!
Obida.
Obiknovenniy chelovek.
Obiknovenniy fashizm.
Obiknovennoye chudo.
Obyaseniye v lyubvi.
Ochen' strashnaya istoriya.
Ochen' vazhnaya persona.
Ochnaya stavka.
Odin iz nas.
Odinochnoye plavaniye.
Odinokim predostavlyayetsya obshhezhitiye.
Odnazhdi letom.
Odnazhi dvadtsat' let spustya.
Odnolyubi.
Ofitseri.
Ogaryova, 6.
Oglasheniyu ne podlezhit.
Oglyanis'.
Ognenniye vyorsti.
Ognennoye detstvo.
Ogni na rekye.
Ogon'kyi.
Oh uzh eta Nastya!
Ohen' sinyaya boroda.
Oinnadtsatiy patriarkh.
Okean.
Okhota na lis.
Okraina.
Oktyabr'.
Olenya okhota.
Ona s metloy, on v chyornoi shlyapye.
Ona vas lyubit.
Ona zaschishchayet rodinu.
Oni bili aktyorami.
Oni bili pervimi.
Oni ne poidut.
Oni shli na vostok.
Oni srazhalis' za Rodinu.
Oni vstretilis' v puti.
Oni zhivut ryadom.
Opasniye druzya.
Opasniye tropi.
Opasno dlya zhizni!
Opekun.
Operatsiya ''Yl'' i drugiye priklyucheniya Shurika.
Optimisticheskaya tragediya.
Orlyata Chapaya.
Os'minozhki.
Osen', Chertanovo.
Osen'.
Osenniye kolokola.
Osenniye korabli.
Osenniye svad'bi.
Oshibka inzhenera Kohina.
Oshibka rezidenta.
Oslinaya shkura.
Osobikh primet net.
Osobnyak Golobinikh.
Osobo vazhnoye zadaniye.
Osoboye podrazdeleniye.
Ossenniy marafon.
Ostanovilsya poyezd.
Ostavit' sled.
Ostayus' s vami.
Ostorozhno—Vasilyok!
Ostov sokrovishch.
Ostrov.
Ostrov Koldun.
Ostrov sokrovishch.
Osvobozhdeniye (film 1—Ognennaya duga).
Osvobozhdeniye (film 2—Proryv).
Osvobozhdeniye (film 3 Napravleniye glavnogo udara).
Osvobozhdeniye (film 4—Bitva za Berlin).
Osvobozhdeniye (film 5—Posledniy shturm).
Ot aimi do zimi.
Ot semi do dvenadtsati.
Ot tebya oni slyozi.
Ot zari do zari.
Ot zarplati do zarplati.
Otche nash.
Otchy dom.
Otello.
Otets i sin.
Otets Sergiy.
Otkritoye okno.
Otkritoye serdtse.
Otlkloneniye—nol'.
Otpusk v sentyabre.
Otroki vo vselennoy.
Otryad Trubatachyova srazhayetsya.
Otsi.
Otsi i dedi.
Otsi i deti.
Otstavnoy kozi barabanshchik.
Otvetniy khod.
Ovod.
Ozhidaniye.
Padal proshlogodniy sneg.
Padeniya Kondora.
Padeniye Berlina.
Padeniye dinastiyi Romanovikh.
Palata.
Palle—odin na svete.
Pamyat.
Pamyat' setdtsa.
Papirosnitsa ot Mossel'proma.
Parad planet.
Parashutisti.
Paren'iz nashego goroda.
Paren'iz taigi.
Parol' ne nuzhen.
Partiyniy bilet.
Passazhir s ''Ekvatora.''
Passkazhite skazku, doktor.
Passledovaniye.
Pastukh i tsar'.
Patsani.
Pavlukha.
Paznotsvetniye kamushki.
Pena.
Peppy—dinniy chulok.
Peraya konnaya.
Perekhodniy vozrast.
Perekhvat.
Perestupy porog.
Pervaya devushka.
Pervaya perchatka.

Perviy den' mira.
Perviy eshelon.
Perviy kurier.
Perviy sneg.
Perviy trolleibus.
Perviy uchitel'.
Perviye radosti.
Perviye stranitsi.
Pervoklassnitsa.
Pervopechtnik Ivan Fyodorov.
Pervoye svidaniye.
Pesni molodosti.
Pesni morya.
Pesnya o Kol'tsove.
Pesnya rodnoy strani.
Pesnya tabunshchika.
Pesochniye chasi.
Peter Pan.
Petersburgskaya noch.
Petrovka, 38.
Petta.
Pikhod luni.
Piklyucheniya printsa Florizelya.
Pil' pod solntsem.
Pilayushchiy kontinent.
Piloti.
Pingvinyonok.
Pis'mo iz yunosti.
Pishka.
Plata za istinu.
Plenniki udachi.
Plikh i Plyukh.
Plokhoy khoroshiy chelovek.
Plyumbum ili opasnaya igra.
Po dannim ugolovnogo roziska.
Po doroge s oblakami.
Po glavnoi ulitse s orkestrom.
Po shchuchyemu veleniyu.
Po sledam fil'ma ''Molodaya gvardiya.''
Po sledam geroya.
Po sledu vlastelina.
Po sobstvennomu zhelaniyu.
Po tonkomu l'du.
Po trave bosikom.
Po zakonam voyennogo vremeni.
Po zakonu.
Pobeda.
Pobeda zhenshchini.
Pobeditel'.
Pochti nevidumannaya istoriya.
Pochti rovesniki.
Pod kupolom tsirka.
Pod odnim nebom.
Pod severnim siyaniyem.
Pod znakom odnorogoi korovi.
Podarok dlya slona.
Podaryonka.
Podkidish.
Podnyataya tselina.
Podranki.
Podrugi.
Podzhigateli.
Poema o more.
Poema of krilyakh.
Poet.
Pogranichniy pyos aily.
Pohkishcheniye.
Poka bezumstvuyet mechta.
Pokhishcheniye veka.
Pokhititely vodi.
Pokhozhdeniya zubnogo vracha.
Pokhozhhdeniya grafa Nevzorova.
Pokoleniye pobedieteley.
Pokrovskiye vorota.
Polevaya gvardiya mozzhukhina.
Polikushka.
Polin'—trava gor'kaya.
Polosa prepyatstviy.
Polosa vezeniya. Kinoalmanakh ''Moloost.''
Polosatiy reis.
Polovodye.
Polshchad' Vosstaniya.
Polustanok.
Polye pereity.
Polyot s kosmonavtom.
Polyushko-polye.
Pomni imya svoyo.
Ponedel'nik—den' tyazholiy.
Poprigunya.
Poputchik.
Porokh.
Portret madmuazel' Tarzhi.
Portret s dozhdyom.
Portret zheni khudozhnika.
Poruchit' generalu Nesterovu.
Poshchyochina, kotoroi ne bilo.
Poshekhonskaya starina.
Posiednij kontsert.
Posilayu vam pyesu.
Poslanniki vechnosti.
Posledniy attraktsion.
Posledniy dom.
Posledniy god.
Posledniy shans.
Posledniy tabor.
Posledniy vistrel.
Posledniye kanikuli.
Posledniye zaipi.
Poslednyaya doroga.
Poslednyaya dvoika.
Poslednyaya okhota.
Poslednyaya vstrecha.
Poslednyaya zhertva.
Poslesloviye.
Poslye dozhdichka v chetverg.
Poslye togo, kak.
Posmotri mne v graza.
Posol Sovetskogo Soyuza.
Postaraisya ostat'sya zhivim.
Potomok Chingiz-Khana.
Potryasayushchiy Berendeyev.
Potseluy Mary Pikford.
Povest' o chelovecheskom serdtse.
Povest' o nastoyashchem cheloveke.
Povest' o neistovom.
Povest' o neyizvestnom aktyore.
Povest' plamennikh let.
Povorot.
Povtornaya svad'ba.
Poy pesnyu, poet..
Poyedinok.
Poyedinok v taige.
Poyezd idyot na vostok.
Poyezd v zavtrashniy den'.
Poyezdka v Visbaden.
Poyezdki na starom avtomobilye.
Pozdnyaya yagoda.
Pozovi myenya v dal' svetluyu.
Ppslednyaya noch.
Pravda leitenanta Kilmova.
Pravo na vistrel.
Pravo no prizhok.
Pravo pervoy podpisi.
Prazdnik neposlushaniya.
Prazdnik Svyatogo Yirgena.
Prazdniki detstva.
Predatel'.
Predatel'nitsa.
Predchuvstviye lyubvi.
Predel zhelanity.
Predisloviye k bitve.
Predsedatel'.
Predvaritel'noye rassledovaniye.
Preferans po pyatnitsam.
Premiya.
Prestupleniye i nakazaniye.
Prestupleniye Ivana Karavayeva.
Prestupleniye.
Prezhde, chem rasstat'sya.
Prezhdevremenniy chelovek.
Prezhevalskyi.
Prezumptsiya nevinivnosti.
Pri ispolneniyi sluzhebnikh obyazannostey.
Prichali.
Prigovoryonniy.
Prikaz: ogon' ne otkrivat'.
Prikaz: pereiti granitsu.
Prikazano vzyat' zhivim.
Prikhodi svobodnim.
Priklucheniya porosyonka Funtika.
Priklyuchaniya Kventina Dorvarda, strelka korolesvskoy armiyi.
Priklyucheniya Elektronika.
Priklyucheniya Krosha.
Priklyucheniya malen'kihk druzey.
Priklyucheniya malen'kogo papi.
Priklyucheniya Sherloka Holmes doktora Varsona.
Priklyucheniya sorvantsa.
Priklyucheniya Toli Klyukvina.
Priklyucheniya zheltogo chemodanchika.
Priklyucheniye stingrey.
Priletal marsianin v osennyuyu noch.
Prilyuchaniya Travki.
Prinimayu na sebya.
Prints i nishchiy.
Prishla i govoryu.
Prishol sodat s fronta.
Pristupit' k likvidatsiyi.
Prisvoyit' zvaniye gerova.
Prival stannikov.
Privideniye, kotoroye ne vozvrashchayetsya.
Priyezhaite na Baikal.
Priyezzhaya.
Prizhok na zarye.
Priznat' vinovnim.
Prizvaniye.
Pro chudesa chelovecheskiye.
Pro Dzhirtdana-verlikana.
Pro lyubov', druzhbu i sud'bu.
Probuzhdeniye.
Prodelki v starinnom dukhe.

Professiya—kinoaktyor.
Professiya—kompozer.
Proisshestviye v Utinoozyorske.
Prokhindiada ili beg na mestya.
Prolog.
Propal i nashelsya.
Propalo leto.
Propavshaya ekspeditsiya.
Propavshiye sredi zhivikh.
Propazha svidetelya.
Proschal'naya gastrol' ''Artista.''
Proshchai, shpana zamoskvoretskaya.
Proshchaniye.
Prosperity.
Prostaya istoriya.
Prosti menya, Alyosha.
Prosti.
Prosto devochka.
Prostoy sluchay.
Protsess.
Protsess o tryokh millionakh.
Proverka na dorogakh.
Pryamaya liniya.
Psevdonim ''lukach.''
Ptitsi nad gorodom.
Publikatsiya.
Pugalo.
Pust' on ostanetsya s nami.
Pust' ya umru, Gospodi.
Put' k medalyam.
Put' k prichalu.
Put' slavi.
Put' v ''Saturn.''
Put' v Daamask.
Puteshestvennik s bagazhom.
Puteshestviye.
Putyovka v zhizn'.
Puzir'ki.
Pyad' semli.
Pyadovoy Alexandr Matrosov.
Pyat' dney otdikha.
Pyat' dney, pyat' nochey.
Pyat' minut strakha.
Pyat' pokhishchennikh monakhov.
Pyat' vecherov.
Pyat'desyat na pyat'desyat.
Pyatnadtsatilentiy kapitan.
Pygmalion.
Pyotr Martynovich godi bolshoy zhini.
Pyotr Ryabinkin.
Pyutr perviy.
Pzatoye vremya goda.
Raba lyubvi.
Rano utrom.
Rasplata.
Rasskazy o Lenineh.
Rasstavaniya.
Rauskiye yablochki.
Ravnopraviye.
Raz na raz ne prikhoditsya.
Raz, dva—gorye ne beda!
Razborvhiviy zhenikh.
Razbuditye mukhina.
Razdumya.
Razershite vilet.
Razlom.
Razniye sud'bi.
Razorvanniy krug.
Razvlecheniye dlya starichkov.
Rebro Adama.
Rel'si gudyat.
Reportazh s liniyi ognya.
Respublika SHKID.
Retsept yeyo molodosti.
Revizor.
Ripkina lyubov'.
Ris' vozvrashchayetsya.
Rish—blagorodnoye delo.
Rishad—vnuk Zifi.
Rodina zovyot.
Rodini soldat.
Roditeley ne vibirayut.
Rodnaya krov'.
Rodnik.
Rodniye polusa.
Rodnya.
Rokovaya ozhibka.
Romans o vlyublyonnikh.
Romantiki.
Romeo i Julieta.
Romka, Fomka i Artos.
Rovesnik veka.
Rozhdyonniye burey.
Rozigrish.
Rudin.
Ruf'.
Ruki vverkh!
Rus' iznachal'naya.
Ruslan i Lyudmila.
Russkiy les.
Russkiy suvenir.
Russkiy vopros.
Russkoye polye.
Rvaniye bashmaki.
Ryadom s vami.
Ryzhik.
S lyubimini ne rasstavaytes'.
S lyubovyu popolam.
S neba na zemluy.
S toboy i bez tebya.
S veselyem i otvagoy.
Sad zhelaniy.
Sadis' ryadom, Mishka!
Sadko.
Salamandra.
Salavat Yulayev.
Salon krasoti.
Saltanat.
Samaya obayatelnaya i privlekatelnaya.
Samiy krasiviy kon'.
Samiy posledniy den'.
Samiy zharkiy mesyats.
Samootverzhenniy zayats.
Sampo.
Santa-Esperansa.
Sasha vstupayet v zhizn'.
Sashka.
Schastivchik.
Schastliviy chrevonets.
Schastliviy reis.
Schastye.
Schitaite menya vzroslim.
Schlit i myech.
Schot chelovecheskiy.
Scjastilaya, Zhen'ka!
Sdayotsya kvartira s rebyonkom.
Sdelka.
Sed'moye nebo.
Sekret uspekha.
Sekretar' obkoma.
Sekretar' raikoma.
Sekretnaya missiya.
Sekunda na podvig.
Sel'skaya uchite'nitsa.
Sel'skiy vrach.
Sem' chasov do gibeli.
Sem' krikov v okeane.
Sem' nyanek.
Sem' stikhiy.
Sem'nevest yefreitora.
Semero smelikh.
Semero soldatikov.
Semeynoye schastye.
Semiklassniki.
Semnadtsat' mgnoveniy vesni.
Semya Ivanovikh.
Semya Oppengeim.
Semya Ulyanovikh.
SER (Svoboda eto ray).
Serafim Polubes i drugiye zhiteli zemli.
Seraya druga.
Serdtsa chetiryokh.
Serdtse byotsya vnov'.
Serdtse Korvalana.
Serdtse materi.
Serdtse Rossiyi.
Serebristaya pil'.
Serebryanniye Ozyora.
Serebryanniye trubi.
Serebryannoye rivue.
Seryozha.
Sestra muzikanta.
Severnaya povest'.
Severnaya rapsodiya.
Shag.
Shakhmatnaya goryachka.
Shakhtyori.
Shaltai-boltai.
Shans.
Shantazhist.
Shapka.
Shazka o starom Ekho.
Shazki Shekherezadi.
Shel chetvyortiy god voini.
Sherlock Holmes i Dr. Watson.
Shestoy.
Shestoye iyulya.
Shestviye zolotikh koney.
Shivorot-navivorot.
Shkol'niy bal's.
Shkola muzhestva.
Shkola zlosloviya.
Shli soldati.
Shlyapa.
Shol soldat s fronta.
Sholkovaya kistochka.
Shotormovoye preduprezhdeniye.
Shtorm na sushe.
Shtorm.
Shtrafnoy udar.
Shula sobaka po royalyu.
Shumniy dyen'.
Shura i Prosvirnyal.
Shurochka.

Shut.
Shutki v storonu.
Shvatka v purge.
Shvedskaya spichka.
Sibiriada.
Sibirskaya atamanasha.
Sibiryachka.
Sibiryaki.
Sil'neye vsekh inikh veleniy.
Sin.
Sin polka.
Sinegoriya.
Sinyaya ptitsa.
Sinyaya tetrad'.
Sirano De Bererack.
Sishchik.
Skakal kazak cherez dolinu.
Skal'pirovanniy trup.
Skaz pro to, kak tsar' Pyotr arapa zhenil.
Skazaniye o zemie sibirskoy.
Skazhi sontsu: Da!
Skazka o poteryannom vremeni.
Skazka o tsare Saltane.
Skazka o volshebnom granate.
Skazka starogo Usto.
Skazka stranstviy.
Skazka-nebilitsi deda Yegora.
Skazky . . . skazky . . . skazky Starogo Arbata.
Skoriy poyezd.
Skorost.
Skveniy anekdot.
Skvorets i lira.
Skvoz' ogon.
Sladkaya zhanshchina.
Sledopit.
Slepoy muzikant.
Slomannya podkova.
Slon i veryovochka.
Slovo dlya zashchiti.
Sluchai na mel'nitse.
Sluchai na shakhte 8.
Sluchai s Polininim.
Sluchai v kvadrate 36–80.
Sluchai v taige.
Sluchai v vulkane.
Sluchainaya vstrecha.
Sluga.
Sluga dvukh gospod.
Slushaite!
Slushaite, na toy storone.
Sluzhebniy roman.
Sluzhili dva tovatishcha.
Slyozi kapali.
Smeliye lyudi.
Smert' na vslyote.
Smertniy vrag.
Smeshniye lyudi.
Smotri v oba.
Smyateniye chuvstv.
Snezhnaya koroleva.
Snezhnaya skazke.
Sobaka Baskerviley.
Sofia Perovskaya.
Sointse svetit vsyem.
Sokhranit' gorod.
Sokolovo.
Sokrovishcha Agri.
Soldat Ivan Brovkin.
Soldati svibidi.
Soldati.
Solnechniy veter.
Solnechnye dni.
Solntse v karmane.
Solntse, snova solntse.
Solo dlya slona s orkestrom.
Solovey.
Solyaris.
Solyoniy pyos.
Sombrero.
Sonata.
Sopbstvennoye mneniye.
Sopernitsi.
Sorok dney bez voyni.
Sorok perviy.
Soroka-vorovka.
Sotrudnit Chk.
Souchastiye v ubiystve.
Souchastniki.
Sovershenno seryozno.
Sovest'.
Sovsem propashchiy.
Spartak.
Spasatel'.
Spasitye nashi dushi.
Spasitye utopayushchego.
Spasyonnomu—ray.
Spasyonnoye pokoleniye.
Spokoiniy den' v kontse voini.
Spokoistviye otmenyayetsya.
Sport, sport, sport.
Sportivnaya chest'.
Sportivniy prazdnik molodyozhi.
Sportloto—82.
Spyashchaya krasavitsa.
Spyashchiy lev.
Sred'byela dnya.
Srochniy vizov.
Srochno . . . sekretno . . . GUBChKa.
Srok davnosti.
SSSR glazami Italyantsev.
SSSR s otkritim serdsem.
Ssuda na brak.
Stachka.
Stalingrad.
Stalingradskaya bitva.
Stalker.
Stanitsa dal'nyaya.
Staraya azbulka.
Staraya, staraya, skazka.
Starets Vasilyi Gryaznov.
Starik Khottabich.
Stariki-razboiniki.
Starinniy vodevil'.
Stariy dom.
Stariy kuvshin.
Stariy nayezdnik.
Stariy znakomiy.
Stariye dolgi.
Stariye steni.
Staromodnaya komediya.
Staroye i novoye.
Starshaya sestra.
Starshina.
Starshiy sin.
Stazhor.
Steklyaniy labirint.
Steklyanniy glaz.
Steklyanniye busi.
Step'.
Stepan Razin.
Stepnaya eskadrilya.
Stepniye zori.
Stidno skazat'.
Sto dnei posle detstva.
Sto gram dlya khrabrosti.
Sto sluchilos' v militsiyi.
Stoyanka tri chasa.
Strakh visoti.
Strannaya istoriya doktora Dzelika i mistera Haida.
Strannaya zhenshchina.
Strannik.
Stranniye lyudi.
Stroitsya most.
Stryapukha.
Stseni iz semeynoi zhizni.
Stuchis' v lyubuyu dver'.
Stuk v dver'.
Sud.
Sud chesti.
Sud sumasshedshikh.
Sud'ba barabanshchika.
Sud'ba cheloveka.
Sud'ba rezidenta.
Sud'ba.
Sumka inkassatora.
Sunduk.
Suprugi Orlovi.
Suvorov.
Suyeta suyet.
Svad'ba.
Svad'ba s priannim.
Svad'ba v Maliinovke.
Svertstnitsi.
Svet dalyokoy zvesdi.
Svetliy put'.
Svictat' vsekh naverkh.
Svidaniye s molodostyu.
Svinarka i pastukh.
Svobodnoye padeniye.
Svoy.
Svoy sredi chuzhikh, chuzhoy sredi svoyikh.
Svoya golova na plechakh.
Svoyimi rukami.
Syostri.
Syuda ne zalitali chaiki.
Syuzhet dlya dvukh rasskazov.
Syuzhet dlya nebol'shogo rasskaza.
Tabachniy kapitan.
Tabor ukhodit v nebo.
Taina ''Chyornikh drozdov.''
Taina gornogo podzemelya.
Taina vechnoy nochi.
Taina villi ''Greta.''
Taina zapisnoy knizhki.
Taina zolotogo bregeta.
Tainaya progulka.
Taini semyi de Granshan.
Tainstvennaya stena.
Tainstvenniy monakh.
Tak nachinalas' legenda.
Tak zhit' nel'zya.
Takaya zhestokaya igra—khokkei.
Takiye visokiye gori.

Takiye zhe kakmi!
Takoy bol'shoy mal'chik.
Taktika bega na dlinnuyu distantsiyu.
Talanti i poklonniki.
Talisman.
Talisman lyubvi.
Tam' gde dlinnaya zima.
Tam, gde nas nyet.
Tam, za gorizontom.
Tamozhnya.
Tan'ka-traktirshchitsa.
Tanets dyavola.
Tankisti.
Tansploshchadka.
Tantsi na krishe.
Tasskaz neizvestnogo cheloveka.
Tatyanin den'.
Tayozhniy desant.
Tchaikovskyi.
Tchitcherin.
Techyot Volga.
Tegeran—43.
Telegramma.
Ten'.
Territoriya.
Theatr.
Ti i ya.
Ti inogda vspominay.
Ti mnye—ya tyebye.
Ti moy vostorg, moyo muchenye.
Tikhiy don.
Tikhiye vodi gluboki.
Timur i yego komanda.
Tishina.
To leave a mark.
Tochka, tochka, zapyataya.
Tol'ko tri nochi.
Tommy.
Torgovka i poet.
Torgovtsi slavoy.
Torpedonostsi.
Tour Istael (Aguzarova meets Bravo).
Tovarishch general.
Tovatishch Arsenyi.
Tragediya.
Traktir na Pyatnitskoy.
Traktoristi.
Trener.
Tretiy taim.
Tretya meshchanskaya.
Tretye pokoleniye.
Trevozhniy vilyet.
Trevozhnoye voskresenye.
Tri dnya Victor Tchernyshova.
Tri plyus dva.
Tri sestri.
Tri sinikh ozera malinovogo tsveta.
Tri solntsa.
Tri topolya na Plyushchikhe.
Tri tovarshcha.
Tri vremeni goda.
Tri vstrechi.
Tridtsat' tri.
Trin—Trava.
Trinadtsat'.
Trizhdi voskresshiy.
Tropi Altaya.
Troye.
Troye na shosse.
Troye s odnoy ulitsi.
Troye v lodke ne schitaya sobaki.
Troye vishli iz lesa.
Trudnoye schastye.
Tryam, zdravstvuyte!
Tryasina.
Tsarevich Prosha.
Tsel' yego zhizni.
Tseluyutsya zori.
Tsement.
Tsena bistrikh sekund.
Tsentrovoi iz podnebesya.
Tsepnaya reaktsiya.
Tsigan.
Tsiganskoye schastye.
Tsirk.
Tsirkachonok.
Tsveti zapozdaliye.
Tuchi nad Borskom.
Tuman iz Londona.
Tunnel.
Tvoy sovremennik.
Tvoya bol'shaya sibir'.
Tye, kotoriye prozreli.
Tyema.
Tyeper' pust' ukhodit.
Tyoplaya kompaniya.
Tyuk.
U Krutogo Yara.
U matrosov net voprosov.
U nas na zavode.
U nikh yest' Rodina.
U opasnoy cherti.
U ozera.
U samogo sinego morya.
U tikhoi pristani.
U tvoyego poroga.
Ubit' drakona.
Ubiystovo na ulitse Dante.
Ubiytsi vakhodyat na dorogu.
Uchenik lekarya.
Uchitel'.
Uchitel' tantsev.
Udachi van, gospoda.
Udivitel'naya bochka.
Uh ti, govoryashchaya riba.
Ukhodya-ukhodi.
Ukradenniy poyezd.
Ukroshcheniye ognya.
Ukroshcheniye stroptivoy.
Ukrotitel'nitsa togrov.
Ulibnis', rovesnik!
Umirat' ne strashno.
Umnaya sobachka Sonya.
Unikum.
Unizhenniye l oskorblyonniye.
Ura! U nas kanikuli.
Uragan prikhodit neozhidanno.
Urok istoriyi.
Urok literaturi.
Urok zhizni.
Usatiy nyan'.
Ushchelye Altamasov.
Uspekh.
Utenniy obkhod.
Utenniye poyezda.
Utoli moyi pechali.
Utomlyonoe solntse.
Utro bez otmetok.
Utro obrechonnogo priyiska.
Uvol'neniye na bereg.
Uzniki Yamagiri-Maru.
V chetverg i bolshe nikogda.
V den' prazdnika.
V dobriy chas!
V gorakh Yugoslaviyi.
V gorod vkhodit' nel'zya.
V kvadrate 45.
V lazorevoy stepi.
V mire tantsa.
V Moskve proyezdom.
V moyey smerti proshu vinit Klavu K.
V nachale veka.
V nachalye igri.
V nebye ''nochniye e'mi.''
V noch na novoluniye.
V odno prekrasnoye detstvo.
V ogne broda nyet.
V ozhidaniyi chuda.
V poiskakh kaitana Granta.
V poiskakh radosti.
V poslednyuyu ochered.
V prazdnichniy vecher.
V rasputitsu.
V shest' chasov vechera posle voiny.
V stepnoy tishi.
V styepi.
V tilu vraga.
V trudniy chas.
V tvoykh rukakh zhizn.
V yedinom stroyu.
V zone osobogo vnimaniya.
Vakansiya.
Valentin i Valentina.
Valentina.
Valera.
Vam chto, nasha vlast' ne nravitsya?
Vam i nye snilos'.
Vampiri Geoni.
Van'ka-vstan'ka.
Vardevar--prazdnik roz.
Variant ''Zombi.''
Vas ozhidayet grazhdanka Nikanorova.
Vasilisa Prekrasnaya.
Vasilyi Buslayev.
Vasilyi i Vasilisa.
Vasilyi Surikow.
Vassas.
Vasyok Trubatchyov i yego tovarishchi.
Vchera, segodnya i vsegda.
Vechera na khutorye bliz Dikan'ki.
Vecherniy labirint.
Ved'ma.
Velikiy samoyed.
Velikiy uteshitel'.
Velikiye golorantsi.
Velikliy voyin Albaniyi Skanderbeg.
Velikly put'.
Velikolepniy gosha.
Ver'te mnye, lyudi.
Vera.
Vera i Anfisa znakomyatsya.
Vera, Nadezhda, Lyubov.
Vernimi ostanemsya.
Verniye druzya.
Vernost' materi.

Veroy i pravdoy.
Versiya polkovnika Zorina.
Veruyu v lyubov'.
Veruyu v radugu.
Vesenniy priziv.
Vesenniye golosa.
Vesennya olimpiada, ili Nachal'nik khora.
Vesinniy potok.
Vesna.
Vesna na odere.
Vesyolaya kanareika.
Vesyoliye istoriyi.
Vesyoliye rasplyuyevskyie dni.
Vesyoliye rebyata.
Vesyoliye zvyozdi.
Veter.
Vetyer ''Nadezhdi.''
Vetyer stranstviy.
Vezuchaya.
Vi mne pisali.
Vibor.
Vibor tseli.
Victor Vasnetsov.Vospominaniya.
Vid na zhitelstvo.
Vihkri vrazhdebniye.
Vikup.
Virineya.
Virita zastupom yama glubokaya.
Vishnyoviy omut.
Visokosniy god.
Visokoye zvaniye.
Visota.
Vistral v tumane.
Vistrel.
Vistrel v spinu.
Vitya glushakov—drug apachey.
Viyigrish odnogo kommersanta.
Vizit dami.
Vizit k minotavru.
Vizit verhivosti.
Vkus khalvi.
Vladivostok, god 1918.
Vlast' Solovetskaya.
Vlyubllyon po sobstvennomu zhelaniyu.
Vlyudyakh.
Vnimaniye! Vsyem postam.
Vnimaniye: cherepahka.
Vo imya rodini.
Voichonok sredi lyudei.
Vokzal dlya dovikh.
Volga-Volga.
Volnitsa.
Volniy veter.
Volshebnaya laka.
Volshebnaya serna.
Volshebnoye zerno.
Vooruzhen i ochen' opasen.
Vorobey na l'du.
Vorota v nebo.
Vos'moye chudo sveta.
Vosemnadtsatiy god.
Voskhozhdeniye.
Voskreseniye.
Vosokaya nagrada.
Vospitaniye zhestokosti u zhenshchin i sobak.
Vosstaniye ribakov.
Vozdushnaya pochta.
Vozdushniy izvozchik.
Vozle etikh okon.
Vozmezdiye.
Vozneseniye.
Vozvracheniye Khadzhi Nasreddina.
Vozvrashcheniye ''Svyatogo Luki.''
Vozvrashcheniye Budulaya.
Vozvrashcheniye chuvstv.
Vozvrashcheniye k zhizni.
Vozvrashcheniye rezidenta.
Vozvrashcheniye vasiliya Bortnikova.
Vozvrata net.
Vperedi dyen'.
Vperviye zamuzhem.
Vragi.
Vratar.
Vrazhyi tropi.
Vremya i semya Konvey.
Vremya letat.
Vremya letnikh otpuskov.
Vremya otykha s subboti do ponedel'nika.
Vremya schastilikh nakhodok.
Vremya sinovey.
Vremya zhelaniy.
Vremya, vperyod!
Vsadnik bez golovi.
Vsadnik na zolotom konye.
Vsadnik nad gorodom.
Vsadnik s molniyei v ruke.
Vsem spasibo.
Vspominaya Ranevskuyu.
Vstrecha na Elbe.
Vstrechi na rassvete.
Vstrechi s Igorem llyinskim.
Vstupleniye.
Vsyo delo v bratye.
Vsyo dlya vas.
Vsyo nachinayetsya s dorogi.
Vsyo naoborot.
Vsyo ostayotsya lyudyam.
Vtoroy raz v Krimu.
Vyi.
Vzbesivshiysya avtobus.
Vzlyot.
Vzorvanniy ad.
Vzrosliy sin.
Vzrosliye deti.
XX vyek zakanchivayetsya.
Ya kupil papu.
Ya nauchu vas mechtat'.
Ya sdelal vsyo, chto mog.
Ya shagayu po Moskve.
Ya slyzhil v okhrane Stalina ili opit dok. mifologiyi.
Ya soldat, mama.
Ya tebya nikogda ne zabudu.
Ya v polnom poryadke.
Ya vas dozhdus'.
Ya vas lyubil.
Ya yego nevesta.
Ya za tebya otvechayu.
Ya—Kuba.
Ya—Tyanshan.
Yabloko razdora.
Yad.
Yaguar.
Yaroslav Dombrovskyi.
Yaroslavna, the Queen of France.
Yedinstvennay.
Yedinstvennaya doroga.
Yedokiya Rozhnovskaya.
Yegor Bulychev i drugiye.
Yegorka.
Yekaterina Voronina.
Yel'.
Yelovoye yabloko.
Yemelyan Pugachev.
Yeshcho lyublyu, yeshcho nadeyuss'.
Yeshcho moshno uspet'.
Yeshcho raz pro lyubov'.
Yesi bi ya bil nachal'nikom.
Yesli eto sluchitsya s toboy.
Yesli khochesh bit' schastivim.
Yesli ti muzhchina.
Yesli ti prav.
Yesli zavtra bila voina.
Yest' ideya!
Yevdokiya.
Yevgeniy onegin.
Yevgeniy Urbansky.
Yevgeniya Grande.
Yevreyskoye schastye.
Yevropeyskaya istoriya.
Yeyo put'.
Yim pokoryayetsya nebo.
Ykov Sverdlov.
Yolki-Palki.
Yubiley.
Yuliya Vrovskaya.
Yunga severnogo flota.
Yuniye kommunari.
Yunost' komandirov.
Yunost' masksima.
Yunost' nashikh ottsov.
Yunost'.
Za devyat' let do kontsa voini.
Za oblakami—nebo.
Za pretnaya zona.
Za spichkami.
Za vitrinoy univermaga.
Za vlast' Sovyetov.
Za vsyo v otvete.
Za yavnim preimushchestyom.
Zabavi molodikh.
Zabitaya melodiya dlya fleiti.
Zacharovannaya desna.
Zacharovannaya vesna.
Zachitnik sedov.
Zagadka endhauza.
Zagadka Kal'mana.
Zagadochniy naslednik.
Zagon.
Zagovor obrechyonnikh.
Zaklyuchyonnive.
Zakon.
Zakon zhizni.
Zakonniy brak.
Zakritiye sezona.
Zakroishchik iz Torzhka.
Zamurovanniye v steklye.
Zapasnoy aerodrom.
Zapasnoy igrok.
Zapiski pirata.
Zapomnitye ikh litsa.
Zarye navstrechyu.
Zasekrechenniy gorod.

Zastava llyitcha.
Zastava v gorakh.
Zatyanuvshiysya ekzamen.
Zaveshchaniye doktora douelya.
Zaveshchaniye.
Zavtra bila voyna.
Zavtrak u predvoditelya.
Zdes' mogot vodit'sya tigri.
Zdes', na moyey zemie.
Zdravstvuitye, ya vasha tyotya.
Zdravstvuy i proshchai.
Zdravstvuy, Moskva.
Zdravstvuy, ryka.
Zdravstvuytye, dety!
Zechem cheloveku krilya.
Zeena, Zinulya.
Zelyoiy ostrov.
Zelyoniy furgon.
Zelyoniy ogonyok.
Zelyoniye tsepochki.
Zemlya i luydi.
Zemlya Sannikova.
Zemlya v plenu.
Zemlya, do vostrebovamiya.
Zemlyaki.
Zemlyanichniy dozhdik.
Zenikh s togo sveta.
Zerkalo.
Zharkoye leto v Kabule.
Zhazhda nad ruchyom.
Zhdi menya.
Zhelayu uspekha.
Zhelezniy potok.
Zhena.
Zhena kerosinchchika.
Zhena predrevkoma.
Zhena ushla.
Zhenatiy kholostyak.
Zhenit'ba.
Zhenit'ba Bal'zaminova.
Zhenit'ba Balzaminova.
Zhenshchina.
Zhenshchina, kotoraya poyot.
Zhenskaya astrologiya.
Zhenskiye radosti.
Zhenya, Zhenechka, and Katyusha.
Zhestokiy romans.
Zhestokost'.
Zhiboy trup.
Zhil otvazhniy kapitan.
Zhila-bila devochka.
Zhili-ili starik so starukhoy.
Zhit' po-svoyemu.
Zhiteyskoye delo.
Zhivaya glina.
Zhivaya raduga.
Zhivite v radosti.
Zhiviye i myortviye.
Zhivoy trup.
Zhivyot takoy paren'.
Zhizn' i smert' Ferdinanda Lyusa.
Zhizn' moya—armiya.
Zhizn' na greshnoy zemlye.
Zhizn' po limitu.
Zhizn' posle smerti.
Zhizn' prekrasna.
Zhizn' proshia mimo.
Zhizn' snachala.
Zhizn'odna.
Zhrebiy.
Zhukovskyi.
Zhuravl' v nebe.
Zhuravushka.
Zhurnalist.
Zigzag udachi.
Zimnyaya skazka.
Zimnyaya vishnaya.
Zinmiy vecher v Gagrakh.
Zlovrednoye voskresenye.
Zloy dukh Yambuya.
Zmeyelov.
Znamenitiy i iskusneishiy Matvey Kazakov.
Zodchiy Moskvi Osip Bove.
Zolotaya rechka.
Zolotiye vorota.
Zolotiye yabloki.
Zoloto.
Zolotoy dom.
Zolotoy eshelon.
Zolotoy klyuchik.
Zolotoy telyonok.
Zolotoye ozero.
Zolushka.
Zontik dlya novobrachnikh.
Zori parizha.
Zoya.
Zudov, vi uvoleni!
Zvezda ekrana.
Zvezda i smert' Khoakina Murieti.
Zvezda nadezhdy.
Zvezda plenitel'nogo schastya.
Zvezdopad.
Zvonyat, otkroite dver'!
Zvyozdniy inspektor.
Zvyozdniy mal.
Zvyozdy i soldaty.
Zvyozdy ne gasnut.
Zvyozdy vstrechayutsya v Moskve.

Riverside Productions, Ltd.
The first of the few.

Rolnikaite, Maria.
Ya dolshna rasskazat.

Rosas Films, SA.
Ambicion sangrienta.
El amor llego a Jalisco.
El angel de la traicion.
El asalto.
El asesino enmascarado.
La banda del automovil gris.
La banda del fantasma negro.
La barranca de la muerte.
Chicas casaderas.
El cocinero de mi mujer.
Cuando el diablo sopla.
Cuatro hombres marcados.
La fierecilla del puerto.
El Gavilan Vengador.
La guarida del buitre.
La huella del chacal.
La justicia del Gavilan Vengador.
Los laureles.
La ley del Gavilan.
La maestra inolvidable.
La maldicion del oro.
La mancornadora.
La mano de Dios.
Me dicen el cantaclaro.
Los muertos no hablan.
Nos lleva la tristeza.
Pa'que me sirve la vida.
La pantera negra.
El pueblo del terror.
Quiero vivir.
El rancho de la discordia.
El rayo justiciero.
El rostro de la muerte.
La sierra del terror.
Sol en llamas.
Yo el aventurero.

Saito Koichi Productions. SEE Art Theatre Guild of Japan Co., Ltd. & Saito Koichi Productions.

Salomon (Charlotte) Foundation.
Leven? of theater?

Schirmer (G.), Inc.
24 preludes and fugues for piano in 4 volumes (Vol. 1).
24 preludes and fugues for piano in 4 volumes (Vol. 2).
24 preludes and fugues for piano in 4 volumes (Vol. 3).
24 preludes and fugues for piano in 4 volumes (Vol. 4).
Adagio and finale.
Alexandria (Bossa-nova, foxtrot).
Blue towns (1963).
Bringing to life the royal maid.
Colas breugnon.
Concerto for violiion and orchestra.
Elder brothers & Ivan.
Fifteen years, young pioneer song for the 15th anniversary of the.
First cello concerto in G minor, op. 49.
First suite from the ballet for symphony orchestra (In 9 movements).
Four poems on Rabindranath Tagore.
Grief.
Gypsy dance.
The humpbacked horse.
Introduction.
Requiem, op. 72 for soloists, mixed chorus, children's chorus and symphony orchestra.
Rhapsodie romaine op. 11, no. 1 en la majeur.
Rhapsodie romaine op. 11, no. 1 en la majeur (chamber music—strings and piano).
Second cello concerto in C major, op. 77.
The silver mountain.
Sonata for solo violin, op. 115 (1947).
Sonate en fa diese mineur, op. 24, no. 1.
Suite, for symphony orchestra from the ballet golden wheat-ears, op. 28a.
Symphony no . 3 for chamber orchestra.
Taras' family, op. 47.
Tarthr wedding dance (1937).
Ten sonnets by Shakespeare for voice and piano, op. 52.
Third symphony (requiem) in b-flat

minor, for symphony orchestra and chorus, op. 22.
Three songs of revolutionary Cuba, op. 73, for voice and piano.
Trio pour clarinette, violon et piano.
Tsar korikh.
Schubert, Bernard L.
The man who watched trains go by.
Schuetz, Alfred.
Czerwone maki na Monte Cassino.
Dorotka.
Warszawo!
Screen Gems, Inc. SEE CPT Holdings, Inc., successor by mesne mergers to Screen Gems, Inc, assignee of author.
Serraillier, Anne.
Ahmet the woodseller.
The ballad of Saint Simeon.
Beowulf the warrior.
The Bishop and the devil.
The challenge of the green knight.
Chaucer and his world.
The clashing rocks.
Creatures.
The crooked man.
The enchanted island.
A fall from the sky: the story of Daedalus.
First foot.
Flight to adventure.
Florina and the wild bird.
The Franklin's tale.
Going steady.
The Gorgon's head.
Havelok the dane.
Heracles the strong.
The ivory horn.
Marko's wedding.
The mouse in the wainscot.
My kitten (Miss Tibbles).
A pride of lions.
A puffin quartet of poets.
Robin and his merry men.
Robin in the greenwood.
Suppose you met a witch.
The tale of the three landlubbers.
There's no escape.
The turtle drum.
Two rhymes.
The way of danger.
SGAE. SEE Sociedad General de Autores y Editores (SGAE).
Sindicato de Trabajadores Tecnicos y Mauales de Estudios y Laboratorios de la Produccion Cinematografica S.Y.C. de la Re.
Corazon de nino.
El ganster.
Han matado a Ttongolele.
Luna de miel para nueve.
Mi alma por un amor.
La rosa blanca.
Los signos del zodiaco.
La sombra del caudillo.
Tirando a gol.
Vivir de suenos.
Sociedad General de Autores y Editores (SGAE).
''La'' Conga H.
1 2 3 mueve los pies.
18 ruedas.
4 aniversario.
7 novias para 7 hermanos.
A dona que eu amo.
A donde van.
A escondidas.
A ese pajaro dorado.
A la mas bonita.
A la pastora.
A las cinco de la tarde.
A las seis haceis lo que quereis.
A los amores perdidos.
A los santos del cielo.
A media luz los tres.
A mi novia.
A mi novio no le gusta.
A nuestra formas.
A quien camino a mi lao.
A Salvador allende en su combate por la vida.
A sangre fria.
A Sevilla.
A ti.
A un Madrileno.
A una encina verd3.
A ver los barcos venir.
Abadia de Northanger.
Abandonado.
Abeja reina.
Abre tu fosa amigo llega Ssbata.
Abuela.
Accion.
Aceitunas.
Acelgas con champagne.
Acerca de los padres.
Acteon.
Acto de fe.
Acuarelas vascas.
Acuestate hazme sentir y derramarme en cada poro de tu cuerp.
Adios.
Adios a la tristeza.
Adios para siempre.
Adios rios adios fontes.
Adios y un beso.
Adonde vas a dar agua.
Aeroguapas.
Afrika Korps.
Agarrate saxo.
La agencia.
Agenda.
Agrupacion Independientes Canarias.
El agua de la fuente.
Agua en el suelo.
Agua me diste a beber.
El aguaducho.
Aguila dorado cerveza.
Aguilucho.
Agur Gerardo.
Ah ah ah llega la noche.
Ahola no es de leil.
Ahora o nunca.
Ahora te quiero.
Aida Lafuente.
Aire libre.
Aires de La Mancha.
Aixo que en diuen estar enamorat.
Aixo s esta ensorrant.
Ajedrez del amor.
Akelarre.
Al amor no hay que jugar.
Al buen Pedro.
Al cachorro de Triana.
Al companero Orlando Martinez.
Al diablo con amor.
Al Duero.
Al fin solor pero.
Al final de este viaje en la vida.
Al otro lado del espejo.
Al pasar por gato.
Al poeta al fuego a la palabra.
Al ponerse el sol.
Al presidente de Chile Salvador Allende.
Aladino y la lampara maravillosa.
Alain Delon.
Alba y la noche.
Albayalde.
Albeniz.
Alberto.
Alcalde de Zalamea.
Alcoba.
Alegrame el dia.
Alegres chicas de el molino.
La alegria de la huerta.
Alegria de vivir.
Alegrias.
Aleluya.
Aleluya para una pasion.
Algo de felicidad.
Alguien que paso.
Alicia en el pais de las maravillas.
Alicia en el Paris de las maravillas.
Allegries del Mediterrani.
Alli.
Alma de Dios.
Las alondras.
La Alsaciana.
La Alsaciana.
Alta costura.
Alumerzo o cena.
Amame.
Amanece.
Amanecer en puerta oscura.
El amante complaciente.
Amantes de la isla del diablo.
Amar despues de amar.
Amaranto.
Amarna.
Amarrado a tu vestido.
Amenofis IV.
America tu distancia.
Americanos.
Amigo manso.
Amo esta isla.
Amor.
Amor a dos.
Amor a mas.
Amor al sol.
Amor brujo.
Amor de ciudad grande.
Amor de Don Juan.
Amor de mis amores.
Amor de vaca.
El amor es tan Maravilloso.
El amor es un jilguero.

El amor es una droga.
Amor industrial.
Amor infiel.
Amor marinero.
Amor mio mi amor.
El amor no tiene edad.
El amor que se fue.
Amor rapto y vizcondesa.
Un amor secreto.
Amor, amor.
Amor.
Amores locos.
Amorio en el molino.
Amparito roca.
Amstrad hifi.
Ana Kleibler.
Ana Palangana.
Ana y los lobos.
Anabasis.
Anaga.
Anda chaval.
Anda Maria.
Andadura de Vela Zanetti.
Andalucia.
Andando.
Andulusia Andalusia.
Un angel tuvo la culpa.
El angel.
Angelo S.
Angelus novus.
Anillos para una dama.
Los animales.
Aniversario I.
Aniversario II.
Antaviana.
Ante el altar me juraste.
Antes del amanecer.
Antes llega la muerte.
Anticipo.
Anticuario.
Antologia de la Zarzuela.
Antonio Vargas Heredia.
Apaga la luz.
Aparta el corazon de las mangueras.
Apocalipsis Joe.
Apolo helados.
El aprendiz de amante.
Aquel Negrito.
Aquel Quirosanu.
Aquella cancion antigua.
Aquella cancion de cuna.
Aquellos tiempos del cuple.
Aqui en la plaza.
Aquopolis.
El arbol de Guernica.
Los arboles mueren de pie.
Arco iris.
Are Maria Trianera.
Argentina mi Argentina.
Aria de la batalla.
Arriba o abajo.
Asalto al castillo de la Moncloa.
Asalto nocturno.
Asesinos las prefieren rubias.
Ashur.
Asi es mi camino.
El asombro de damasco.
Astrolabio.
Ataque de los Kurdos.
Ateneo musical.
Audiencia.
Aun.
Aun me queda fuego.
Aunque me engane cualquiera.
Aunque no este de moda.
Aunque no sea conmigo.
Aupa Ibarra.
Aura.
Auriga.
Aurtxoa seaskan.
Aventuras del Barbero de Sevilla.
Aventuras del oeste.
Aventuras en las Islas Cies.
Ay Luis Alonso.
Ay mi Sevilla.
Ay Micaela.
Ay nina blancaa.
Ay Peru Peru.
Ay que dolor.
Ay que risa.
Ay quien pudiera volar.
Ay teror que lindo eres.
Ay trovador de Sevilla.
Ayer sone que sonaba.
Bahamas Nassua.
Bahia de Palma.
Baila chiquilla baila.
Baila la guerra.
Baila que baila.
Bailalo si puedes.
Bailar contigo en la oscuridad.
Bailaras.
Bailaras conmigo.
Bailarin y el trabajador.
Bailarina.
El baile.
El baile de la television.
El baile de Luis Alonso.
Baileys 3.
Bajo el cielo de Roma.
Una bala marcada.
Balad for an empty street.
Balada del carrasclas.
Ball de gegants.
El ball de les fulles.
El banco de los viejos.
La banda de Chispita.
La bandera de los pobres.
Banderillas.
Bandido cupido.
Bandido malpelo.
Banquete de Tiranos.
La barca sin pescador.
Barco hacia la nada.
Barrio.
Batalla del ultimo Panzer.
El bateo.
El bautizo de Figaro.
El bebe de Franestein.
Beguine.
Bella.
Bella de Cadiz.
La bella dorotea.
Bella Lola.
Belleza de la vida.
La belleza del diablo.
Bendita seas.
Benidorm.
Berceuse basque.
Bergidum.
Besame amor.
Besame monstruo.
Besos de perfumes.
Besos perdidos.
Beti ola.
Betobit.
Bienvenido Mr. Marshall.
Un bigote para dos.
Bilbao.
Bilabo y sus pueblos.
Bla bla bla.
Black el payaso.
Blanca.
Blanca bruna.
La blanca doble.
Blanca nieves.
Blancaflor.
Blow the sun a kiss.
Boda de Alicia.
La boda de Don Prudencia marching game.
La boda de Luis Alonso.
Boda de Qquinita Flores.
Boda gitana.
Bohemios.
El bohio.
Bolero.
Bolero de King Kong.
Bolero para Jaime Gil De Biedma.
Bolsa de los refranes.
La bomba.
Bomba gitana.
La bordadora de Traperas.
Boris Godunov.
Bosque del lobo.
Botella.
Bourbon.
Boxy el canguro.
Brandy 103 etiqueta blanca.
Brevedad.
Brillaba.
Brillante porvenir.
El brillo de una cancion.
Brisas de Mallorca 1.
Brisas de Mallorca 2.
Una bronca en el gallinero.
La bruja en la burbuja.
Buena gente.
Buenas noches, Papa.
Buenavista 22.
Buenos dias corazon.
Los buenos dias perdidos.
Buenos dias superman.
Buitres caravan tu fosa.
Burbujitas.
Burgueses.
Burro flautista.
Buscant una dona.
Busco a una mujer.
Un caballero Andaluz.
Caballo Blanco.
El caballo del caballero.
La cabana de la colina.
Cabaret.
Cabecera telediario.
Cabezota.
El cabo primero.

Los cabras locas.
Cabrecera veinticuatro horas.
Cada vez que nos miramos.
Cadena de isas.
Cadencias.
Cafe cantante.
Cafe de Paris.
Cafe de puerto.
Cafes bahia.
Cafes jurado.
El cafetal.
Cajalicante 4.
Cala montgo.
Las Calatravas.
Calaveras en mi habitacion.
Caldos knor.
Caliente caliente.
Calisto y Melibea.
Calla.
Calla despertador.
Calle del oso.
La calle es nuestra.
Calle mayor (senorita de Trevelez).
Las calles de Madrid.
Calor.
El calor me mata.
Calumniada.
Camaradas.
Cambio de sexo.
Camina la confianza.
El caminante.
El caminat nocturn.
Caminito de la obra.
Camino de Santiago.
Los caminos.
Caminos del senor.
La camisa de once varas.
Campana coalicion popular Nacional Elecciones 86.
Campana rajada.
Campanas de Bastabales.
Las campanas de Linares.
Campanone.
Campeon.
Campesina.
El campesino.
Campos de toros.
La canasta.
El canastillo de fresas.
Cancion.
Cancion a caballo.
Cancion de amor.
Cancion de amor numero dos.
Cancion de amor o la serenata de Shubert.
Cancion de cuna para un delfin.
Cancion de cuna para un hombre viejo.
Cancion de Holanda.
Cancion de juventud.
Cancion de la desesperanza.
Cancion de la fria tumba.
Cancion de la nueva escuela.
Cancion de la risa.
Cancion de la tempestad.
Cancion de la vieja.
Cancion de las razas.
Cancion de los marineros.
Cancion de los planetas.
Cancion de medianoche.
Cancion del barril.
La cancion del costalero.
Cancion del emigrante.
Cancion del Jesuita y del Gobernador.
La cancion del legionario.
Cancion del nino que queria ir a la luna.
La cancion del olvido (1916).
La cancion del olvido (1970).
Cancion del oro.
La cancion del otono.
Cancion del rey.
Cancion del soldado.
Cancion del sonador.
Cancion del vagabundo.
Cancion del viejo obrero.
Cancion para Angela Davis.
Cancion para la unidad Latinoamericana.
Cancion sin palabras.
Cancion Veneciana.
Cancionera.
Canciones de nuestra vida.
Canciones Espanolas.
Las canciones que ahora nacen.
Canco d albada.
Canco de l amor petit.
Canco de lamor efimera.
Canco dels soldats avergonyit.
Canco per a qualsevol orquestra.
Candelabros del emperador.
El candil.
El canon de caramelo.
Cant espiritual.
Cantando en primavera.
Cantando por el mundo.
Cantante de country.
Cantico.
Cantico de La Pieta.
Cantico espiritual.
Cantics de la carn.
Canto a Granada.
Canto a la vida.
Canto al silencio.
El canto de la cigarra.
Canto de luna y lluvia.
Canto para todos.
La capea.
Caperucita roja.
Capitan Tick.
Caprichos.
Caprichos de mi novia.
Car en effet.
Cara sucia.
Caracoleando.
Carambita.
Caramelos podridos.
Caravel de caraveles.
Caray con el divorcio.
Carceleras del Puerto.
Cardenal de Castilla.
Cargamento de suenos.
Caria la Sanluquena.
Carino gitano.
Carita de angel.
Carlitos.
Carlota (1958).
Carlota (1962).
Carmela mia.
Carmen.
Carmen de los pinares.
Carmen la de ronda.
Carnaval.
Carolina.
Carrascosa.
La carreta de mi prima.
El carrusel del furo.
El carrusell.
Carselero carselero.
Carta a Sara.
Carta de un minero a Manuel Llaneza.
Carta postuma a Helena Francis.
La carta que yo guarde.
Cartas boca arriba.
Cartas de amor de una monja.
La casa de las chivas.
Casa de los siete balcones.
La casa del misterio.
Casida del rey chico.
Casita blanca.
El caso de la mujer asesinadita.
El caso de la senora estupenda.
Caso de las dos bellezas.
El caso del senor vestido de violeta.
Casta Susana.
Castigador.
Castillo de Fu Manchu.
Castillos de Espana.
Catalina.
Cayo una estrella.
La caza de la extranjera.
Caza.
Caza del oro.
Ceba para una adolescente.
Ceferino el Pele.
Celeste no es un color.
La celestina.
Celibidachiana.
Celos del aire.
Cena de navidad.
Cenicienta de porcelana.
La Cenicienta.
Centinela de la India.
Cera virgin.
Cerco.
Ceregumil 1.
Ceremonia sangrienta.
Cha cha cha del gamberro.
El chalet de madame Renard.
Champu expray psssssst Clairol.
Chaquetas de mil colores.
Chaqueteros.
Charleston de Chincon.
Charleston.
Chatunga.
Chica bonita.
La chica del guinol.
Chica del molino rojo.
La chica del poster.
Chicas de club.
Chiclets Adams.
Chico rico.
Chicos con las chicas.
Los chicos del callejon.
Chimo.
Chiste.
Chocolates eureka.

Chover 1.
La chulapona.
La cibeles.
Cien caballeros.
Ciencia y arte.
Cierta historia de amor.
La cigarra.
Cigarrillos H U.
Cinco advertencias de Satanas.
Cinco horas con Mario.
Cinco navidades de Carlos Dickens.
Cinco peldanos.
Cinco sentios.
Cincuenta mil pesetas.
Cinemaspop.
Cintas de mi capa.
Las cintas magneticas.
Cipriano y su sistema.
El circulito de tiza.
Cita con un escritor Hemingway.
Ciudad flotante.
Ciudad maldita.
La ciudad sin hombres.
Ciudad sonrisa.
Ciudadano.
Clara es el precio.
Clareta y Ben.
Claro que si.
Los claveles.
Clavera.
Clemencia.
Climax.
Cobarde.
Cobras humanas.
Cochecito.
Cocherito lere.
Cola del escorpion.
Cola revoltosa.
Coleccionista de ruidos.
Colegas.
Colgate.
Colombiana.
Colorin Colorado.
Comando al infierno.
Come en Vietnan.
Comicos.
Comida para perros.
Como castillo de arena.
Como el largo de tus rios que te riegan.
Como el soy y la lluvia.
Como esta el servicio.
Como estan ustedes.
Como estas amor.
Como la niebla.
Como ponerse un guante.
Como robar un quintal de diamantes en Ru.
Como se ama una verdad.
Como te estoy queriendo.
Como tortubar a un gato.
Como un idolo de arena.
Como un libro olvidado.
Como un mueble mas.
Como un nino.
Como un tigre en la ciudad.
Como un vendaval.
Compadece al delincuente.
Con diez anos de menos.
Con la cinta de tu pelo.
Con la fuerza del ciclon.
Con la luna lunita luna.
Con las otras armas.
Con Napoleon.
Con ritmo de twist.
Con un fandango de Huelva.
Con un panuelo y ole.
Concerto del Albayzin.
Concerto per pianoforte e orchestra n. 1.
Concierto austral.
Concierto de castilla.
Concierto del alma.
Concierto en fa.
Concierto iberico.
Concierto magico.
Concierto para banda.
Concierto para cuatro trompas y orquesta.
Concierto para violin y orquesta.
Conclusio Islas Ficas.
Concurso.
El Conde Dracula.
Condenados a vivir.
Conga.
Conque gracia pastora.
La consciencia.
Un consejo.
Consentido amor.
Consigna matar al comandante en jefe.
Contigo.
Contigo a Mallorca voy.
Contigo yo voy si quieres.
Copa cafe puro.
Copla de seises.
Copla morena.
Coplas.
Coplas al nino.
Coplas de Juan Panadero.
Coplas de la violeta.
Coplas del rey corregidor.
Coqueluche.
Corazon alerta.
La cornada.
Corpus en Sevilla.
Correro de Indias.
El corrido del Ogro Peporro.
Corrupcion de Chris Miller.
Corsarios del Caribe.
La corte de faraon.
Un cortijo Andaluz.
Cosas de Ana.
Cosas de chavales.
Cosas de papa y mama.
Cosmopolis.
Creeme.
Cria cuervos.
Crimen de la calle de Bordadores.
Crin hirsuta.
Crisalide.
Crisol gitano.
El cristo de Los Gitanos.
Cronica.
Cronica de un maestro.
Cronica del rey sabio.
Cronicas romanas.
Cronicon.
Crucero Mediterraneo.
Una cruz en el infierno.
Cruzando el Quema.
Cuadrivo para tres Estradivarius.
Cuanco el cuerno suena.
Cuando Conchita se escapa no hay tocata.
Cuando confirme el mar.
Cuando digo futuro.
Cuando llega mi amor.
Cuando se dice Rocio.
Cuando se dice Triana.
Cuando te conozca.
Cuando tenga mil anos.
Cuando Triana se va.
Cuando van a los toros.
Cuando yo digo que te amo.
Cuanta alegria cuanta tristeza.
Cuanta puta y yo que viejo.
Cuantos anos.
Cuarenta anos sin sexo.
El cuaritto de hora.
Cuarteto.
Cuarteto isleno.
Cuatro bodas de Marisol.
Cuatro verdades.
Cuba va.
Cubierto 15 pesetas.
Cuchillito de agonia.
Cuento de hadas.
Cuerpo de ola.
El cuervo.
Cuidado con la pintura.
Cullera Fox.
Culo de mal asiento.
Cupid y yo.
Cura de La Pinera.
Un curita canon.
Curro Jimenez.
Dale al cuerpo.
Dale que to pego.
Dallas.
Una dama.
La dama con el arco iris.
Dama de Beirut.
Dama del alba (1966).
La dama del alba (1987).
La dama y el pastor.
Dame un poco de amor.
Danas inciertas.
Danubio azul.
Danza de Manacor 1.
Danza de Manacor 2.
La danza del cuelebre.
Danzas concertantes.
De amor.
De Andalucia you soy.
Los de Aragon.
De Belen.
Las de Cain.
De color rosa.
De Cordoba piconera.
De fiesta.
De Huelva a Sevilla.
De la ausencia de ti Velia.
De limon y yerbabuena.
De Madrid al cielo.
De Miami a Chicago.
De nina aquellos juegos.
De noche.

De papel o de metal.
De plata y oro.
De que manera amor.
De Sierra Morena.
De siete a diez.
De su carita divina.
De tenderete.
De una vez.
Debajo del pino verde.
Debo partirme en dos.
La decente.
Defiendo a la juventud.
Deixare la ciutat.
Deja a ese muchacho.
Deja pasar el rio.
Dejame en paz.
Dejenme cantar.
Del amor y de la muerte.
Del crepusculo lento nacera el rocio.
Del gris al azul.
La del manojo de rosas.
Del rosa al amarillo.
La del soto del parral.
Dele color al difunto.
Las delicias de Capua.
Delincuente habitual.
Los delincuentes.
Un demonio con angel.
Los derechos de la mujer.
Derroche de amor.
Desafio de Pancho Villa.
Desafio torero.
Desarraigadas.
Los desastres de la guerra.
Desde el piruli se ve un pais.
Desde Isabel con amor.
Desde la noche a la raiz.
Desde que te he conocio.
Desidia.
Despedida.
Despertar.
Desperte.
Despierta nino.
Despierta.
Destreza.
Desvan de la fantasia.
Un dia de gloria.
Un dia de paz.
Dia de Reyes.
El dia feliz que esta llegando.
Un dia mas.
Diablo en vacaciones.
Diablo que vino de Akasawa.
Diafonias.
Dialogos de nochevieja.
Dialogos entre guitarra y orquesta.
Dias y flores.
Dibujos.
Dibujos animados.
Dicen que el camino es malo.
El dictador.
Diferencias sobre un tema.
Difunto Matias Pascal.
Diligencia de los condenados.
Dime paxarin parleru.
Dimelo.
Dinero.
Los dioses y los cuernos.
Diputado.
Disco pub.
Discopatin.
Disputado voto del Senor Cayo.
Distancia.
Divertimento.
Divertimento giocoso.
Divertimento n 2.
Divertimentos.
Do re mi fa sol la si o vida privade de.
Doce.
Dolores.
La dolorosa.
Domingo Ortega.
Domingo rojo.
Don Miguel su hija y las ilusiones.
Don Ramon.
Dona Clarines.
Dona Francisquita (1967).
Dona Francisquita (1987).
Dona m sa ma.
Dona Mariquita.
Donde estan los hombres.
Donde estaras Rosita.
Donde estas?
Donde estas Ulallume, donde estas?
Donde vas Alfonso XII.
Dormido entre rosas.
Dos de Mayo.
Dos mujers y un Don Juan.
Dos palomas blancas.
Dos poemas de Peniscola.
Dos toreros de aupa.
Double enrejao.
Dracula contra Franskenstein.
Draculin chiquirritin.
Dragonera.
Dubas.
El due de la Africana.
Duelo en el Amazonas.
Duende y misterio del flamenco.
Duna vella I encerclada.
Duo.
Duo concertante n dos.
Duo concertante numero cuatro.
Duo concertante numero T.
Duque de Rivas.
E de Triana.
Ea mio nenin.
Eclipse de luna.
Ecos de machado.
Ecos primaverales.
Educando a papa.
Edurne.
Einstein.
Ejercicios de terror.
Elephants ivres.
Eligeme a mi.
Elisa.
Elisa vida mia.
Elizabeth.
Ella aparecio un atardecer.
Ella ellos y la ley.
Ella tu y yo.
Ella y tu.
Ellos dos.
Elvis la pelvis.
Emigrado.
Emigrantes Almontenos.
Emma.
En Andalucia nacio el amor.
En broma.
En cada instante solo tu.
En el cami.
En el cuarenta y nueve.
En el jardin de la noche.
En el juego de tu amor.
En el medio de los dos.
En el oeste se puede hacer amigo.
En el quicio de mi puerta.
En el Rocio.
En el viejo Buenos Aires.
En este mundo frio.
En estos dias.
En la frontera.
En la fuente del querer.
En la planta 14.
En la red.
En San Juan.
En un asilo.
En un cuartel de milicias.
En un pueblo de castilla.
El enano saltarin.
Encuentro.
El enemigo brutal.
Enganame orta vez.
El engano.
L'enigma de L'estel.
Ensayo general para un siglo de oro.
La ensena.
Ensenar a un sinverguenza.
Entre dos amores.
Entre tu y yo.
Las entretenidas.
Epitafio para Joaquin Pasos.
La era esta pariendo un corazon.
Era que no era un principe azul.
Era.
Eramos de nuestra America.
Erase una vez el and dos mil.
Erase una vez.
Eres tu mi amor.
Es demasiado tarde.
Es fa llarg es fa llarg esperar.
Es muy duro ser una chica Bond.
Es pecado pero me gusta.
Es rubia el cabello suelto.
Es tu pais.
Es una fiera.
Es usted mi padre.
Esa balada de amor.
Esa leyenda.
Esa pareja feliz.
Esas sensaciones.
Escala en Tenerife.
Escalofrio.
Escampla neblina.
Escandalo.
Escribeme tu nombre.
Escuadra hacia la muerte.
Ese dia llegara.
Ese estupido que llama.
Ese ninato se cree.
Ese panuelito blanco.
Eso no es amor.
Espacio sagrado.
Espana debe saber.
Espana en marcha.
Espana sabor 82.

Espana siglo XX.
Espanola abanicame.
Espejo desierto.
Espera.
Esperame.
Esperando el 19.
Esperanza de Triana.
La esperanza.
Espontaneo.
Esta noche me quiero descolgar.
Esta noche quiero brandy.
Esta primavera Vi.
Estaba distraida.
Estaba el senor Don Gata.
Estambul 65.
Estampas.
Estanquera de Vallecas.
Estas jugando con mi amor.
Estas lejos.
Este verano estoy muy bien acompanado.
Esto no es una cancion.
Esto no es una elegia.
Estrella.
Estrella mia.
La estrella perdida.
Estrellas a mis pies.
Un estudiante a una nina.
Estudio amueblado 2 p.
Estudio loco.
Estudio sin luz.
Estudios.
Eternamente amor.
Eterno secreto.
Eterno tuy.
Eugenia de Montijo.
Europa canta.
Europa ha muerto.
Euskadiko ereserkia.
Existen.
Extrano mundo del profesor.
Los extremenos se tocan.
Fabula de los tres hermanos.
Falso amigo.
Fama del tartanero.
La fama del tartanero.
La familia la propiedad privada y el amor.
Familia Marti.
Fandango y la Jarana.
Fandangos de huelva.
Los fanfarrones.
Fango.
Fantasia amorosa.
Fantasia ciclica en tres movimientos.
Fantasia en scala.
Los fantasmas.
Fantastico mundo del Dr. Coppelius.
Farola de Santa Cruz.
Favareta.
Fea y congracia.
Federica de Bramante.
Fedra West.
Felices pascuas.
Felices vacaciones.
La felicidad.
Felicidades.
Feria en Sevilla.
La festa.
El festin de Baltasar.
Festival en Benidorm.
Fet a posta.
Fiel conserje.
Fierecilla domada.
La fiesta de los cantantes.
Fiesta en Benidorm.
Fiesta en la caleta.
Fiesta en la playa.
Fin de un largo viaje.
Final de viaje.
Find the cool line.
Fins que cal dir se adeu.
Los flamencos.
Flor roja.
Floreal.
Las flores de tu apellio.
Flores del miedo las.
Folias parranderas.
Ford Garantias.
Fortunata y Jacinta.
Fortunato.
Fox del clarinete.
Francisco Guayabal.
Francisquita la Maleva.
Francotirador.
Frente a palacio.
Frontera al sur.
Fruta madura.
Los frutos de El Dorado var I.
Los frutos de El Dorado var II.
Los frutos de El Dorado var III.
Los frutos Del Dorado.
Fue tu nombre.
Fuenlabrada 2 1.
Fuente magica.
Fuimos un grupo vigues.
Fulano y Mengano.
Fumancho y el beso de la muerte.
Furia del hombre lobo.
Fusil contra fusil.
Gabriel de Espinosa.
Gabriel y Galan.
El gaitero de Gijon.
Un galan norteamericano.
El galgo.
Galicia de mis amores.
Galicia sitio distinto.
Galicia sitio distinto 1 parte.
Gallardo Espanol.
Gallego.
Ganas de renir.
Un ganster llegao de Brooklin.
Garbanza negra que en paz descanse.
El garrotin.
Gaseosa revoltosa.
Gasolina.
Gato con botas.
Gaur Belenera.
Los gavilanes.
La gaviota.
Gemelas de teaatro.
Generaciones.
La generala.
El genio alegre.
Gente sin importanica.
Geraldine.
Geyper juegos reunidos.
Gigantes y cabezudos.
Gigantes.
Giron preludio.
Gitana gitana.
Gitana y el charro.
Una gitana.
Gitano moro.
Gloria.
Golde de mano.
El golfo.
Gorilas bailarines.
Una gota de sangre para moria amando.
Goya.
Grado treinta y tres.
Un gran amor.
Gran aventura de los gnomos.
Gran Final.
Un gran hombre.
El gran minue.
Gran Via.
La gran via.
Granada mia.
En Granada.
Granadeno.
Grandes amigos.
Graziella.
El grillo.
Gringo.
Gris.
Gritos en la noche.
Gritos y susurros.
Guadaquivir.
La guapa.
Guardafronteras primera.
Guardando fronteras.
Guerra de papa.
La guerra empieza en Cuba.
Guerrilleros.
Guillermo Hotel.
Guillermo Tell tiene los ojos tristes.
Guitarra.
La guitarra.
Guitarra mia.
Gutemberg.
Habanera imposible.
Habaneras de Sevilla.
Habitacion para tres.
Hala Madrid.
Hamelin.
Hare un lecho de algas.
Harem.
Hasta el dia en que vuelva.
Hasta manana.
Havemos de voltar.
Hay amores.
Hay que bailar.
Hay que rimar.
He mirat aquesta terra.
Hechizo.
Un hecho violento.
Heil Hitler.
Hemeroscopium.
Herbania.
Hermano bebe.
Hermanos Reyes.
Heroes de la Union Sovietica.
Heroes del patibulo.
Heroes el 36.
Hicieron partes.

Hija de Juan Simon.
Hija de Pepa Cale.
Hija del capitan.
Hijo que vas creciendo.
Hijos de.
Hijos del dia y de la noche.
Himno a Valencia.
Himno al sol.
Himno galego.
Himno regional.
Hipnosis.
Una historia de amor.
Historia de la humanidad.
Historia de un adulterio.
Historia de una chica sola.
Historia de una muneca abandonada.
Historias intimas del paraiso.
Histories.
Ho Chi Min.
Hoja roja.
Hola manocete.
Hollywood.
Hombre de la oreja rota.
El hombre de Maisinicu.
Hombre de Rio Malo.
Hombre del seiscientos.
Hombre del valle maldito.
Hombre preso que mira a su hijo.
Hombre que supo amar.
Hombre que vas creciendo.
Un hombre se levanta.
Hombre solitario.
El hombre y la tierra.
Un hombre y una mujer.
El hombrecito.
Home dibuixat L.
Homenaje a la Seguidilla.
Homenaje a sor.
Hora de partir.
Horas de ronda.
Una horita antes.
Hot sun.
Hoy es mi dia.
Hoy es un dia especial.
Hoy la vi.
Hoy llego la primavera.
Hoy me voy.
Hoy mi deber.
Hoy no quiero estar lejos de la casa y el arbol.
Hoy para mi.
Huellas.
Huellas que se van.
Hueso.
El huesped del sevillano.
La huevera la lechera y la pollera.
I beg your pardon.
I come for you.
I need somebody to love tonight.
El ibas con.
Idiota.
Illeta.
Imaginate.
Immensidad.
Inca taqui.
El inclusero.
Indesinenter.
Indianapolis.
Indiferencia.
Indulto.
Infants.
Los infieles.
Inici de campana.
Inici de Cantic en el temple.
Inocentes.
Inor ezda.
Las insaciables.
Insula barataria.
Intentalo.
Los intereses creados.
Invitation au voyage.
Iparragirre tar Joshe Ma.
Irene.
Ironia del dinero.
Irresistible Mister Pink.
Isa.
Isa del vino.
Isabel y Fernando.
Isabel y Maria.
Isidoro Maiquez Espanol y actor.
Isla misteriosa.
Islas del Caribe Barbados.
Isolina.
Itxapopena Elkartearen Kalejira.
Ivanna.
Jaleo real.
Jamas.
Jarabo.
Jardi tancat.
Jardin de las delicias.
Jardines de Granada.
Javiera la cangrejera.
Jenner.
Jesucristo Superstar.
Jetztzeit.
Jivaro.
Joaquin Murrieta.
Joc partit.
Joca I joguines.
John is gonna break your heart.
Jose Zorrilla.
Jota vasca numero uno.
Joven Picasso (1881–1907) 1.
Joven Picasso (1881–1907) 2.
Joven Picasso (1881–1907) 3.
Joven Picasso (1881–1907) 4.
Joven rico y caradura.
Juan De Avila.
Juan Gaviota.
Juan Lucero.
Judas.
Juega sucio.
Juego de la oca.
Juego de ninos.
Juego del desprecio.
Juegos de socidad.
Juegos para mayores.
Juegos y juguetes.
Jugando a vivir.
Jugando por jugar.
Jugines.
Juguetes para un matrimonio.
Julieta y el hombre herido.
Junta de Andalucia servicio de salud.
Justo.
La juventud.
Katiusca.
Kid Rodelo.
Ko.
Kryptonita.
Kukulcan.
Kwaidan.
La ra la la.
Laberinto de fortuna.
El labrador.
Un labrador en la ciudad.
La labradora.
Ladron de chatarra.
Lady veneno.
Lagrimas amargas.
Lagunzane.
El lando de sis cavalls.
Larga espera.
Latidos.
Lau teilatu.
Lavelacialalacio suite.
Lawrence S Heart.
Lazos azules y rosas.
Leandras.
Lecciones de buen amor.
La lechera.
Leia.
Lelia Doura.
Lena al fuego.
Lerele.
Let me be your love.
Letters for you.
Levante.
Ley del mar.
La leyenda de los mundos.
Leyenda de San Borondon.
Leyenda del Caballero y la muerte.
Libre quiero ser.
Libro profetico.
Limon revoltosa.
Lingo.
Lis.
Lissa.
Llagrimes.
Llama cuando quieras.
Llanero.
La llave.
Llega la Navidad.
Llega sartana.
Llegada a Frankfurt.
Llegara el amor.
Llegaron los franceses.
Llego merce.
Llevame a Paris.
Un llop de mar.
Llorando y riendo.
Lloraras por el.
Lo egin.
Lo lamento cuanto lo siento.
Lo mas valiente.
Lo nuestro.
Lo que me gusta de ti.
Lo siento papa.
Locos vecinos del segundo.
Locura.
Lorce muerte de un poeta (generico).
Lord Arthur Laville.
Loteria nacional aniversario.
Loterial nacional el nino.
Love feroz.
Loza lozana.
Lucky el intrepido.

Luis Pasteur.
Luisa Fernanda.
Un lujo a tu alcance.
Luna de abril.
Luna de dia.
Luna de mayo.
Luna llena estival.
Luna y sol.
Lying on the sand.
Ma/ana de Domingo.
Made in Spain.
Madre Alegria.
Madre ciudad.
Madre comprame un Negro.
Madre comprame un vestio.
Madre coraje.
Madre guapa.
Madre.
Madrid 1840.
Madrid 1955.
Madrid amanece.
Madrid costa fleming.
Madrid.
Madriguera.
Madronos.
Maestro Campanone.
La magia del sol primera parte.
La magia del sol segunda parte.
Magic.
Magica aventura.
Maite.
Maitecu.
Mala cabeza.
Mala racha.
Mala sangre.
Malaga.
Malaga virgen.
Maletilla.
La malquerida (1913).
Malquerida (1940).
Malvaloca.
Mama con nina.
Mama cumple cien anos.
Mama Lola.
Mambru se va a la guerra.
Manana de sol.
El manantial.
Mania depresiva.
Los maniaticos.
Manifiesto de Diciembre.
Mano rapida.
Manolo de mis amores.
Las manos son inocentes.
Manos sucias.
Mansion de la niebla.
Manuel Raquel.
Manuela Garcia.
Maravilla.
Maravilloso soller.
Marcada por los hombres.
Marcas.
Marcelino.
Marcha real fusilera.
Mare dejame usted ir.
Marea gora.
Marejada.
Margarita.
Maria.
Maria Belen.
Maria de la o.
Maria Del Mar.
Maria enamorada.
Maria Fernandez.
Maria Gimenez.
Maria Hipolita.
Maria la mosca.
Maria la tabernera.
Maria Manuela.
Maria Morena.
Maria moreno.
Maria Sabina.
Marianela.
Mariano.
Maribel y la extrana familia.
Marihuana.
La marimorena.
Marinerias.
Marinero cantor.
Mariola.
Mariposa que volo sobre el mar.
Mariposa.
Mariposas.
Mariquilla Terremoto.
Marisma y luz.
Maruja.
Maruxa.
Mas fabuloso golpe del far west.
Mas y mas 1.
Masa.
Mascara de cuero.
Mascara de Scaramouche.
Maspalomas y tu.
Matalo.
Matalos y vuelve.
Maya.
La Mazurca Azul.
Me duele tu amor.
Me enamore como nunca.
Me enamoro.
Me estoy muriendo de sed.
Me gusta como andas.
Me gusta el rock.
Me gusta el vino.
Me gusta tu cara.
Me gustaria.
Me ha dicho el carretero.
Me ilusionabas tu.
Me ire.
Me lo decia mi abuelito.
Me refugio en ti.
Me sueltan manana.
Me toco perder.
Me voy a morder la lengua.
Me voy Al Rocio.
Me voy sin ti.
Mecia a los romeros.
Meciendo al nino.
La medida del tiempo.
Megaton ye ye.
La meiga.
Melancolia.
Melancolico formentor 1.
Melancolico formentor 2.
Melita papel filtro.
Melocoton en almibar.
Melodia de Andraitx 1.
Melodia de Andraitx 2.
Mendigo Evaristo.
Mensaje.
Mentiras.
Menudo menu.
Merce.
Mestizo.
Metamorfosis de concierto para guitarra y orquesta.
La metamorfosis.
Metralleta Stein.
El meu poble i jo.
Meus armans.
Meva Valencia.
Mi adorado Juan.
Mi amazona.
Mi amigo Cleofas.
Mi barca se llama Lola.
Mi caballo murio.
Mi calle.
Mi carretera.
Mi ciudad es una chica de ahora.
Mi hermano.
Mi marido y sus complejos.
Mi noche de bodas.
Mi primer amor.
Mi pueblo.
Mi refugio son tus ojos.
Mi Rita bonita.
Mi robot.
Mi ruisenor.
Mi senor es un senor.
Mi sombra.
Mi verso es como un punal.
Mi viejo Madrid.
Micky Micky.
Microrapsodia.
Microsuite.
Miedo.
Mientras llegue la hora.
Miguel Servet la sangre y la ceniza MSV.
Mil ojos del asesino.
Milagro en casa de los Lopez.
Miles avenue.
Millon de te quieros.
Un millon en la basura.
Millones de vidas.
Millones del difunto James Gloucester.
Mimi Pinson.
Minetras mi corazon sufre.
Mini amor.
La minifalda.
Mirame bien.
Miriada.
Mis razones.
Mis veintidos anos.
Misa basica.
Misa cantada en castellano.
Miserables.
Miserere para medio fraile.
Mision en Ginebra.
Miss Cuple.
Miss Muerte.
Mister X.
Las mocitas toledanas.
Las modas.
La molinera de Arcos.
Molinos de viento.
La momia de Hamalahi.

Una moneda le di.
Monje misterioso.
Los monos calvos.
Monte Carmelo.
Montecarlo a nuestros pies.
Montecarlo Beach.
La monteria.
Monumento.
La mordaza.
Morenina.
La Moreria.
Morir de amor.
El Morito Ben Ali.
La morralla.
Morrina.
La moto.
El motocarro.
La movida del sur.
La moza vieja.
Muchacha corazon de madera.
La muchacha del sombrerito rosa.
Una muchachiga de Valladolid.
La muchachita.
Muchas felicidades.
La muerte.
Muerte busca un hombre.
La muerte de Manolete.
Muerte de un ciclista.
Muerte del hombre.
Muerte en el barrio.
La muerte llama a las diez.
Muerte se llama Myrian.
Muerte viaja demasiado.
El muerto al hoyo.
Muerto hace las maletas.
Mujer.
Mujer de la tierra caliente.
Mujer del ministro.
Mujer Espanola.
Mujer mujer.
Mujer Portuguesa.
Mujer y barca.
Mujer y guitara.
Mujeres.
Las mujeres sabias.
Los muleros van.
Mumer del juez.
Un mundo de desilusiones.
Un mundo para mi.
Muralla.
La muralla.
Murga los currelantes.
Musica de ayer.
Musica de la clave.
Musica para quinteto de.
Musicas de camara.
Musiquero.
Muxima.
My bravo Spanisch man.
My son.
Mysteria.
Nace un hidalgo.
Nada.
Nada mas.
Nadie le tema a la muerte.
Nadie oyo gritar.
Nadie puede juzgarme.
Nadie te espera.
La nana de la adultera.
Nana para Victor G. Leon.
Nanay.
La naturaleza.
Navaja de papel.
Navajeros.
Navidad con el quando.
Navidad con paz.
Nazarena.
Necesito un amigo.
Necronomicon.
Nelson Mandela sus dos amores.
Neron.
Nerva.
Nestle cereales.
Neuvas gentes.
Never mention my name.
Never say you love me.
Never want to dream again.
Ni pobre ni rico sino todo lo contario.
Ni poeta ni pintor.
Niebla y sol.
La nieve.
Nina de La Venta.
Nina de luto.
La nina de Punta Umbria.
La nina del amo.
Nina soltera.
La nina y el amor.
Nina y los besos.
Nine dios el.
Ninette.
Ninette y un senor de Murcia (1964).
Ninette y un senor de Murcia (1987).
Ninguna piel despues de ti.
El nino Judio.
El nino lobo.
El nino que ya no soy.
Ninos no somos tan tonto.
No aguanto a tu prima.
No dejes pasar tu vida en blanco.
No despertarla.
No es nada mama solo un juego.
No estas sola.
No hay carretera sin barro.
No hay sirenas.
No hemos inventado nada.
No me acaricies el pelo.
No me olvides.
No me pidas.
No me pongas conferencia.
No me preguntes.
No pido mucho.
No profanar el suc/o de los muertos.
No pude quitar mis ojos de ti.
No se si el cielo es tan alto.
No seras nunca el flautista de Hamelin.
No te aguanto mas.
No te tardes que me muero.
No te vayas de tu Espana.
No te vayas.
No temas a la noche.
No tengo no tengo.
No tiene importancia.
No trobaras la mar.
No vayas sola.
No vivo en una sociedad perfecta.
No, no, no.
Nobleza obliga.
Noche de boda.
Noche de los asesinos.
La noche de los cien pajaros.
La noche de los diablos.
Noche de Simon Pedro.
Noche de verano.
Una noche embarazosa.
Una noche en Calatayud.
Noche en palacio.
Una noche en Paris.
Noche y el alba.
Noches de Casablanca.
Noches de magaluf.
Nocturno n 2.
Nocturno.
Nofres.
El noi de la mare.
Noia de porcellana.
Noia que s ha posat a ballar.
Norma Jean.
Nous cants de llibertat.
Noventa y nueve mujers.
Novia ensangrentada.
Novia mora.
Novicia rebelde.
Novio a las vista.
Nuba.
Nuestro aniversario.
Nuestro mundo.
Nueva Marilyn.
Nueva York insolito.
Nuevas aventuras del Zorro.
Nuevo centro centrolandia.
El nuevo servidor.
Un nuevo tono.
Numero uno.
Numeros pares.
Nunca en horas de clase.
Nunca pasa nada.
Obertura.
Obsesion.
Obsesiones de Armando.
Ocho preludios.
Octavario.
Oda fur Marisa.
La oficina.
Oh general en tu Pentagono.
Oh uh oh.
Oh un anec sinfonic.
Ojo del huracan.
Ojos bonitos.
Ojos en las manos.
Ojos siniestros del Doctor Orloff.
Ojos vendados.
Oklahoma John.
Olatuak.
Ole flamenca.
Oleo de mujer con sombrero.
Olvidate de mi.
Ones.
Onofre.
Opera flamenca.
Operacion boda.
Oracion militar.
Una oracion rociera.
Oratorio de fuenterrabia.
Ordizzia.
La organizacion.
Orgia de los muertos.

Orilla.
Os tres Galleguinos.
Oscuros sue/os de Agosto.
Otra alcoba.
La otra orilla.
Otra vuelta de tuerca.
La oveja negra.
Pa Belen.
Pa la candelaria.
Pa que tus hijos comieran.
Padres e hijos.
El paisano.
Los pajaros.
Palabras fundamentales.
Palabras para Julia.
El palmero.
Paloma herida.
Paloma planidera.
Palomas intrepidas.
Pan amor y Andalucia.
Pan y toros.
El panadero.
Panico en el Transiberiano.
Panico en Torrejon.
Pantalones.
Panuelo blanco.
Panuelo.
Papa decirte que te quiero.
El papalote se fue a Bolina.
Paquito chocolatero.
Para Huelva.
Para quererte.
Para sentirme viva.
Para un homenaje a Miguel Hernandez.
Para un nino.
Para verte reir.
Parafernalia.
Un paraguas baja la lluvia.
Paraiso mecanico.
Una pareja distinta.
Paris.
Parranda canaria.
Parto del sinor honoro.
Partos de charanga.
Pasan dias.
El paseo.
Paso a dos.
Paso de la novicia ingenua y la abadesa prudente.
Pastor que tas en el monte.
Patio de vecindad.
El patito feo.
Los patitos.
Patria chica.
Patricia mia.
Paula.
Pecados conyugales.
Pecar en Madrid.
Peina y mantilla.
El peine de los vientos.
La pell de brau.
Pena de muerte.
Pena Vinaza.
Penamariana.
Peon de confianza.
Pepa doncel.
Pepe sera papa.
Pepita Romero.
Pepito Piscinas.
Peppermint frappe.
Pequena comedia.
Per a Frederic.
Per que la gent s avorreix tant.
Perdidas blancas.
Perdido.
Perdido por las calles.
Perdona Otelo.
Perdoname.
Pero amanecio.
Pero en la sequedat arrela elpi.
Pero no ves.
Perro.
Perros callejeros.
Perseguidos.
Persuasion.
Perversion.
El pescador de Morenas.
Petita canco de la teva mort.
Piano loco.
Pianos mecanicos.
Picara molinera.
La picara molinera.
La picara molinera.
Piccolo concerto.
Pico.
Pico dos.
Los Piconeros.
Piel de terciopelo.
Piensa en mi.
Piensas.
Pimpinela donde estas.
El pino y el almendro.
Los pintores.
Pioneros.
Pirata.
El Pirate i les Sirenes.
Piropos a Cordoba.
Pisito.
Pistoleros de Paso Bravo.
Placeres ocultos.
Placido.
Planton.
Platero y yo.
Playa prohibida.
Playas de Espana.
Plaza de La Maestranza.
Plaza de Oriente.
Pluma de oro.
Pobre del cantor.
Pobre desiderio.
Pobre juventud.
Poca cosa.
Poder del deseo.
Poesias.
Poetica.
Polifantic.
El polizon.
El pollero.
Ponen tu cara.
Por el camino de mieres.
Por eso vuelve por favor.
Por la calle abajo.
Por la playa.
Por las paredes.
Por los caminos.
Por primera vez te canto.
Por que te amo.
Por que yo no puedo.
Por salir de dudas.
Porque se apago la vela.
Porque te quiero.
Las porteras.
Portocristo 1.
Pot ser arran de l alba.
Precio de un hombre.
Precisamente tu.
Pregaria.
Pregon de bodas.
Pregon de semana santa.
El pregon del naranjero.
El pregon del Riojano.
Pregonera de Espana.
Pregonera de sal.
Prelude.
Preludes n 1st 2nd 3rd.
Preludio.
El previo de los suenos.
Prima Angelica.
Primavera en la plaza de Paris.
El primer amor.
La primera mentira.
La Princesa Alala.
La Princesa Olalla.
Princesita.
Principe de la marisma.
El principe enano.
Principio y fin de un amor.
Problema sexual.
Proceso a una estrella.
El proceso de Arzobispo Carranza.
Proclamacion de la copla.
Procura hablarle tu.
Programa especial.
Prohibido en otono.
Prohibido enamorarse.
Prohibido suicidarse en primavera.
Prologo.
Promesa rota a Manuel.
Promesas.
Proposiciones.
Proposiciones para explicar la muerte de Ana.
Proscrito del rio Colorado.
Protegidas.
Protocristo 2.
La proxima estacion.
Pruebame y veras.
Puebla de las mujeres.
Pueblo gitano.
Pueblos del mundo extinguios.
Puedes quedartelo.
Puente.
El puente de los suicidas.
Puerto de Cabras.
Puerto de Pollenca 1.
Puerto de Pollenca 2.
Pulgarcito.
Punto y final.
Puse tu nombre.
Qualsevol nit pot sortir el sol.
Quando.
Quando de los reyes.
Quando del amor.
El que baila en tu ventana.
Que bonito es Badalona.
Que bonito es querer.

Que bonito es vivir.
Que corra la nicotina.
Que cuentas puedes pedir.
Que Dios reparta suerte.
Que hace una chica domo tu en un sitio c.
Que lastima de carino.
La que llaman Soledad.
Que loco estoy por ti.
Que me da la vida.
Que no me despierte nadie.
Que no que no.
Que no se extinga la llama.
Que pena de mi nino.
Que quieres tu.
Que se puede hacer con el amor.
Que sera que todos piden.
Que seria de Colombia.
Que solo me dejas.
Que te voy a dar.
Que tengo yo que hablarte.
Las que tienen que servir.
Que viva el jefe.
Que ya vivi que te vas.
Quedate a desayunar.
Quedate no te vayas hoy.
Queixumes.
Querer tener riendas.
Quererte hasta la ceguera.
Questions and replies.
Quien ha pensado en mi.
Quien me tiende la mano al pasar.
Quiereme.
Quieres mas suerte.
Quiero amarte hasta el fondo de mi corazon.
Quiero decirtelo.
Quiero ser de nuevo el que te amo.
Quiero ver Brasil.
Quiero vivir de amor.
Quiero y no puedo.
La quilla de tu navio.
Quina grua el meu estel.
Quiniela.
Quinto cantar.
Quisiera saber.
Quisiera ser luna.
Quizas manana.
Radio 80 sintonias.
Raices.
Rancho de pollos.
Raphael en Raphael.
Rapsodia velenciana.
Raska yu.
La ratita presumida.
Ratita resumida.
Raton ratoncito.
Rayma pulsera magneticas.
Una razon para vivir una razon para mori.
Razones para seguir.
Rebeldia.
Rebelion de Gutierrez.
La rebelion de los bucaneros.
Rebelion del cuerpo.
Rebelion en el retablo.
Recluta recluta.
Recomendado.
Recordando a Chopin 1.
Recordando a Chopin 2.
Recorramos este tunel.
Recuerdos.
Recuerdos del porvenir.
Recuerdos del viejo carnaval.
Recuerdos Rocieros.
Reflexus obertura.
El regalo.
Regresa un desconocido.
Regresaras.
Regreso a Mexico.
La reina de la fiesta.
Reina del Caribe.
Reina del Chantecler.
La Reina del Tabarin.
Reina Juana.
Reina Mora.
Rejas de amores.
Rejon de muerte.
Repelente nino Vicente.
Requiem para un gringo.
Requiem per un agente secreto.
Requiem por un amor.
Res no es mesqui.
Residencia para espias.
Responde tu.
Resultado final.
Resumen de noticias.
Retablo jovial.
El retaule del flautista.
Retorne de D Artacan, uno para todos y.
Retrato de familia.
Retrato de gorrion.
Retrato de Mister Murphy.
Retrato del poeta.
Retrato.
Revolta de bruixes.
Rey de Africa.
El rey de la carretera.
El rey de las flores.
El rey del optimismo.
El Rey del pop.
Reynolds papel aluminio.
Reza.
Reza por mi.
La rica heredera.
Ricardo DeFabra.
Rie y bosteza.
Rincon de los chicos.
Rio.
Rio de ausencia.
Un rio de pasion.
Rio de suenos.
Rio de usted.
Rio Grande 2.
Rio manso.
Rio que no cesa el.
Rio rebelde.
Risa.
Risa segun Cassen.
El ritmo de apostar.
Ritz Hotel.
Riu de agost.
Robert Koch.
Roberto amor mio.
Roberto Krull, the wandering Jew.
Rock animal.
Rock de la legalizacion.
El rock de una noche de verano.
Romance a Floreal.
Romance de Dona Ximena.
Romance de viento y quena.
Romance de Villamediana.
Romance del fantasma y Dona Juanita.
Romanico y romantico.
Romantica Moscu.
El ron caliente.
Rosa colora.
Rosa de ojal.
La rosa del Azafran.
Rosa la China.
Una rosa roja.
Rosa Rosae.
Rosa se esta buscando en el espejo.
Rosalia de Castro.
La Rosario o la rambla de fin de siglo.
Rosas de otono (1905).
Rosas de otono (1943).
Roseta.
Rosita.
La rosso.
La rubia del far west.
Rueda del amor.
Rumba del Bambu.
La rumba del gitanito.
La rumba del pai pai.
Ruta de los narcoticos.
Sabada chica y motel que lio angel.
Sabeline.
Saber que me necesitas.
Sabio tonto.
Sabor de amor.
Sabor de la venganza.
Sabrosita.
Sacerdote.
Sacredotes de amon.
Saeta rubia.
Safari.
Saharas.
Salir de aqui.
Saltonas tartamudas.
Salvaje.
Samba.
San Antonio Aurrera.
San Jose de Arimatea.
San Marcial.
San Rosendo.
Sandokan.
Sangre azul.
La sangre de Dios.
Sangre gorda.
Santiago de Chile.
Santos inocentes.
Sara.
Sardana.
Sardinas en filetes.
Sasibil baserria.
Satanik.
Se acabo el negocio.
Se acabo lo que se daba.
Se bambolea.
Se busca un corazon.
Se fue con el agua.
Se siempre feliz.
Se vende salud.
Secret lover.
Secreto.

Secreto de los astros.
Secreto de los hombres azules.
Secreto del Doctor Orloff.
Secreto inconfesable de un chico bien.
Secretos de alcoba.
Secuestro.
Seguidillas.
Segunda sonata.
Segundo poder.
Seis piezas caracteristicas (v a).
Seis piezas caracteristicas.
Selector de frecuencias.
Semana del asesino.
Semillas de olvido.
La senal.
Seneca.
Senor de villemer.
Senor Esteve.
Senor Garcia.
Senor Pandolfo.
Senora ama (1908).
Senora ama (1955).
Una senora estupenda.
Senora maestra.
Senorita de Cormeilles.
Senorita.
Senoritas de uniforme.
Sentado en la bahia.
Sentado junto al rio.
Sentiments.
El senyor de les pedres.
Septiembre.
Septimo de caballeria.
Ser dios.
Ser o no ser.
Sera esta noche.
El serafino.
La serranilla.
Sete cel el.
La severa.
Sevilla lleva el compas.
Sevilla mambo.
Sevilla me esta llamando.
Sevilla y Triana.
Sevillanas de colores.
Sevillanas de la marisma.
Sevillanas de la romeria.
Sevillanas del cante.
Sevillanas del enamorado.
Sevillanas del grillo.
Sevillanas del rastro.
Sevillanas del transito.
Sevillanas en versos.
Sexo chungo.
El sheriff de tus labios rojos.
El show.
Si el nino hubiera nacico.
Si esto no es amor.
Si la despullava.
Si las piedras hablaran.
Si me ves volar.
Si no us sap greu.
Si preguntan por mi.
Si tu lo quisieras.
Si tu no estas que poco tengo.
Si tu quisieras.
Si un dia miras a los ojos de la patria.
Si ves un monte of espumas.
Si yo tuviera.
Sicania.
Siempre en Domingo.
Siempre hay que mentir.
Sierra de Ronda.
Siesta.
Siete colores.
Siete dias de enero.
Siete rosas.
Un silencio de tumba.
Sillon de mis entretelas.
Simbad el marino.
Sin aliento.
Sin la sonrisa de dios.
Sin tenerte cerca.
Sin ti por ti.
Sin tu amor.
Sinfonietta.
Sintonia no do.
Sintonia programa buenos dias.
Sir Alexander Fleming.
Una sirena en la Alhambra.
Sitiados en la ciudad.
Sobre el surco.
Sobre Madrid.
Sobrenatural.
Sol bajo la tierra.
Sol de verano.
Sol en Triana.
El sol no da de beber.
Sola triste y callada.
Soldadito espanol.
El soldado con cara de nino.
Soleares.
Soleda.
Soledad mia.
Soledad.
Soliloquios de Dracula.
Solituds.
Sollievo.
Solo de flauta.
Solo dos palabras.
Solo el amor y la luna traen fortuna.
Solo estoy.
Solo pienso en ti.
Solo te pido hablame.
Solo tu.
Solo una madre.
Solo yo.
Solos los dos.
La soltera.
Sombra del arpa.
La sombra del pilar.
Sombras de ayer.
Sombrero Andaluz.
Un sombrero de paja.
Sombrero en mano.
Somos.
Somos choqueros.
Somos diferentes.
Somos dos fugitivos.
Son de Cuba a Puerto Rico.
Son mas en una mazorca.
Son para despertar a una negrita.
Sonando nuevo futuro.
La sonata de Grieg.
Sonata en re.
Sonatas.
Sonate, op. 61.
Sonatina.
Sonatina para guitarra y orquesta.
Sones de triunfo.
Sonja.
Sor Narcisa.
Sor ye ye.
Sospecha.
Soy como soy.
Soy de Espana y nada mas.
Soy del Caribe.
Soy del sur.
Soy el cafe.
Soy el que vende mas barato.
Soy mujer.
Soy un bollito.
Soy un guason.
Soy un sinverguenza.
Soy y no soy el mismo.
Spanish shuffle.
Stop.
Stress es tres tres.
Su mirada.
Suave carino muy suave.
Sublime decision.
Suena la margarita.
Suenan Campanas.
Sueno de amor.
Sueno de Andalucia.
El sueno de una noche de verano.
Suenos del maletilla.
La suerte.
Suite Alicantina.
Suite Castellana (v a).
Suite Castellana.
Suite en la.
Sukalde cocina.
Super chica.
Superficie no. 1.
Supon.
Suspenso en comunismo.
Suspiro del moro.
Los suspiros mios.
T sport.
La taberna fantastica.
La tabernera del puerto.
Tablao de gala.
Taconeando.
Talisman.
Tambor de sequias.
Tambor y cascabel.
Tan raro.
Tandy 1.
Tango de las madres locas.
Tango de los gay.
Tanto, tanto.
Tarde de poetas.
Tarots.
Tartarin de Tarascon.
Tartessos.
Tarzan en las minas del rey Salomon.
Tarzan y Jane.
Tatuaje.
Te amare.
Te de los detectives.
Te di una flor.
Te entregare gare gare gare mi amor.
Te estas pasando.
Te fuistes.
Te odio y te amo.
Te quiero.

Te quiero gitana.
Te quiero mucho.
Te recorde.
Te regalo una fiesta.
Tea party.
Techo de cristal.
Tecnica para un sabotaje.
Tecnocratas.
Telefonista.
La television.
El televisor asesino.
Tema candido uno.
Tema dandido dos.
Tema de Candido.
Temporalia.
Temps era temps.
Ten cuidado.
Ten trinaranjus.
Tenemos dieciocho anos.
Tengamos la guerra en paz.
Tengo el mio Xuan en la cama.
Tengo en el pecho una jaula.
Tengo un anillo.
Tengo un novio marinero.
Tengo un te quiero.
Tengo una chica.
Tentaciones.
La tercera palabra.
Tercio de quites.
Teresa De Avila.
La ternura del caiman.
Terror en la noche.
Terrorista de tu corazon.
Tesoro de la isla.
Testamento.
Testamento.
Texas kid.
Tia Tula.
Tic tac.
Tiempos nuevos tiempos salvajes.
Tiene usted algo que alegar.
Tierno furor.
Tierra.
Tierra de nadie.
Tierra es una bola de color.
Tierra firme.
Tierra y cielo.
Tierras de Valladolid.
Tierras llanas.
Tigres de papel.
Tiita Rufa.
Timanfaya.
El tintero.
Tio Julio.
Tio, tio, tio.
Tipo duro.
Titigua.
To como yo.
Todas las cosas van hacia ti.
Todo a su favor.
Todo lo que soy.
Todo por el aire.
Todos los paletos fuera de Madrid.
Todos rien de mi.
Todos tenemos un precio.
Toloveo Largavista.
Tom Sawyer detective.
Tongo.
Too young to be a pharaoh.
Toque en La Palangana.
Torbellino de colores.
Tordos y caracoles.
Toreros gitanos.
Tormenta a las 10.
Toro y caballo.
Toros y coplas.
Trae la escoba Pepe.
Tragedia fantastica de la gitana Celestina.
Tragicomedia del ilustrisimo senor.
La traicion.
Trampa para un forajido.
Trampero.
Transfiguracion.
Transmediterrani Expres.
Trapecio de dios.
Trasnochados espineles.
Trastienda.
Travelling on Sagitarius Two.
Travesuras de Morucha.
Tremolina.
El tren de madera.
Tren especial para Hitler.
Tres cancons sentimental.
Los tres etceteras de Don Simon.
Tres etceteras del coronel.
Tres hombres van a morir.
Tres interludis.
Tres punales.
Tres semanas.
Tres solteros inocentes.
Tres sombreros de copa (1952).
Tres sombreros de copa (1963).
Triana mia.
Triangulito.
Trio concertante n 1.
Trio numero uno.
Trio para instrumentos de viento.
Triptico.
Truchas.
El truquito.
El trust de los tenorios.
Tu al monte yo al mar.
Tu amor.
Tu amor a medias no me interesa.
Tu conciencia.
Tu confidente.
Tu Cupido.
Tu eres la llave.
Tu eres mi verdad.
Tu ingratitud.
Tu me juraste.
Tu me prometiste volver.
Tu mirado.
Tu no eres eso.
Tu no lo sabes.
Tu no sabe ingle.
Tu nombre.
Tu nombre en el agua.
Tu persona.
Tu rio yo puente.
Tu sombra en el suelo.
Tu y yo.
El tuerto es el rey.
Tus ojos de ole con ole.
Tus ojos nina.
Two catalan song.
Uh que calor.
Ulls clucs lamor.
Ultima aventura del Zorro.
Ultima mujer.
Ultima Senora Anderson.
Ultimas verdades.
El ultimo bolero.
Ultimo caballo.
Ultimo cafe.
Ultimo cuple.
Ultimo de los Kyber.
Ultimo dia de la guerra.
Ultimo Mohicana.
El ultimo tren.
Ultimo verano.
Ultimo viaje.
Los ultimos dias de Emmanuel Kant contados por E. T. A. Hoffman.
Ultramarina.
Un dos tres responda otra vez.
Un, dos, tres.
Una mujer para Marcelo.
Underground vibrations no. 2.
Uno mas.
Urbanizacion pinar de garaita.
Urdina txiki.
Usted puede ser un asesino.
Va de pastora.
Va por ellos.
Los vagabundos.
Valencianeta.
Valiente.
Valldemosa en la bemol.
Vamos a andar.
Vamos a contar mentiras.
Vamos a la cama.
Vamos a tocar en las esquinas.
Vamos pa lante.
Vamos que nos vamos.
El vaquero rockero.
Variaciones sobre un tema castellano.
Variaciones sobre un tema de Mozart.
Varietes.
Vas a mentirme una vez mas.
Vaya mentira.
Vaya tronio.
Vaya un lio.
Ve con el.
Las Vegas 500 millones.
Veinte y cuarenta.
Una vela para el diablo.
Velazquez.
Ven a jugar conmigo.
Ven a mi fiesta.
Ven que te llamo.
Ven Y sigueme.
Vencidos.
La venda en los ojos.
Veneno.
Veneracion.
Vengador del sur.
Venganza.
Venganza del Doctor Mabuse.
Venganza del Zorro.
Venganza gitana al galope.
Venimos en desafio.
La venta de los gatos.
Ventanilla.
Vente.
Vente a La Manta.

Vente al Rocio.
Vente conmigo.
Ventolera.
Vera.
El veraneo.
El verano llegara.
Un verano para matar.
El verano se acerca.
Verde esperanza.
Verde, verde.
Verdugo.
Veremos a Dolores.
El veri del teatre.
Versos por sevillana numero dos.
Versos sencillos.
El vestir d en Pasqual.
Viajando en Scala.
Viaje al pais cubist.
Viaje infinito de Sancho Panza.
Vicente.
Vicente Gerardo.
Vicio y la virtud.
Vida en un hilo.
La vida no vale nada.
Vida nos va cambiando.
Vida pasajera.
La vida privada de mama.
Vida privada de una senorita bien.
Vida serena.
Vida sigue igual.
Las viejas dificiles.
La viejecita.
Viene la macarena.
Viernes.
Viernes instrumental.
Vieron los pastores.
Vierte corazon tu pena.
Vil seduccion.
La villana.
Villancico de Madrid.
Vino de mi pueblo el.
Violetas imperiales.
Violetera.
Virgen de la caridad del cobre.
La virgin llora.
Virilidad a la Espanola.
Vision profetica.
Visita de los libres al recluso.
Vispera de domingo.
Visto para sentencia.
Vitral.
Viuda.
Viva el verano.
Viva lo imposible.
Viva Madrid.
Vivan los novios.
Viviane.
Viviendo en la era pop.
Vivir es formidable.
Vivir sin trabajar.
Vivo penando.
El vivo retrato.
El vol de l home ocell.
El vol de la gavina.
Volveremos junto al mar.
Vortex.
Voy a pintar las paredes con tu nombre.
Voy por todo tu cuerpo.
Vuelo al infierno.
La vuelta al corazon en 80 segundos.
Vuelta al mondo de Willy Fog.
Vuelve.
Vuelve a mi.
Vuelve a sacudirse el continente.
Vuelve querida Nati.
Vuelven los pescadores.
Vuelvo a casa.
Vuelvo de Disneyworld.
Walter Wilding.
The way you smiled at me.
What happens now?
Whisky.
Wild is the wind.
Willy Fog 20000 leguas viaje submarino.
Willy Fog viaje al centro de la tierra.
Xiringuelu.
Y al final esperanza.
Y en todos los caminos.
Y la lluvia seguia cayendo en la ciudad.
Y no tiene solucion.
Y tu buscando una mujer.
Ya llegan al Ajol.
Ya no hay quien baile.
Ya no te amo mas.
Ya no te espero.
Ya se escuchan las panderetas.
Ya se que tienes novio.
Ya viene.
Yankee.
Yenka triste.
Yeren Don Guajes.
Yo era feliz.
Yo era un estanque de paz.
Yo he perdido.
Yo le llevare un potrito.
Yo naci en el cuaarenta.
Yo no me voy.
Yo no quiero pensar.
Yo no quiero ser torero.
Yo no se rezar.
Yo pisare las calles nuevamente.
Yo quisiera ser muy libre.
Yo se que no es Cristiano.
Yo se que tu vendras.
Yo solo.
Yo solo se que te quiero.
Yo soy asi.
Yo soy quien espia los juegos de los ninos.
Yo te quiero.
Yo tenia un novio que tocaba en una orquesta beat.
Yo tuve un gran caballo de carton.
You can say to everybody.
You que viva amando.
Yumas 2.
Yuyu Ankawa.
El zagalejo.
Zalacain el Aventurero.
Zamba para un amor lejano.
Zampo y yo.
Zarabanda bing bing.
La Zarzuela del Maestro Serrano.
Zigor.
Zobel.
Un zombie dos zombies tres zombies.
Zor encendedores.
Zorro Caballero de la Justicia.
Zorro de Monterrey.
Zumisol 2.
Zwei nummern zu gross.

Sociedad General de Autores y Editores.
A jota de pontevedra.
Abril en Sevilla.
Adios Lalin.
Aguila de blason.
El artista.
Ay mi sombrero.
Baila el colibri.
Barrio la vina.
La cabeza del bautista.
La cabeza del dragon.
Campanas de Santiago.
Canastera.
Cancion de la que no queria mentir.
Canta Rianxo.
Cantan las alondras.
Cantare.
Cara de plata.
Carretas del Rocio.
Una casa de campo.
Cepa Andaluza.
Cholito.
Claveles de la maresma.
Cocorito.
El concierto de San Ovidio.
Costa Casares.
Cuando duerme la ciudad.
Cuando tu no estas.
Las cuatro Marias.
Cuento de Abril.
Los cuernos de Don Friolera.
D D T chas.
De madruga.
Divinas palabras.
Doblan campanas.
Ella y el miedo.
El embrujado.
En la ardiente oscuridad.
En la caleta.
En Portugal y en primavera.
La enamorada del rey.
Enfermeras.
Es mejor asi.
Escenas Galecas.
Espacio es infantil.
Esquilache.
Farolillo de feria.
Farruca de Lucia.
Figuritas de papel.
Fuente nueva.
Las galas del difunto.
La gallina Papanatas.
Gitanos trianeros.
Un globo dos globos tres globos.
Gracias a ti.
La guitarra flamenca y orquesta de Paco de Lucia.
Han herido al herido.
La hija del capitan.
Historia de una escalera.
Homage to Pobo da Golada (1980).
Homenaje a Salceda de Caselas.
Homenaxe o Pobo da Golada.

Hoy es fiesta.
Jerezana.
Lalin.
Lerele gitano.
Ligazon.
Llanto a Cadiz.
LLora la seguiriya.
Luces de Bohemia.
Madrugada.
Mamma mamma.
La manzana.
El Marques de Brandomin.
La marquesa de Rosalinda.
Me llamo Antonio Buero Vallejo.
Meninas.
Las meninas.
Metropolis.
El mundial.
Noche de duda.
O Galeguino.
Omni Padmeum.
Peligro de la riqueza.
Pepa.
Los pinares.
Plaza de San Juan.
Plazuela.
Please think of me.
Por fin manana.
Por que te quiero.
Por tierras viguesas.
Punta del faro.
Que tiene ese Madrid?
Que viene el coco.
Recuerdo a Patino.
Reduccion.
Reflejo de luna.
La reina castiza.
Retablo de la avaricia la lujuria y la muerte.
Rolandito.
Romance de Fabiola.
Romance de lobos.
La rosa de papel.
Rumba improvisada.
Sacrilegio.
Saludo a Moscoxo.
San Campio.
Senora senora.
Sensible.
Serrania de Malaga.
La sin par Dulcinea.
Solera.
Solo tu solo yo.
El suendo de la razon.
Tajo.
Teatro de la juventud.
Temas del pueblo.
Tientos del mentidero.
Tirano banderas.
Tolvanera.
Torres de Cadiz.
El tragaluz.
Triangle.
Vals de las debutantes.
Venimos de lejos.
Viva la union.
Voces de gesta.
Vote Johnny 23.
El yermo de las almas.
Yo los mato y tu cobras la recompensa.
Yo te quiero dar.

Societe Cinema du Pantheon.
Don Quichote.
Julietta.

Societe Civile Succession Richard Guino & ADAGP (Societe de Auteures des Arts Graphiques et Plastiques).
Buste de Madame Renoir.
Le forgeron.
La grande laveuse.
La laveuse (moyenne).
La laveuse (petite).
La maternite.
Medaillon Cezanne.
Medaillon Monet.
Medaillon Rodin.
Moyen jugment de Paris.
Paris arec barbe.
Paris sans barbe.
Pendule (triomphe de l'amour).
Petite maternite.
Petite tete de Venus.
Petite venus debout.
Torse de venus.
Variante petit.
Venus vitrix.

Societe de Auteures des Arts Graphiques et Plastiques. See Societe Civile Succession Richard Guino & ADAGP (Societe de Auteureo des Arts Graphiques et Plastiques).

Sony Pictures Classics, Inc.
El giardino dei Finzi Contini.

Succession Picasso.
A los toros.
Adam.
Affiche Barcelone, Avril 1961.
Affiche chevaux de minuit.
Affiche Dans l'argile de Picasso, poemes de Henri-Dante Aiberti.
Affiche de l'exposition 1952 Vallauris.
Affiche des recits de Nestor sur la guerre de Troie.
Affiche exposition 1958 Vallauris.
Affiche exposition ceramiques Vallauris, Paques 1958.
Affiche exposition de vallauris.
Affiche femme au balcom-affiche-oeuvre grave-1960.
Affiche livres de Picasso realises par PAB 18 juin-2 juillet 1966.
Affiche Musee municipal d'art moderne Ceret Picasso ceramiques et pates blanches, empreientes originales.
Affiche originales.
Affiche portrait de Jacqueline.
Affiche pour l'exposition 1957.
Affiche pour l'exposition hispano-americaine.
Affiche toros en Vallauris 1954.
Affiche toros en Vallauris 1955.
Affiche toros en Vallauris 1957.
Affiche toros en Vallauris 1960.
Affiche Vallauris 1956 toros.
Affiche Vallauris-1956 exposition.
Affiches exposition 1960.
Alceando a un toro.
L' amoureuse ou Aretusa.
Amours de Jupiter et de Semele.
Animal form jug with handle and four feet 35×1×30 cm.
Animal form vase with handling and height 36 cm.
Another version of above.
Apollinaire blesse.
Apollinaire.
Apres la pique.
Arlequin a la baatte (I a XI).
Arlequin et femme avec collier.
El arrastre.
Arrastre. Black decoration on ochre earthenware, diameter 42 cm.
Arrastre. Polychrome decoration on white earthenware, diameter 42 cm.
Au bain.
Aubergine and knife on a tartan ground, 31×38.5 cm.
Bacchanale au hibou.
Bacehanale au taureau noir.
Badadakharida.
Badaldima.
Les baigneuses surprises.
Banderillas. Black decoration on ochre earthenware, diameter 42 cm.
Banderillas. Polychrome decoration on white earthenware, diameter 42 cm.
Bearded face. White earthenware, diameter 24 cm.
Bird and flowers, 32×38 cm.
Bird. White earthenware, 20×28 cm.
Black mask, diameter 31 cm.
Black owl roosting, diameter 42.5 cm.
Black pudding and eggs, 31×37 cm.
Le bouquet.
Bouquet with apple. White earthenware, diameter 24 cm.
Brown bird on a green ground, 32×38.5 cm.
Bull on beige ground 31×38.5 cm.
Bull on pink earth ground, 37×23×37 cm.
Bull's head. White earthenware, diameter 42 cm.
Bullfight scene. Banderilleros on light colored ground, 31×38.5 cm.
Bullfight scene. Picador on beige ground, 31×38.5 cm.
Bullfight scene. Picador on blue ground, 31×38.5 cm.
Bullfight scene. Picador on green ground, 31×38.5 cm.
Bullfight scene. Picador on grey ground, 31×38.5 cm.
Bullfight, diameter 15.5 cm.
Bullfighting scenes, 20×39×4 cm.
Bust of a woman, 26.5×22.5 cm.
Buste de femme au chapeau.
Busts of women in matt paint, 25×14 cm.
C'est Jesus Christ.
Los cabestros retiran al toro manso.

La cage aux oiseaux.
Carnaval.
Carte de voeux, Galerie Madoura.
Catulino Jabalon Cenizo.
Ceci est mon coeur.
Centaurs fighting and faun playing pipes, 59×33 cm.
Centaurs fighting, on a cream ground, 31×38.5 cm.
Cephale tue par megarde sa femme Procris.
Le chapeau a fleurs.
La chevre.
Le chien de David.
Chute de Phaeton avec le char de soleil.
Cieux sculpteur au travail.
Circus scene, height 35 cm., diameter at base 10 cm.
Circus scenes, 35×18 cm.
Le cirque.
Citando a banderillas.
Citando a matar.
Citando al toro a banderillas sentado en una silla.
Citando al toro con el rejon.
Citando al toro conla capa.
Clavando un par de banderillas.
La cogida.
Cogida. Black decoration on ochre earthenware, diameter 42 cm.
Colombe a l'arc en ciel.
La colombe a l'arc-en-ciel.
Colombe blanche.
Colombe bleue.
Colombe de l'avenir.
Colombe du festival de la jeunesse.
La colombe.
Coloured variant on no. 62.
Combat pur Andromede entre Persee et Phinee.
Le coq.
Corps perdu-illustration pour Aime Cesaire.
Couverture.
Crowned female head. Ochre earthenware, 33×25 cm.
Cuadro Flamenco, 1921 projects pour le rideau de scene, les decors, costumes (Oeuvres du Musee Picasso, Paris).
Cubist face. White earthenware, diameter 42 cm.
La dame a la collerette.
La dame.
La danse.
Dark Neptune. Ochre earthenware 21.5×21.5 cm.
De D. H. portrait Kahnweiler I.
De D. H. portrait Kahnweiler II.
De D. H. portrait Kahnweiler III.
Decorated with faces. Height 61 cm., diameter at base 16 cm.
Decoration based on bullfighting themes, done in April of 1953. Diameter: 16 cm. (min.) and 17.6 cm. (max.).
Decoration painted on patinated ground, 29.5×24 cm.
Decoration painted on patinated ground, 40×23.5 cm.
Le dejeuner sur I'herbe.
Le dejeuner sur l'herbe.
Despues de la estocada el torero senala la muerte del toro.
Deucalion et Pyrrha creent un nouveau genre humain.
Deux femmes.
Deux femmes nues.
Deux femmes pres de la fenetre.
Deux hommes sculptes.
Deux lutteurs observes par trois femmes nues.
Deux modeles se regardant.
Deux sculpteurs devant une statue.
Deux tetes de femme.
Deuxieme affiche Vallauris.
Diomedes, le fort acheen.
Don Bob.
Don Quichotte.
Dona Aseguda.
Dove on bed of straw, 32.5×38.5 cm.
Echan perros al toro.
Entre la colere et la mort.
Erotic scene.
Erotic scene, 16.5×19 cm.
Erotic scene, 16.5×19 cm.
L' espagnole.
Especioso Zalamea y Ruiz-Cipolleta.
Estocada. Black decoration on ochre earthenware, diameter 42 cm.
Estocada. Polychrome decoration on white earthenware, diameter 42 cm.
Eurycide piquee par un serpent.
Eve.
Face framed in a square. White earthenware, diameter 42 cm.
Face in thick relief. White earthenware, diameter 42 cm.
Face on grid. White earthenware, diameter 42 cm.
Face painted in relief on blue ground, 31×38.5 cm.
Face surrounded by ringlets. Ochre earthenware, 21.5×21.5 cm.
Face surrounded by ringlets. Ochre earthenware, 31×31 cm.
Face with green nose. Ochre earthenware, 21.5×21.5 cm.
Face with leaves. White earthenware, diameter 42 cm.
Face with lowered eyes. Decoration decoration in relief, 31×38.5 cm.
Face with round nose and four potter's marks on ochre earthenware, 31.5×27 cm.
Face with slanting features. Ochre earthenware 21.5×21.5 cm.
Face with tie. White earthenware, diameter 25 cm.
Face, 14×13 cm.
Face, 15×15 cm.
Face, height 13 cm.
Face, height 19 cm.
Face.
Famille de saltimbanques.
Faunes et chevre.
Faun's head 38×34 cm.
Faun's head with broad strokes on a beige ground, 38.5×31 cm.
Faun's head, 38×38 cm.
Faun's head, 39×32 cm.
Faun. White earthenware, diameter 42 cm.
Fauns dancing on an ivory ground, 37×38.5 cm.
Female nude, height 35.5 cm.
Femme accoudee, sculpture de dos et tete barbue.
La femme accoudee.
Femme assise au chapeau et femme debout drappee.
Femme assise dans un fauteuil rouge.
Femme assise et cheval.
Femme assise et femme de dos.
La femme au chapeau (avee fraise).
Femme au chapeau (I a VI).
Femme au chapeau a fleurs.
La femme au collier.
Femme aux cheveux flous.
Femme aux epis (visage paix).
Femme et l'oiseau (visage paix).
Femme nue a la jambe pliee.
Femme nue a la source.
Femme nue assise.
Femme nue assise devant un rideau.
Femme nue assise et trois tetes barbues.
Femme nue assise, la tete appuyee sur la main.
Femme nue couronnee de fleurs.
Femme nue devant une statue.
Femme nue eueillant des fleurs (I a V).
Femme nue se couronnant de fleurs.
Femme torero II.
Femme torero III.
Femmes se reposant.
Figure.
Figure de la Minotauromachie: Cheval.
Figure with curves and eight potter's marks on ochre earthenware, 31.5×27 cm.
Figures and heads in relief on pink earthenware. Four different sides.
La fille Rosengart.
Les filles de minyas.
Fish and birds. White earthenware, height 51 cm., diameter at bulge 50 cm.
Fish in profile. White earthenware, 25×33 cm. Original print. Edition.
Fish in relief, 31×31 cm.
Fleurs.
Floral decoration in black and ivory on patinated ground, 60×30 cm.
Flutiste et jeune fille au tambourin.
Flutiste et trois femmes nues.
Foulard du festival de la jeunesse.
Four elements in the form of a bird, 71×18×35 cm.
Fragments de corps de femme.
Frontispice pour-le pere Goriot.
Garcon et dormeuse a la chandelle.
Glass under lamp. Ochre earthenware, height 33 cm.

Goat's head in profile, 31×51 cm.
Goat's head in profile, diameter 40.5 cm.
Goat, diameter 26.2 cm.
Le grand orateur.
Grand plat round, visage en relief et grave, diametre 42 cm.
Grand tete de femme an chapeau orne.
Grande tete rouge, bleue, jaune.
Green floral motifs and white enamel, 24×10 cm.
Le gros pigeon.
Le guerrier fatigue.
Le guerrier fou ou Aretusa.
Hands on fish. Pink earthenware, diameter 31.5 cm.
Hercule tue le centaure Nessus.
L' homme a la fraise.
L' homme au baton.
Homme barbu couronne de feuillalge.
Homme barbu couronne.
Homme devoilant une femme.
Homme en proie a la paix (poesie d'eluard).
Homme et femme nue tenant un linge.
L' horloge de fleurs.
Hortensia et Juan.
Illustration-buffon-l'autruche.
Incised bird, 32×38 cm.
Jacqueline de profil.
Jacqueline in a hat, 26.5×22.5 cm.
Jacqueline in a pink dress, 26.5×22.5 cm.
Jacqueline Lisant.
Jacqueline on russet background, 26.5×22.5 cm.
Jacqueline with a grey bandeau 26.5×22.5 cm.
Jacqueline with long neck, 26.5×22.5 cm.
Jagged fragment of brick.
Jaime.
Jeune couple accroupi, l'homme avec un tamboourin.
Jeune fille selon Cranach le jeune.
Jeune homme couronne.
Jeune sculpteur au travail.
Joueurs de flute.
Juan, le petit piegon veuf.
Jug decorated with a goat and a piper in matt patina, 25×13 cm.
Jug decorated with figures dancing the sardana, height 22.9 cm., diameter at base 11 cm.
Jug with handle height 31.5 cm., diameter at base 12 cm.
Kagpha.
Kid, decoration painted in engobe, 32×15×28 cm.
Lady wearing mantilla, 47×11.5×7 cm.
Lance-thrust, diameter 38 cm.
Landscape decoration height 31.5 cm., diameter at base 12.5.
Landscape, height 31 cm.
Large bird with two handles decorated with superimposed faces, 49×30×33 cm.
La Lavandiere.
Lutte entre Teree et sa belle soeur Philomele.
Madoura.
Les mains liees I.
Les mains liees II.
Les mains liees III.
Les mains liees IV.
Man with long hair, 26.5×22.5 cm.
Man's head incised on black ground, 38.5×32 cm.
Man's head with long hair. White earthenware, 31×31 cm.
El matador brinda la muerte del toro.
Maternite.
Max Jacob.
Meleagre tue le sangllier de Calydon.
Melon on a blue tartan ground, 32×38.5 cm.
Mercure, 1924 projects pour le rideau de scene, les decors, costumes (Oeuvres du Musee Picasso, Paris).
Minotaure attaquant una amazone.
Minotaure aveugle guide par une fillette I.
Minotaure aveugle guide par une fillette II.
Minotaure aveugle guide par une fillette III.
Minotaure blesse VI.
Minotaure caressant une femme.
Minotaure endormi contemple par un femme.
Minotaure et femme derriere un rideau.
Minotaure mourant.
Minotaure vaincu.
Minotaure, un coupe a la main, et jeune femme.
Modele accoude sur un tabouret.
Modele accroupi, sculpture de dos et tete barbue.
Modele contemplant un groupe sculpte.
Modele et grande sculpture de dos.
Modele et grande tete sculptee.
Modele et sculpture surrealiste.
Modele nu et sculptures.
Mort d'Orphee.
Morte au soleil IV.
Mottled, fish. White earthenware, 34×41.5 cm. Several versions. Original print. Edition.
Muerto del toro.
La muse et la riviere ou Terpsicore.
Nature morte a la bouteille.
Nature morte a la pasteque.
Nature morte a la pasteque, decomposition du tirage.
La nourrice.
Nouvelle ronde de la jeuneese.
Numa suit les cours de Pythagore.
Oeillet.
One handle and two sprouts.
One handle with two spouts 21×24×15 cm.
Owl incised on a beige ground, 32×38.5 cm.
Owl incised on a brown ground, 31×38.5 cm.
Owl, with eyes in relief, in yellow sulphide glazing, 22×12×25 cm.
Owl's head. Ochre earthenware, 21.5×21.5 cm.
Painted face, 32×38 cm.
Painted nudes, height 34 cm.
The painter and two models, 27×33 cm.
Parade, 1917 projets pour le rideau de scene, les decors, costumes (oeuvres du musee Picasso, Paris).
Pasa de muleta. Polychrome decoration on white earthenware, diameter 42 cm.
Pase de capa. Polychrome decoration on white earthenware, diameter 42 cm.
Pase de Muleta. Black decoration on ochre earthenware, diameter 42 cm.
Paseo. Black decoration on ochre earthenware, diameter 42 cm.
Paseo. Polychrome decoration on white earthenware, diameter 42 cm.
Le peintre a la palette.
Le peintre et son modele.
Pere Noel.
Personnages masques et femme oiseau.
Petit bouquet.
Petit buste de femme.
La petite bacchanale.
Petite tete de femme couronnee.
Photo rehaussee de Picasso et Manual Pallares.
Picador et torero.
Picador in bullring, 32×38 cm.
Picador incised in thick relief, diameter 24 cm.
El picador obligando al toro con su pica.
Picador returning on a blue ground, 31×38.5 cm.
Picador with brown-white decoration, diameter 22 cm.
Picador, diameter 18 cm.
Picador, diameter 42 cm.
Picador, femme et cheval.
Picador, incised and painted, diameter 42 cm.
Picador. Black decoration on ochre earthenware, diameter 42 cm.
Picador. Polychrome decoration on white earthenware, diameter 42 cm.
Piero Crommelynek de profil.
Pigeon au fond gris.
Le pigeon aux petits pois.
Pigeon blanc fond noir.
Pigeon, incised and painted, 13×23 cm.
La pigeon.
Pique.
La pique cassee.
La Pithonisse.
La plante aux toritos.
Plat rectangulaire, deux poissons bleus sur fond ivoire.
Polychrome bird, 32×38 cm.
Polychrome decoration with woman and flowers.
Polychrome face, 32×38 cm.

Polychrome picador, diameter 24 cm.
Polyxene, fille de Priam est egotgee sur la tombe d'Achille.
Portrait d'Andre Brenton.
Portrait d'Helene Rubinstein (I of XIX).
Portrait de Delacroix.
Portrait de Joliot-Curie.
Portrait de Leon Tolstoi.
Portrait de Manuel de Falla.
Portrait de Max Jacob.
Portrait de Nusch Eluard.
Portrait de Paul Eluard, frontiscipe pour-Les yeux fertiles.
Portrait de Paul Eluard.
Portrait de Paul Valery.
Portrait de Raymond Radiguet.
Portrait de Shakespeare.
Portrait de Vollard.
Portrait de Vollard III.
Portrait de Vollard IV.
Portraits de Balzac.
La poule.
Pour la ville, et non pour Helene on Victor.
Premiere affiche Vallauris.
Priamo, le noble Vieillard.
Profil et tete de femme.
Profile of Jacqueline on a light ground. White earthenware, diameter 18.5 cm.
Profile of Jacqueline. White earthenware, 41.5×41 cm.
La puce.
Puicinella, 1920 projects pour le rideau de scene, les decors, costumes (Oeuvres du Musee Picasso, Paris).
Quatre femmes en fuite.
Quatre femmes nues et tetes sculptees.
Quatre hommes nus assis.
Quatre tetes d'hommes.
Rebrandt a la palette.
Rembrandt et deux femmes.
Rembrandt et femme au voile.
Rembrandt et tetes de femme.
Le repos du sculpteur devant des chevaux et us taureau.
Le repos du sculpteur devant je jeune cavalier.
Le repos du sculpteur devant le petit torse.
Le repos du sculpteur devant nn nu a la draperie.
Le repos du sculpteur devant un centaure et une femme.
Le repos du sculpteur devant une Bacchanale au taureau.
Le repos du sculpteur et la sculpture surrealiste.
Le repos du sculpteur et le modele au masques.
Le repos du sculpteur I.
Le repos du sculpteur II.
Le repos du sculpteur III.
Le repos du sculpteur IV.
Ronde de la jeunesse.
Russet and brown condor, 39×15×41 cm.
Salto con la Garrocha.
Scene bachique an Minotaure.
Sculpteur a mi-corps an T.
Sculpteur avec coupe et modele accroupi.
Sculpteur d'un jeune homme a la coupe.
Sculpteur et deux tetes sculptees.
Sculpteur et modele admirant une tete sculptee.
Sculpteur et son modele devant une fenetre.
Sculpteur et trois danseuses sculptees.
Sculpteur, modele accroupi et tete sculptee.
Sculpteur, modele couche et sculpture.
Sculpteur, modele et sculpture assise.
Sculpteur, modeles et sculpture.
Sculpteurs et modele debout.
Sculptuer, modele couche et buste sculpte.
Sculptures et vase de fleurs.
Small incised face, 32×38 cm.
Soeur Fanny Price.
Spotted face, 32×38 cm.
Still life with candlestick on black and white ground, 32×38.5 cm.
Still life with glass and apple, 32×38.5 cm.
Still life with grapes and scissors on a beige and brown ground, 32×38.5 cm.
Still life with grapes on a reddish-brown ground, 32×38.5 cm.
Still life with spoon. White earthenware, 33×33 cm. Origina print. Edition.
Still life with tomatoes on a reddish-brown ground, 32×38.5 cm.
Suerte de muleta.
Suerte de varas.
Suerte ilamada de Don Tancredo.
Sun (in pastel crayon), 33×26 cm.
Le taureau (epreuve du premier etat).
Taureau aile contemple par quatre enfants.
Taureau et chevaux dans l'arene.
Le taureau.
La tauromaquia.
Tete d'Histrion.
Tete d'homme.
Tete d'un homme et d'une femme voilee.
Tete de faune (I a VI) head of fawn.
Tete de faune.
Tete de femme-paysage aux baigneuses et au pecheur.
Tete de femme.
Tete.
Tetes et figures emmelees.
Three black fish, diameter 43 cm.
Three fish in black and blue, diameter 41 cm.
Toreando a la Veronica.
El torero sale en hombros de los aficionados.
El toro sale del toril.
Toros en el Campo.
Toros en Vallauris.
Tortured face, surrounded by palm leaves. White earthenware, diameter 42 cm.
Tortured faun's face. White earthenware, diameter 42 cm.
Trande tete de femme au chapeau orne.
Tres femmes nues.
Le tricorne, 1919 projets pour le rideau de scene, les decors, costumes (Oeuvres du Musee Picasso, Paris).
Trois acteurs.
Trois femmes.
Trois femmes nues pres d'une fenetre.
Trois fragments de tetes.
Trois tetes d'hommes.
Troisiene affiche Vallauris.
Two fish, incised, ivory with green accents, 31×38.5 cm.
Two fish, one blue and one beige, on an ivory ground, 31×38.5 cm.
Two fish, one reddish-brown and one blue, in relief, 31×38.5 cm.
Two fried eggs and a piece of black pudding on a grey ground, 31×38.5 cm.
Two-handled vase height 19.5 cm., diameter at base 16 cm.
Vase decorated with brushstrokes, 24×28 cm.
Vase with goats height 23 cm., diameter at top 12 cm., diameter at bulge 20 cm.
Vase with three masks 24.5×28 cm.
Le verre sous la lampe.
Vertumne poursuit Pomone de son amour.
Le viol.
Le viol II.
Le viol IV.
Le viol V.
Le viol VII.
Le viol sous la fenetre.
Visage.
Visage de femme (visage paix).
Visage de la paix.
Vive la paix.
Watermelon with knife and fork, 30 × 37 cm.
White earthenware, 32 × 38.5 cm.
White earthenware, diameter 42 cm.
White earthenware, height 38 cm., diameter at the top 10 cm., diameter at the bulge 45 cm.
Woman in ivory and brown under glaze, 35 × 11 × 11 cm.
Woman with a long neck in pink and black clay, 28 × 9 cm.
Woman with amphora, emgobe decoration on natural ground, 45 × 32 × 14 cm.
Woman with flowered hat. Ochre earthenware, 33 × 25 cm.
Woman's face and five potter's marks on ochre earthenware, 31.5 × 27 cm.

Woman's face, 22 × 12 × 8 cm.
Woman's head 32 × 38 cm.
Woman's head painted. Variation on No. 190.
Woman's head, painted, height 24 cm., total width 19 cm.
Woman, 29 × 9 × 7 cm.
Woman, engobe decoration under beige-brown glaze, 30 × 13 × 13 cm.
Tamaris, Cine.
Les parapluies de Cherbourg.
TaurusFilm. SEE Progefi, TaurusFilm & France2.
TaurusFilm Gmbh & Company.
'38 Heim ins Reich.
Die groben Geschaefte.
Hallo, hier ist Berlin.
Das heimliche Urteil.
Im Labyrinth.
Jetzt dreht die Welt sich nur um dich.
Ein Kaisergetreuer.
Rommel ruft Kairo.
Der Transport.
Wallenstein.
Wo die alten walder rauschen.
TaurusFilm, GmbH & Company (a Kirch Gruppe Company)
08/15 in der Heimat.
08/15, 2. Teil.
08/15.
Alvorada—Aufbruch in Brasilien.
Arzt aus Leidenschaft.
Der Arzt von Stalingrad.
Un bambino di nome Gesu.
Der Bauer vom Brucknerhof.
Blond mub man sein auf Capri.
Botschaft der Goetter—Neufassung.
Der Brave Sunder.
Carlos.
De fyv i fedtefadet.
Dein Leben gehort mir.
Des Teufels General.
Don Carlos.
Drillinge an Bord.
Du bist mein Gluck.
Emil I Loenneberga.
Emil oche Grisaknoen.
Englands Weg nach Europa.
Erinnerungen an die Zukunft—Neufassung.
Eskapade.
Die Feuerzangenbowle.
Flic-Flac.
Die Foersterbuben.
Fruhling in Berlin.
Funf Millionen suchen einen Erben.
Das Geheimnis der roten Katze.
Heidi 2.
Das heilige erbe.
Herzblatt oder wie sag ich's meiner Tochter.
Die Hexe.
Hilfe, mich liebt eine Jungfrau.
Der Himmel ist nie ausverkauft.
Himmel ohne Sterne.
Hohe Tannen.
El hombre que vino de ummo.
Hoppla, jetzt kommt Eddie.
Hunde wollt ihr ewig leben.
Ich bin kein Casanova.
Ich denke oft an Piroschka.
Ich war ein haessliches Maedchen.
Im Namen des Teufels.
Im Ozean der Sehnsucht.
Im weissen Roessl (1952).
In jenen Tagen.
Intime Liebschaften.
Ja, ja, die Liebe in Tirol.
Der Jaeger von Fall.
Jedermann.
Johannisnacht.
Jonathan.
Journey to the lost city.
Die junge Suenderin.
Kali Yug, I: Die Goettin der Rache.
Kali Yug, II: Aufruhr in Indien.
Kampf.
Kauf Dir einen bunten Luftballon.
Kirmes.
Klassenverhaeltnisse.
Die kleine Stadt will schlafen gehen.
Koenigliche Hoheit.
Kohlhiesels Toechter.
Komm nur, mein liebstes Voegelein.
Der Kongress amuesiert sich.
Konsul Strotthoff.
Das Kunstseidene Maedchen.
Das Land des Laechelns.
Ein Leben fuer Do.
Das Leben von Adolf Hitler.
Legge di guerra.
Letti sbagliati.
Letzte Fubganger.
Der letzte Mann.
Der letzte Zeuge.
Die letzten drei der Albatros.
Liebe in 3 Dimensionen.
Liebe ist nur ein Wort.
Liebe will gelernt sein.
Liebesbeichte junger Ausreisserinnen.
Die Lindenwirtin vom Donaustrand.
Liselotte von der Pfalz.
Ludwig II.-Glanz und Ende eines Koenigs.
Der lugner.
Lumpazivagabundus.
Madame und ihre Nichten.
Ein Maedchen aus Flandern.
Maedchen beim Frauenarzt.
Maedchen in uniform.
Maedchen mit Zukunft.
Das Maedchen Rosemarie.
Maedchen, die nach Muenchen kommen.
Maedchenjahre einer Koenigin.
Der Maedchenkrieg.
Die Magd von Heiligenblut.
Der Mann im Schilf.
Manoeverzwilling.
Mariandl.
Mariandls Heimkehr.
Martin Roumagnac.
Mayerling.
Mein Herz ruft nach Dir.
Mein Mann, das Wirtschaftswunder.
Der Meineidbauer.
Der Meisterdetektiv.
Menschen, Tiere, Sensationen.
Mikosch im Geheimdienst.
Mitsubachi maja no boken.
Der Moerder mit dem Seidenschal.
Der Moerderclub von Brooklyn.
Mohn ist auch eine Blume.
Momo.
Monnaie de singe.
Monpti.
Mordnacht in Manhattan.
Morgens um sieben ist die Welt noch in Ordnung.
Mub man sich gleich scheiden lassen.
Musik im Blut.
Nachts im Gruenen Kakadu.
Nachts, wenn der Teufel kam.
Das Netz.
Der neue Schulmaedchen-report.
Die Niklashauser Fahrt.
Nils Holgersson.
Nya hyss av Emil i Loenneberga.
Oase.
Oh Jonathan-Oh Jonathan.
Ohne Nachsicht.
Operacion Estambul.
Opernball.
Ossessione.
Panamericana.
Der Pauker.
Perrak.
Peter Voss, der Held des Tages.
Peter Voss, der Millionendieb.
Piggies.
Pioniere in Ingolstadt.
Der postmeister.
Premiere.
Prostitution heute.
Der Prozess.
Puenktchen und Anton.
Pygmalion.
Radetzkymarsch.
Der Raecher.
Die Rechnung eiskalt serviert.
Regine.
Der Rest ist Schweigen.
Robinson soll nicht sterben.
Roma citta'aperta.
Romanze in Venedig.
Rosen fuer den Staatsanwalt.
Roter Mohn.
Salem Aleikum.
Salzburger Geschichten.
Schachnovelle.
Der Schandfleck.
Der Schatz im Silbersee.
Der Schinderhannes.
Schlag auf Schlag.
Die Schlangengrube und das Pendel.
Schloss Gripsholm.
Schloss Hubertus.
Schluesselloch-Report.
Die Schoene Luegnerin.
Schrammeln.
Schueler-Report—Junge, Junge, was die Maedchen alles von uns wissen wollen.
Schuesse aus dem Geigenkasten.
Schulmaedchen-Report 3. Teil.
Schulmaedchen-Report 4. Teil.
Schulmaedchen-Report 5. Teil.

Schulmaedchen-Report 6. Teil.
Schulmaedchen-Report 7. Teil.
Schulmaedchen-Report 8. Teil.
Schulmaedchen-Report 9. Teil.
Schulmaedchen-Report 10. Teil.
Schulmaedchen-Report 11. Teil.
Schulmaedchen-Report 12. Teil.
Schwarz auf weib.
Der schwarze Panther von Ratana.
Schwarzwaelder Kirsch.
Schwarzwaldmaedel.
Das Schweigen im Walde.
Schwejks Flegeljahre.
Sebastian Kneipp-Der Wasserdoktor.
Sein bester Freund.
Die Sennerin von St. Kathrein.
Sensation in San Remo.
Sergio Mendes - Brazil 70.
Le sette sfide.
Sieben Jahre Pech.
Sieben Tage Frist.
Sinbad the sailor.
Sissi—die junge Kaiserin.
Sissi—Schicksalsjahre einer Kaiserin.
So endete eine Liebe.
Solang'es huebsche Maedchen gibt.
Solange noch die Rosen bluehn.
Gli specialisti.
Spion fuer Deutschland.
Das Spukschloss im Spessart.
Spur eines Maedchens.
Die Staerkere.
Stardivari.
Ein Stern faellt vom Himmel.
Der Stern von Afrika.
Der Sternsteinhof.
Die stimme des Herzens.
Der Stoff, aus dem die Traeume sind.
Strasse der Verheissung.
Der Student von Prag.
Surcouf-Le tigre des sept mers.
Das Susse Leben des Grafen Bobby.
Das tanzende Herz.
Tendre voyou.
La terra trema.
Der Tiger von Eschnapur (1938).
Der Tiger von Eschnapur (1959).
Der tod des Empedokles.
Der Tod im roten Jaguar.
Der Tod ritt Dienstags.
Todesschuesse am Broadway.
Die Toteninsel.
Die Trapp-Familie.
Die Trapp-Familie in Amerika.
Traumstadt.
Traumstrasse der Welt—Teil I.
Traumstrasse der Welt—Teil II.
Traumulus.
Tromba.
Trotta.
Um Null Uhr schnappt die Falle zu.
Und der Regen verwischt jede Spur.
Und ewig singen die Waelder.
Und Jimmy ging zum Regenbogen.
Der unfried.
Ungarische Rhapsodie.
Unheimliche Geschichten.
Unsere tollen Tanten.
Unsterblicher Mozart.
Unsterblicher Walzer.
Unter geiern.
Urlaubsreport—Woruber Reiseleiter nicht sprechen.
Vater sein dagegen sehr.
Vergiss beim Sex Liebe nicht.
Vergiss mein nicht.
Verites et mensonges.
Der verlorene.
Das vermachtnis des Inka.
Die verschwundene miniatur.
Versprich mir nichts!
Via Mala.
Der vogelhandler.
Vor Gott und den Menschen.
Der Waldbauernbub.
Waldrausch.
Was Manner nicht fur moglich halten.
Weisse fracht fur Hongkong.
Die weisse holle vom Piz Palue.
Weisser Hollunder.
Das Weite Land.
Weltrekord im Seitensprung.
Wen die Gotter lieben.
Wenn am Sonntagabend die Dorfmusik spielt.
Wenn der Vater mit dem Sohne.
Wenn die glocken hell erklingen.
Wenn die Heide bluht.
Wenn die prallen Mopse hupfen.
Wenn suss das Mondlicht auf den Hugeln schlaft.
Whity.
Der Wilderer vom Silberwald.
Winnetou I.
Winnetou II.
Winnetou und das Halbblut Apanatschi.
Winternachtstraum.
Wir haun den Hauswirt in die Pfanne.
Das Wirtshaus im Spessart.
Witwer mit funf Tochtern.
Das Wunder des Malachias.
Der Zigeunerbaron.
Zinksarge fur die Goldjungen.
Zucker fur den Morder.
Die Zurcher Velobung.
Zwei Herzen und ein Thron.
Die Zwillinge vom Zillertal.
Zwischen Shanghai und St. Pauli.
Taurusfilm. SEE Progefi, Taurusfilm & France2.
Teledis Company, Ltd.
14-18.
A mirage de Rome.
Les abysses.
Accroche coeur.
L' affaire des poisons.
L' affaire Maurizius.
L' alibi.
Allemagne annee zero.
L' amour a vingt ans.
Les amoureuse du France.
Andalousie.
Annette et la dame blonde.
L' appel du destin.
Les armants de la villa Borghese.
Atoll K.
Au coeur de la vie.
Au service du Tsar.
Aux deux colombes.
Avec le sourire.
Les aventuriers de l'air.
Bataille de France (1939–1940).
Les bateliers de la volga.
Belle de cadix.
Le ble en herbe.
Un calner de bal.
Caprices.
Cartes sur table.
Cartouche roi de Paris.
La cavalcade des heures.
Cecile est morte.
Cette vieille canaille.
Chateau de verre.
Ciboulette.
Le Colonel Chabert.
Comme un cheveu sur la soupe.
Comme un poisson dans l'eau.
Contre-enquete.
Courrier sud.
Crime et chatiment.
Un dejeuner de soleil.
Le dernier des size.
Les derniers jours ete Pompei.
Le desert de pigalle.
Les deuse orphelines.
Deux hommes dans Manhattan.
Diabolique Docteur Z.
Le dialogue des Carmelites.
Dossier noir.
Douce.
Du mouron pour les petits oiseaux.
Ennemis intimes.
Escadrille amoureuse.
Escalier sans fin.
Etes vous jalouse.
Etrange Monsieur Steve.
Etrange rendez-vous.
Fabiola (2 epoques).
Le farceur.
Fausse maitresse.
La femme du bout du monde.
La ferme auae loups.
Le feu sacre.
Fleur d'oseille.
Francois Villon.
Fric frac en dentelles.
Les gaites du palace.
Galia.
Gibraltar.
La glu.
Grain de sable.
Le grand jeu.
La guerre des gosses.
Guerre secrete.
Les guerriers.
L' habit vert.
Hercule.
Histoire immortelle.
Un homme a abattre.
L' homme du jour.
L' homme sans coeur.
Horace 62.
L' impasse.
Impossible Isabelle.
J'accuse.
J'ai choisis l'amour.

J'etais une aventuriere.
Je chante.
Jeanne ace bucher.
Jenny.
Les jeux de l'amour.
Le justicier du Minnesota.
Katia.
Lady Paname.
Les lions sont laches.
La lou ve.
Ma pomme.
Mademoiselle de Paris.
Mademoiselle Mozart.
Les magiciennes.
La main du diable.
La maison d'en face.
La maison du maltais.
Mam'zelle Bonaparte.
Une manche et la belle.
Mari et femme.
Le mariage de chiffon.
Le mariage.
Les maudits.
Les memoires de la vache Yolande.
La minute de verite.
Mollenard.
La mort du cygne.
La neige etait sale.
Neuf garcons, un coeur.
Ni vu ni connu.
Normandie niemen.
Les nous venitiennes.
La nuit est mon royaume.
Nuits de Decembre.
Nuits de Paris.
Oh que mambo.
L' oiseau de paradis.
Ophelia.
L' or dans la rue.
Pantins d'amour.
Papa maman la bonne et moe.
Papa maman ma femme et moi.
Paris secret.
Paris top secret.
La part de l'ombre.
Les patres du desordre.
Le patriote.
Pechis de jeunesse.
Le petit garcon de l'ascenseur.
Pierre et Jean.
Pirates du rail.
Les plaisirs de Paris.
Les plus belles escroqueries du monde.
Port Arthur.
Pourquoi viens-tu si tard?
Premier rendez vous.
Quand lu lirae cette lettre.
Raphael le tatoue.
Le rat d'amerique.
Rencontres a Paris.
Rends moi la cle.
Roger le horte.
Sabotage en mer.
Le sang dis martyrs.
Sans famille.
Sept hommes en or.
Septieme ciel.
Serenade.
Le silence de la mer.
Le soleil a toujours raison.
Strip tease.
La symphonie fantastique.
Taxi roulotte et corrida.
Toni.
Val d'enfer.
Valse brillante.
La verite sur bebe Donge.
Le visiteur.
Le voyageur de la toussaint.

Teledis Company, Ltd. & Rene Chateau.
Une fille pour l'ete.
Les grandes personnes.
Sheherazade.

Teledis Company, SA.
Adhemar.
Le beau Serge.
Le chagrin et la pitie.
Les cousins.
Desire.
Destin fabuleux de Desiree Clary.
Faisons un reve.
Mon pere avait raison.
Le mot de Cambronne.
Nouveau Testament.
Les perles de la couronne.
Quadrille.
Remontons les Champs Elysees.
Le tresor de Cantenac.

Teledis Company.
L' album de famille de Jean Renoir.
L' amour d'une femme.
Destin execrable de Guillemette Babin.
Monte cassino.
Paris coquin.
Prelude a la gloire.
Premier bal.
Proces a la ville.
La promenade.
Les requins de Gibraltar.
Les revoltes de l'albatros.
Le Roi.
Sa majeste Monsieur DuPont.
Saint-Tropez blues.
Les salauds vont en enfer.
Scenes de menage.
Signe picpus.
Sur le banc.
Symphonie inachevee.
Tam tam mayumbe.
Les teenagers.
Terreur sur Rome.
Toi le venin.
Tonneau d'or.
Le travail c'est la liberte.
Trois chambres a Manhattan.
Les vaincus.
Les vierges.
Les vignes du seigneur.
Vingt quatre heures de permission.
Virgile.

Teledis. SEE Lumiere & Teledis.

Televisa, S.A. de C.V.
Amarus a tu projmo.
El amor tiene cara de mujer.
Ana del aire.
Arriba el telon.
Baja una estrella.
Bartolo.
Caras y gestos.
El chofer.
Las Compadres.
Corazon salvaje II.
La criada bien criada.
Domingo a domingo.
Dos a quererse.
En tela de juicio.
Ensalada de locos.
Entre brumas.
Esp. Silvia Pinal.
Estra noche con Manolo Fabregas.
La familia Burron.
Los grande sanas del rock.
Guitarras.
Ha llegado una intrusa.
La hiena.
El Honorable Sr. Valdes.
El juicio.
El juramento.
Lo imperdonable II.
Lo impredonable.
La maestra Mendez.
Manana sera otro dia.
El manantial.
Marcha nupcial.
Mejor de los Polivoces.
Mi hermana la nena.
Mi rival.
El milagro de vivir.
Muchacha italiana viene AC.
Mundo de juguete.
Mundos opuestos.
Musica espectacular.
Muy agradecido.
Noches tapatias.
Nosotros los pobres.
Pacto de amor.
Paloma.
Penthouse.
Pobre Clara.
Las pulgas.
Los que ayudan a Dios.
Quien.
Rina.
El show del Loco Valdez.
Siempre en domingo.
Siempre havra un manana.
Teatro de la familia.
Topo gigio.
Triangulo la tierra.
Variedades de media noches.
Ven con migo.
La venganza.
Visitando a las estrellas.
Yo no pedi vivir.

Televisa, SA de CV.
A sesino de embarca.
Las abandonadas.
Acapulco 12–22.
Ahi esta el detalle.
Al son de la marimba.
Los albaniles.
Alma llanera.
Amok.
Amor, amor, amor.
Amor en las nubes.

El amor no es ciego.
El amor tiene cara de mujer.
Angel negro.
Angeles infernales.
Angelica (un dia de lluvia).
Anonimo mortal.
Aquella Rosita Alvirez.
Aquellos anos.
Aqui estan los Aguiares.
Aranas infernales.
Asesinato a sangre fria.
Asi se quiere en Jalisco.
El asisino X.
Auquellos ojos verdes.
Ave sin nido.
Ayudame compadre.
Balum Canan.
Los bienamados.
Blue Demon Destructor de espias.
Blue Demon frente a la muerte.
Bugambilia.
Caballo a cabella.
Cala bacitas tiernas.
La camara del terror.
Caminos de Michoacan.
Canto y no llores.
El cara parchada.
Un carazon para dos.
Carita de primavera.
Carnada.
Carvana de la muerte.
La casa de Troya.
La casa del pelicano.
La casa prohibida.
Cayo de la Gloria el diablo.
El charro de las calaveras.
El charro del misteria.
Cinco en la carcel.
La cobarde.
El complot mongol.
Con quien andan nuestras hijas.
Contacto chicano.
El contrabando del Paso.
Coqueta.
Coranacion.
Cosa facil.
La coyota.
Crespuscolo.
El Criollo.
Cronica roja.
Cuando tejan las aranas.
Cuando viajen las estrellas.
Cuba baila.
El cumpleanos del perro.
La Dama de Alba.
La dama sel velo.
Del brazo y por la calle.
Del otro lado del puente.
Delincuente.
Derecho de asilo.
El deseo llega de noche.
Dias de ontono.
Dinamita Kid.
Los dineros del diablo.
La diosa arrotillada.
Distindo amanecer.
La divina garza.
Divinas palabras.
Dona Barbara.
Dona macabra.
Dos caras tiene el destino.
Dos hijos desobedientes.
Dos tigos de cuidado.
En tiempos de don porfiro.
Enamorada.
Encadendada.
Los endemoniados del ring.
Las enganadas.
Enigma de muerte.
Los enredos de una gallega.
Esa mujer me vuelve loco.
Extrana pasajera.
Flor silvestre.
Flores de papel.
Frida, naturaleza viva.
Fruto de tentacion.
La furia de un Dios.
El gavilan o paloma.
La generala.
Gigantes planetarios.
El globo de cantoya.
Las glorias del gran puas.
El gran calavera.
El granador.
Los guaruras.
La guerra de los pas teles.
La guerra de los pasteles, segunda version.
Habia una vez una estrella.
La hermana impura.
Las hermanos Barragan.
La hija de nadie.
La hija del engano.
La hija del penal.
La hija del regimiento.
El hijo del viente.
Historia de un abrigo de mink.
Historia de un gran amor.
Los homberes no deben llorar.
Hubia una vez un murido.
Huellas del pasado.
I Tara el guardian de la muerte.
La ilusion viajaen tranvia.
El imperio de Dracula.
Las in fieles.
La India blanca.
La insaciable.
El intruso.
Invasion de los vampires.
Invasion siniestra.
Los Japoneses no esperan.
El jinete justiciero.
El jinete solitario.
El jorobado.
El joven Juarez.
Juan Guerrero.
Juego de pasiones.
Juventud sin dies.
Kung fu mortal.
Lastima de ropa.
La liga de las muchachas.
La llamada de la muerte.
Lo mejor de teresa.
Macario.
Majada de nacimiento.
Los malvivientes.
Mama soy Paquito.
La mano que aprieta.
El mar.
La marejada.
Maria Candelaria.
Maria Eugenia.
Mariposas discadas.
El mas valiente del mundo.
Me ha gusado un hombre.
El medallon del crimen.
Medias de seda.
Mercenarios de la muerte.
El Mexicano.
Mexico de mis amores.
Mexico norte.
Mi querido capitan.
La miel se fue a la luna.
Miente y seras feliz.
El mil mascaras.
Mina, viento de libertad.
Un minuto de bondad.
La monja alferez.
El monje blanco.
La mujer ajena.
Una mujer para los sabados.
La mujer perfecta.
La mujer sin la grimas.
Un mulato llamado Martin.
Las Musiqueras.
Natacha.
Nazarin.
Neutron vs. el Dr. Caronte.
Neutron vs. los asesinos karate.
Neutron, el enmascardo negro.
Nino pobre nino rico.
No mataras.
Noches de Paloma.
Nosostras las taquigrafas.
Ochocientas leguas por les Amazonas.
Ojo por ojo.
Los olvidados.
Orinoco.
Otra primavera.
El otro.
Padre contra hijo.
La pajarera.
Paloma herida.
La panchita.
Pandilleros de la muerte.
Para usted jefa.
Paraiso robado (Marcela).
Pata de pala.
Pecado.
Pedro Paramo.
Pelea de perros.
El penon de las animas.
Pepita Jimenez.
Los pequenos gigantes.
La perla.
Pero sigo siendo el rey.
Peron de la hija de nadie.
El planeta de las mujeres invasasores.
Presos sin culpa.
El profeta Mimi.
Pueblerina.
Pueblo sin Dios.
Que bravas son las solteras.
Que hombre ten simpatico.
El que tenga un amor.
Que viene mi marido.
Quiere porque muero.

Raices.
El rapido de las 9:15.
El rapto.
El rebelde.
El revention.
El rio y la muerte.
Roba chicos.
Rocambole vs. la Mujeres Arios.
Rocambole vs. la Secta del Escorpion's.
El ropavejero.
La rosa blanca.
Rosenda.
Rostros olvidados.
Sabre las olas.
Salon Mexico.
San Felipe de Jesus.
San Miguel el Alto.
San Simon de lo Magueyes.
La sangre de nuestra raza.
Sangre sobre el ring.
El santo vs. la Tigresa.
Santo vs. las lobas.
El satanico.
Secreto eterno.
La seduccion.
Semana Santa en Acapulco.
La senora de enfrente.
La Senora Muerto.
La sentencia.
Si mi vida.
La silla vacia.
Simitrio.
La sobrina del senor cura.
El socio.
Soledad.
La sombra del mano negra.
La sombra del murcielago.
Sonatas.
Subida al cielo.
La sucesion.
Tequila.
El tesoro de Morgan.
El testamento.
Tierra brava.
Tierra de valientes.
La trepadora.
Los tres calaveras.
Tres contra el destino.
Las tres tumbas.
Tu, yo, nosotros.
El tuerto Angustias.
Un sabado mas.
Uno y media contra el mundo.
Vainilla, bronce y morir.
Valle de los desaparecidos.
Vals sin fin.
El vampiro sangriento.
La venenosa.
La verdadera vocacion de Magdalena.
El verdugo de Sevilla.
Vertigo.
Vi vidores de mujeres.
El viaje.
Viajera.
La vida dificil deuna mujer.
Viento salvaje.
La virfen que ferjo una partia.
Xoxontla, tieria que arde.
Yo baile con Don Porfiro.
Yo quiero ser hombre.
Tezuka Production. SEE Toho Company, Ltd. & Tezuka Production.
Tezuka Productions Company, Ltd.
Janguru taitei.
Tetsuwan atom.
TF1 Films Production. SEE Progefi, TF1 Films Production, Canal+, Hachette Premiere & Productions Fox Europa.
Theatrecraft, Ltd.
Jungle street.
Toho Co., Ltd.
Aabare goemon.
Akatsuki no dasso.
Ankokugai no dankon.
Ishinaka sensei Gyojoki.
Kage gari.
Kare gari hoero.
Kuroigashu kanryu.
Munekata kyoudai.
Sengoku yaro.
Yato kaze no nakao hashiru.
Toho Co., Ltd. & Hyogensha.
Cinmoku silence.
Toho Company, Ltd.
Aa bakudan.
Aki tachinu.
Ankokugai no kaoyaku.
Ankokugai no taiketsu.
Anzukko.
Arakure.
Arashi no nakano otoko.
Asunaro monogatari.
Buraikan.
Deso ningen.
Dobunezumi sakusen.
Doburoku no tatsu.
Dokuritsu gurentai nishi e.
Dokuritsu gurentai.
Fumochitai.
Garakuta.
Ginrei no hate.
Hiatari ryoko! yume no nakani kimiga ita.
Honoo no gotoku.
Iwashigumo.
Jakoman and tetsu.
Jujin yukiototko.
Keiji monogatari kuroshio no uta.
Keiji monogatari ringo no uta.
Keiji monogatari yamabiko no uta.
Kubi.
Kunisada chuji.
Kuroigashu aru sarariman no shogen.
Kyomo ware oozora ni ari.
Meoto zenzai.
Meshi.
Musashino fujin.
Musume, tsuma, haha.
Nine 2 Koibito Sengen.
Nine.
Okaasan.
Onna goroshi aburajigoku.
Pu-san.
Saikaku ichidai onna.
Sengoku guntoden.
Sogeki.
Subarashiki nichiyobi.
Taiheiyo no washi.
Tsuma.
Ukigumo.
White love.
Yagyu bugeicho soryu hiken.
Yagyu bugeicho.
Yaju shisubeshi.
Yasha.
Yoru no nagare.
Yukiguni.
Zatoichi goyotabi.
Zatoichi royaburi.
Toho Company, Ltd. & Ashi Productions.
Makyogaiden ladius.
Toho Company, Ltd. & Tezuka Production.
Hinotori 2772 ai no cosumo zoon.
Toho Company, Ltd., Fuji Television, Asahi Tsushinsha, Shogagukan, O. B. Kikaku.
Touch 3 kimiga torisugita atoni.
Toho Company, Ltd., Fuji Television, Asahi Tsushinsha, Shogakukan & O B Kikaku.
Touch 2 sayonara no okurimono.
Toho Company, Ltd., Fuji Television, Asahi Tsushinsha.
Touch sebango no nai ace.
Toho Company, Ltd., Nippon TV Hosomou, Yomiuri TV Hoso & Tokyo Movie Shinsha.
Lupin Sansei Babylon no ogondensetsu.
Toho/Mifune Productions.
Furinkazan.
Tokyo Eiga Shinsha, legal successor to Tokyo Eiga.
Kuroi gashu aru sonan.
Neko to shozo to futari no onna.
Tokyo Eiga Shinsha.
Bokuot kitan.
Robo no ishi.
Tokyo Eiga. SEE Tokyo Eiga Shinsha, legal successor to Tokyo Eiga.
Top Entertainment Products, Inc.
Buenas noches ano nuevo.
Cri-Cri el grillito cantor.
La edad de la inocencia.
Morir en el golfo.
La pecadora, el cura y la santa.
Tovey, Doreen.
Cats in the belfry.
Toyko Eiga Shinska (legal successor to Tokyo Eiga).
Anya koro.
Tri-Star Pictures, Inc. SEE TriStar Pictures, Inc., f.k.a. Tri-Star Pictures, Inc.
TriStar Pictures, Inc., f.k.a. Tri-Star Pictures, Inc.
I miei primi 40 anni.
Russicum.
Trustees of the Society of Authors Pension Fund.
Dogs in an omnibus.
Pelican walking.

Smoke rings.
Turnus Film AG.
Bonditis.
UGC. SEE Pathe & UGC.
UGC DA. SEE Films Vendome (A. Osso and UGC DA) co-producers.
UGC DA International (UGC DAI).
A nous les petites anglaises.
Accroche-tol, y'a du vent!
Adorables demons.
Ainsi finit la nuit.
Alerte au deuxieme bureau.
Alerte en mediterranee.
Un aller simple.
Allo...je t'aime.
L' ambitieuse.
Un ami viendra ce sour.
Un amour de pluie.
L' animal.
L' appel du silence.
Apres l'orage.
Apres vous Duchesse.
L' Auberge rouge (black and white version).
L' Auberge tragique.
L' aventurier de Seville.
Bal de nuit.
Une balle suffit.
Les bleus de la marine.
Une blonde comme ca.
Le bon dieu sans confession.
Le bossu.
Le bourgeois gentilhomme.
Les branches a Saint-Tropez.
Brelan d'as.
Les bresiliennes du bois de boulogne.
Breves amours.
C'est la faute d'Adam.
La cage.
Canal grande.
Canet rock.
Cargaison clandestine.
Cargo pour la reunion.
Carrefour des passions.
Le carroussel fanstastique.
Casse tete chinois pour un judoka.
Catherine, il suffit d'un amour.
Un certain Monsieur Jo.
Cet homme est dangereux.
Chantage.
Chaque jour a son secret.
Chaste et pure.
Chateaux en espagne.
Le cheik blanc.
Cheri fais-moi peur.
Un clair de lune a Maubeuge.
Les clandestines.
Les clandestins.
Coincidences.
Les compagnes de la nuit.
Compartiment de dames seules.
Le coq de regiment.
Coup de bambou.
Coup dur chez les mous.
Le couteau sous la gorge.
Crainquebille.
Le crime de David Levinstein.
Croisieres siderales.
La cuisine au beurre.
La cuisine au beurre (black & white version).
La danseuse nue.
La danseuse rouge.
Demain l'afrique.
Le dernier tournant.
Derniere aventure.
Les dernieres vacances.
Des garcons et des filles.
Des quintuples au pensionnat.
Le desir mene les hommes.
Desnuda inquietud.
Deux de l'escadrille.
Les deux gamines.
Deuxieme bureau contre inconnu.
Le diable souffle.
Le dindon.
Les distractions.
Un divorce heureux.
Domenica.
Don Pasquale.
Une drole de bourrique.
Dupont-Barbes.
Les duraton.
L' ecole des cocottes.
L' ecole des journalistes.
L' ecole est finie.
L' eden et apres.
Embraye ... bidasse ca fume.
L' emigrante.
Les enfants du soleil.
Les enfants ne sont pas a vendre.
L' escadron blanc.
L' escapade.
Et dix de fer.
Et ta soeur.
Eternel conflit.
La faile.
La famille pont-biquet.
Les fausses confidences.
La femme fatale.
La femme nue.
Une fille cousue de blanc.
Fils de France.
La foire aux femmes.
Fortune de Marseille.
Franco DePort.
Fumee blonde.
Funny boy.
Le garcon sauvage.
Georges braque ou le temps different.
Gisele.
La grande marniere.
Les grands moyens.
Le guerisseur.
Guinguette.
Hallucinations sadiques.
Histoires interdites.
Hitler...connais pas.
L' homme a femmes.
L' homme de mykonos.
L' homme qui cherche la verite.
L' homme qui ment.
L' homme qui revient de loin.
L' homme qui valait des milliards.
L' homme sans nom.
Ils ont tue jaures.
L' increvable.
Jamais deux sans trois.
Je prends la chose du bon cote.
Le jeu avec le feu.
Les jeunes maris.
Un jour avec vous.
Le journal d'un fou.
Les joyeuses colonies de vacances.
Le judoka, agent secret.
King and country.
La seconde verite.
La lecon particuliere.
Leguignon guerisseur.
Les aventures de Gil Blas de santillane.
Il letto in piazza.
Lettre ouverte.
La loi.
La louve solitaire.
Lucrece borgia.
Lucrece.
Les lumieres du soir.
Ma femme, ma vache et moi.
Ma femme, mon gosse et moi.
Ma petite folie.
Ma tante dictateur.
Macao, l'enfer du jeu.
Mademoiselle Josette, ma femme.
La main a couper.
La main chaude.
La maison dans la dune.
Les maitres nageurs.
Le mandai d'amener.
Mannon 70.
Le marchand de filles.
Les marchandes d'illusions.
Match contre la mort.
Mayerling 1.
Mefiez-vous fillettes.
La megere apprivoisee.
Mensonges.
Mermoz.
Message chiffre.
Mieux vautetre riche et bien portant que pauvre et mal fichu.
Mission speciale a Caracas.
Le mome.
Mon ami le cambrioleur.
Le monde est comme ca.
Monsieur De Pourceaugnac.
Monsieur Leguignon lampiste.
Monsieur personne.
Mont-dragon.
Les mordus.
Les mordus de Paris.
La morte saison des amours.
La moucharde.
Moumou.
N'a pris les des.
Napoleon Bonaparte, empereur des francais.
Les naufrageurs.
Neige.
Nick Carter is breaking everything.
Nina.
Une nuit aux Baleares.
Une nuit de folies.
La nuit des suspectes.
La nuit obscure.
Les nuits blanches de Saint-Petersbourg.

Obsession.
Ou est passe Tom?
Le pain des jules.
Les parias de la gloire.
Pas de vacances pour monsieur le maire.
Pas si bete.
Le passager clandestin.
Le passe muraille (black and white version).
Le peleton d'execution.
Pension Jonas.
Le pere lampion.
Les petits chats.
Picasso.
Plus de vacances pour le bon dieu.
Le plus heureux des hommes.
Police judiciaire.
La porteuse de pain.
Portrait robot.
Pouic-pouic (black and white vesion).
Pour une nuit d'amour.
Pour une poignee de diamants.
La prisonniere.
Proces du vatican.
Promesse a l'inconnue.
La provocation.
La punition.
Quai de Grenelle.
Quai du point du jour.
Quand sonnera midi.
Que les gros salaires levent le doigt.
Quelques pas dans la vie.
Quitte ou double.
Raft au deuxieme bureau.
Rak.
Rendez-vous avec la chance.
Requiem pour un caid.
Rien be va plus.
Rires de Paris.
Robinson Crusoe.
Robinson et le triporteur.
Le roi des camelots.
RPZ ... appelle Berlin.
Sacre leonce.
Le Saint mene la danse.
Salut les frangines.
San Antonio ne pense plus qu'a ca.
Le sang des tropiques.
La saut de l'ange.
Le secret de Madame Clapain.
Senso.
Serenade au Texas.
Service de nuit.
Sidi-Birahim.
Signe Charlotte.
Simplet.
Un soir a Marseille.
Un soir sur la plage.
Soldat Duroc, ca va etre ta fete.
Le solitaire passe a l'attaque.
La sonnette d'alarme.
La sorciere.
Sortileges.
Le souffle du desir.
Souis la griffe.
Soupcons.
Soyez les bienvenus.
Stella.
Stress.
Il suffit d'aimer.
Il suffit d'une fois.
Sur un arbre perche.
Surprise party.
Tamango.
Tapage nocturne.
La taverne du poisson couronne.
Telephone public.
Tempo di Roma.
Le temps des loups.
La tete dans le sac.
La tete du client.
Therese Martin.
Le toubib prend du galon.
Touchez pas aux blondes.
Tourbillon.
Trans-europ-express.
Un tresor de femme.
Les tricheurs.
Tricoche et cacolet.
Le triomphe de Michel Strogoff.
Les trois cousines.
Trois dans un moulin.
Trois de Saint-Cyr.
Trois femmes.
Ursule et Grelu.
Vacances Portugaises.
La vache et le prisonnier.
La valse de Paris.
Les veinards.
La vengeance du Doge.
Veronique.
Veronique ou l'ete de mes 13 ans.
Le Vicomite de Bragelonne.
Une vie de garcon.
La vie en rose.
La vie est belle.
La vie normale.
La vierge du Rhin.
Les vilaines manieres.
Le village magique.
Violence Charnelle.
Violettes imperiales.
Virginie.
Le visage des Dieux.
Vive la liberte.
Vive la sociale.
Voir Venise et crever.
Le voleur de crime.
Voleur malgre lui.
Les voraces.
Vous interessez-vous a la chose?
Vous pigez?
Le voyage de noces.
Le voyage en douce.
Le vrai coupable.

UGC DA International (UGC DAI) & Teledis.
Quand minuit sonnera.
Les sept peches capitaux.

UGC DAI. SEE UGC DA International (UGC DAI).

UGC De International (UGC DAI).
La parte du feu.
Pas de pitie pur les caves.
Passion.
La plus joli peche du monde.
Poker.
Pourvu qu'on ait l'ivresse.
Le route de salina.
Le route napoleon.

UGC De International (UGC DAI) & Teledis.
Lordinateur des pompes funebres.
Les parisiennes.
Le pays d'ouje viens.
Le plus vieux metier du monde.
La rendez-vous.
La tour prend garde.

Varda, Agnes.
Le bonheur.
Cleo de 5 a 7.
Les creatures.
Daguerreotypes.
La pointe courte.

Vera Film, SPA. SEE Columbia Pictures Industries, Inc., assignee of Vera Film, SPA.

Very.
Goupi mains rouges.

Victoria. SEE Cogelda, Plazza & Victoria.

Video Universal, S.A. de C.V.
El amor de mi bohio.
Amor salvaje.
Antesala de la silla electrica.
Bajo el manto de la noche.
Cabaret Shanghai.
El calvario de una esposa.
El charro del arrabal.
Contrabandistas del caribe.
Crimen en la hacienda.
Cruell destino.
El derecho y el deber.
La Diosa de Thaiti.
Duelo en la Canada.
Embrujo antillano.
Eterna martir.
El fantastico mundo de los hippies.
El farol en la ventana.
Gangsterns contra charros.
Historia de un gangster.
Hombres sin alma (serie percal).
Honraras a tus padres.
El infierno de los pobres.
Madre querida (2da version).
Madre querida (Ira version).
La maldicion de mi raza.
La mesera del cafe del Puerto.
Los mister ios del hampa.
Mujeres sin alma.
Organizacion criminal.
Pasiones infernales.
Pasiones tormentosas.
Perdicion de mujeres (serie percal).
Plazos traisioneros.
Que idiotas son los hombres!
Quiereme con musica.
El reino de los gangsters.
Sagrario.
Sandra.
Secretaria peligrosa.
Siboney.
El sindicato del crimen.
Tania la bella salvaje.
Te odio y te quiero.
Thaimi, la hija del pescador.
La tortola del Ajusco.

Una mujer de oriente.
La virgen de la calle.
Zonga, el angel diabolico.
Vides Cinematografica, SaS (Rome). SEE Columbia Pictures Industries, Inc., (assignee of Tele-Hachette & Mondex Films, S.
WAC World Audiovisual Corporation, BV.
A cavallo della tigre.
Africa sotto i mari.
Alvaro piuttosto corsaro.
Le amiche.
Angelo bianco.
L'assassino.
Attanasio cavallo vanesio.
Audace colpo dei soliti ignoti.
Baleari operazione oro.
Banditi ad orgosolo.
La Bella mugnaia.
Belle ma povere.
Una bellissima estate.
Il bidone.
Bufere.
La bugiarda.
Cafe Chantant.
La Calandria.
Camorra.
Il camorrista.
Catene.
La cento kilometri.
Chi e senza peccato.
Classe di ferro.
Come perdere moglie e trovare.
Delitto al circolo di tennis.
Demoni.
Demoni 2.
Il demonio.
Di tresette ce n'e uno tutti.
Difendo il mio amore.
Il disordine.
E permesso maresciallo.
L'emigranite.
Er piu ... storia d'amore e di.
L' eredita ferramonti.
Estate violenta.
Farfalla dalle ali insanguinate.
Fate largo ai moschettieri.
Il figlio di Django.
Gambre d'oro.
La gang del parigino.
Gente felice.
Wac World Audiovisual Corporation, BV.
Giorno per giorno disperatamente.
WAC World Audiovisual Corporation, BV.
Il giorno piu corto.
Grande rakett.
I dolci inganni.
I due colonnelli.
I fidanzati.
I figli di nessuno.
I magliari.
Io chiara e lo scuro.
Io la conoscevo bene.
Io mammeta e tu.
John il bastardo.
John Travalto da un insolito.
Luna di miele in tre.
Macchie solari.
Malinconico autunno.
Menzogna.
Mi permette Babbo.
Mio figlio Nerone.
Mystere.
Napoli si Ribella.
La nipote Sabella.
Noi peccatori.
La nonna Sabella.
Ombrellone.
Operazione S. Gennaro.
Pane amore e.
Pane, amore, e fantasia.
Pane, amore, e gelosia.
Pathos un sapore di paura.
Phenomena.
Pianeta degli uomini spenti.
Piedone a Hong Kong.
Piedone d'Egitto.
Piedone l'Africano.
Piedone lo sbirro.
Policarpo dei tappeti uff scrit.
Poliziotto sprint.
Porci con le ali.
Il posto.
Poveri ma belli.
Poveri milionari.
Preparati la bara.
Presentimento.
Il profeta.
La proprieta non e piu un furto.
Quel maledetto ponte sull'elba.
La ragazza con la valigia.
Rugantino.
Savana violenta.
La sbandata.
Scipione detto anche l'africano.
La sculacciata.
Se lo scopre Gargiulo.
Shock.
Signore e signori buonanotte.
Soldato di ventura.
Sorriso uno schiaffo un bacio.
Space man.
Speed cross.
La spiaggia.
Squadra antifurto.
Squadra antigangster.
Squadra antimafia.
La stanza del vescovo.
Il tempo si e fermato.
Tenebre.
Le tigri di Mompracem.
La tosca.
Ultime grida dalla savana.
Uomini e lupi.
Uomo avvisato parola spirito.
La venexiana.
Venezia la luna e tu.
Veruschka.
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Vivo per la tua morte.
Walerstein, D., Mauricio.
Cronica de un subersivo latinoamericano.
Cuando quiero llorar no lloro.
La empresa perdona un momento de locura.
Eva, Julia y Perla.
Walerstein, Gregorio.
A media luz los tres.
Acuerdate de vivir.
Aladino y la lampara maraavillosa.
Amar fue su pecado.
Amor de adolescente.
Amor de la calle.
Amor de locura.
Amor en cuatro tiempos.
Amor vend ido.
Apasionada.
Arrabalera.
Los baarbaros del norte.
El caballo bayo.
Callejera.
Camelia.
El carinoso.
Casa de munecas.
Como pescar marido.
El corrido de maria pistolas.
La emboscada mortal.
El enmascarado de plata.
La entrega.
Especialista en chamacas.
La estatua de carne.
Los fenomenos de futbol.
Las figuras de arena.
Gutierritos.
He matado a un hombre.
Los hermanos del hierro.
El hijo de Gabino Barrera.
El joven del carrito.
Los jovenes.
El justicieron vengador.
Lupe balazos.
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Mi madre es culpable.
Mi papa tuvo la culpa.
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La mujer desnuda.
La mujer que yo ame.
Napoleoncito.
No se mande profe.
Orquideas para mi esposa.
Pasionaria.
El picaro.
Piernas de oro.
Reventa de esclavas.
Si fuera una cualquiera.
Si volvieras a mi.
Sobre el muerto las coronas.
Te sigo esperando.
Las tres pelonas.
La ultima lucha.
Una movida chueca.
Vuelve el Norteno.
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Yo soy muy macho.
Weisweiller, Canale.
Les enfants-terribles.
Williams, Wade.
Devil girl from Mars.
House of darkness.
Stolen identity.
Trollenberg terror.

World Audiovisual Corporation, BV.
SEE WAC World Audiovisual Corporation, BV.

Dated: January 26, 1998.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 98–2262 Filed 1–29–98; 8:45 am]

BILLING CODE 1410–30–P

federal register

Friday
January 30, 1998

Part VI

Department of Justice

Bureau of Prisons

28 CFR Parts 541 and 551

Institutional Management; Editorial Amendments; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 541 and 551

[BOP–1074–F]

RIN 1120–AA70

Institutional Management; Editorial Amendments

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its regulations relating to institutional management to update an organizational reference, to make a stylistic correction, and to adjust codification. There is no change in the intent of any of the amended regulations.

EFFECTIVE DATE: January 30, 1998.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Rules Unit, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on marriage of inmates (28 CFR part 551, subpart B). A final rule on this subject was published in the **Federal Register** on April 30, 1984 (49 FR 18385) and was amended on October 29, 1993 (58 FR 58248). When first promulgated, § 551.10 consisted of two undesignated paragraphs. In conformance with Office of Federal Register recommendations, these two undesignated paragraphs are being combined into one paragraph. More specifically, the two sentences of the second undesignated paragraph are being designated as the second and third sentences of the remaining paragraph.

The Bureau is also making two editorial amendments to its procedures for handling HIV-positive inmates who pose a danger to others (28 CFR part 541, subpart E). A final rule on this subject was published on March 17, 1989 (54 FR 11323) and was amended on April 27, 1989 (54 FR 18198) and on July 10, 1991 (56 FR 31530). These regulations are being amended to update the references to the organization and procedures of the Administrative Remedy Program in §§ 541.65(c) and 541.67(e) and to use the singular rather than the plural form of a noun in § 541.63(a).

Because these amendments are editorial in nature, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), does not have a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects

28 CFR Part 541

Prisoners.

28 CFR Part 551

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), parts 541 and 551 in subchapter C of 28 CFR, chapter V are amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

1. The authority citation for 28 CFR part 541 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

§ 541.63 [Amended]

2. In § 541.63(a), the word ''recommendations'' in the second sentence is revised as ''recommendation''.

3. In § 541.65, paragraph (c) is revised to read as follows:

§ 541.65 Regional Director review and appeal.

* * * * *

(c) An inmate may appeal a decision of the Regional Director, through the Administrative Remedy Program, directly to the National Inmate Appeals Administrator, Office of General Counsel, within 30 calendar days of the Regional Director's decision (see 28 CFR 542.15).

4. In § 541.67, paragraph (e) is revised to read as follows:

§ 541.67 Review of controlled housing status.

* * * * *

(e) An inmate may appeal a decision of the Regional Director, through the Administrative Remedy Program, directly to the National Inmate Appeals Administrator, Office of General Counsel, within 30 calendar days of the Regional Director's decision (see 28 CFR 542.15).

PART 551—MISCELLANEOUS

4. The authority citation for 28 CFR part 551 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; Pub. L. 99–500 (sec. 209); 28 CFR 0.95–0.99; Attorney General's August 6, 1991 Guidelines for Victim and Witness Assistance.

§ 551.10 [Amended]

5. In § 551.10, designate the text of the undesignated second paragraph as the second and third sentences of the first paragraph.

[FR Doc. 98–2289 Filed 1–29–98; 8:45 am]

BILLING CODE 4410–05–P

federal register

Friday
January 30, 1998

Part VII

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development; Notice of Funding for Fiscal Year 1997: Capacity Building for Community Development and Affordable Housing; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4289–N–01]

Office of the Assistant Secretary for Community Planning and Development; Funding for Fiscal Year 1997: Capacity Building for Community Development and Affordable Housing

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding for fiscal year 1997.

SUMMARY: A recently enacted appropriation transfers $30.2 million in Fiscal Year 1997 funds to section 4 of the HUD Demonstration Act of 1993 and amends it to provide this assistance through The Enterprise Foundation, the Local Initiatives Support Corporation (LISC), Habitat for Humanity, and Youthbuild, USA. The funds are to be used for capacity building for community development and affordable housing—provided that at least $10,000,000 of the funding is used in rural areas, including tribal areas—as required by section 4 of the 1993 Act.

Section 4 authorizes the Secretary to establish by notice such requirements as may be necessary to carry out its provisions. This notice, which takes effect upon issuance, indicates that HUD will equally divide the $30.2 million appropriated for this capacity building initiative among the four organizations cited above. Each organization will match the HUD assistance provided with resources from private sources in an amount equal to three times its share, as required by section 4 of the 1993 Act. Each organization will use at least $2.5 million of its $7.55 million share for activities in rural areas, including tribal areas.

This notice also provides details regarding administrative and other requirements which shall apply to this program.

FOR FURTHER INFORMATION CONTACT: Phyllis Amon, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7216, Washington DC 20410. Telephone Number (202) 708–3176 Ext. 4380, TTY Number: (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

1. Authority

The 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, including Those in Bosnia, Pub.L. 105–18, 111 Stat. 198 and 201, June 12, 1997, (1997 Emergency Supplemental Appropriations Act) transfers $30.2 million from the Homeownership and Opportunity for People Everywhere (HOPE) program account to section 4 of the HUD Demonstration Act of 1993, 41 U.S.C. 9816 note, (1993 Act) and amends it to provide this assistance through Enterprise, LISC, Habitat for Humanity, and Youthbuild ''to develop the capacity and ability of community development corporations and community housing development organizations to undertake community development and affordable housing projects and programs.''

2. Background

In Fiscal Year 1994, HUD provided $20 million to Enterprise and LISC through The National Community Development Initiative (NCDI) as authorized by section 4 of the HUD Demonstration Act of 1993. An additional $10 million for NCDI was authorized by section 12(b)(3) of the Housing Opportunity Program Extension Act of 1996, Pub. L. 104–120, 110 Stat. 845, March 28, 1996. In accordance with these statutes, HUD divided both appropriations equally between Enterprise and LISC. HUD published a notice on March 30, 1994, at 59 FR 14988, which sets forth the requirements for these funds.

Today's notice contains requirements for the newly authorized $30.2 million. These funds, however, may be allocated by Enterprise and LISC to continue NCDI activities which received funding under the notice dated March 30, 1994 and grant agreements pursuant to it. Those activities will continue to be governed by the requirements of the **Federal Register** funding notice dated March 30, 1994.

Today's notice does not apply to the $30 million in funds previously made available for NCDI under section 4 of the HUD Demonstration Act of 1993 or any additional HUD funds allocated by Enterprise and LISC for NCDI activities. The use of such funds will continue to be governed by the requirements of the March 30, 1994, **Federal Register** funding notice.

3. Allocation and Form of Awards

The 1997 Emergency Supplemental Appropriations Act provides $30.2 million for Section 4 activities. In accordance with congressional intent, Enterprise, LISC, Habitat for Humanity, and Youthbuild will each be awarded 7.55 million. The accompanying Conference Report stated in part:

> The language makes a technical change to include certain participating intermediary organizations * * *. It is the intent of the conferees that funds available shall be equally divided among participating intermediary organizations. (H.R. Conf. Rep. No. 105–119, 105th Cong., 1st Sess. 115 (1997))

Each organization will use $2.5 million of its share for activities in rural areas, including tribal areas.

4. Eligible Activities

Eligible activities under this award include:

(a) Training, education, support, and advice to enhance the technical and administrative capabilities of community development corporations (CDCs) and community housing development organizations (CHDOs);

(b) Loans, grants, development assistance, predevelopment assistance, or other financial assistance to CDCs/CHDOs to carry out community development and affordable housing activities that benefit low-income families and persons, including the acquisition, construction, or rehabilitation of housing for low-income families and persons, and community and economic development activities which create jobs for low-income persons; and

(c) Such other activities as may be determined by Enterprise, LISC, Habitat for Humanity, and Youthbuild in consultation with the Secretary or his designee.

5. Matching Requirements

As required by section 4 of the 1993 Act, this $30.2 million appropriation is subject to each award dollar being matched by three dollars in cash or in-kind contributions to be obtained from private sources. Each of the organizations receiving these funds will document its proportionate share of matching resources, including resources committed directly or by a third party to a grantee or subgrantee after June 12, 1997 to conduct activities in approved work plans.

In-kind contributions shall conform to the requirements of 24 CFR 84.23.

6. Administrative and Other Requirements

The award will be governed by 24 CFR part 84 (Uniform Administrative Requirements), A–122 (Cost Principles for Nonprofit Organizations), and A–133 (Audits of Institutions of Higher Education and other Nonprofit Institutions) as implemented at 24 CFR part 45.

Other requirements will be detailed in the terms and conditions of the grant agreement provided to grantees, including the following:

(a) Each grantee will submit to HUD a specific work and funding plan for each community showing when and how the federal funds and non-federal matching resources will be used. The work plan must be sufficiently detailed for monitoring purposes and must identify the performance goals and objectives to be achieved. Within 30 days after submission of a specific work plan, HUD will approve the work plan or notify the grantee of matters which need to be addressed prior to approval, or the work plan shall be construed to be approved. Work plans may be developed for less than the full dollar amount and term of the award, but no HUD-funded costs may be incurred for any activity until the work plan is approved by HUD. All activities are also subject to the environmental requirements in paragraph 6.(f) of this notice.

(b) The grantees shall submit to HUD an annual performance report due 90 days after the end of each calendar year, with the first report due on March 31, 1999. Performance reports shall include reports on both performance and financial progress under work plans including reports on the commitment and expenditure of private matching resources utilized through the end of the reporting period. Reports shall conform to the reporting requirements of 24 CFR part 84. Additional information or increased frequency of reporting, not to exceed twice a year, may be required by HUD any time during the grant agreement if HUD finds such reporting to be necessary for monitoring purposes.

To further the consultation process and share the results of progress to date, the Secretary may require grantees to present and discuss their performance reports at annual meetings in Washington, DC during the life of the award.

(c) The performance reports must contain the information required under 24 CFR part 84, including a comparison of actual accomplishments with the objectives and performance goals of the work plans. In the work plans each grantee will identify performance goals and objectives established for each community in which it proposes to work and appropriate measurements under the work plan such as: the number of housing units and facilities each CDC/CHDO produces annually during the grant period and the average cost of these units. Provided, however, that when the activity described in a work plan is not to be undertaken in a single community that a report indicating the areas in which the activity will be undertaken, along with appropriate goals and objectives, will be provided when that information is available. The performance reports will also include a discussion of the reasonableness of the unit costs; the reasons for slippage if established objectives and goals are not met; and additional pertinent information.

(d) A final performance report, in the form described in paragraph (c) above, shall be provided to HUD by each grantee within 90 days after the completion date of the award.

(e) Financial status reports (SF–269A) shall be submitted semiannually.

(f) Environmental review. Individual projects to be funded by these grants may not be known at the time the overall grants are awarded and also may not be known when some of the individual subgrants are made. Therefore, in accordance with 24 CFR 50.3(h), the application and the grant agreement must provide that no commitment or expenditure of HUD or local funds to a HUD-assisted project may be made until HUD has completed an environmental review to the extent required under applicable regulations and has given notification of its approval in accordance with 24 CFR 50.3(h).

8. Application Content

Grantees will be required to file an application containing the following:

(a) Application for Federal Assistance (OMB Standard Form 424), Non-construction Assurances (SF–424B), Certification Regarding Drug-Free Workplace Requirements, Certification Regarding Lobbying and the Fair Housing and Equal Opportunity certification described in section 9(f) of this notice;

(b) A Summary Budget for the amount of funds being requested as described in section VI (10) of the ''NOFA for Consolidated Technical Assistance for Community Planning and Development (CPD) Programs; Notice,'' published at 59 FR 33842, 33848, on June 30, 1994 and specifying any amounts to be committed to NCDI activities under the notice dated March 30, 1994 and grant agreements pursuant to it.

9. Other Matters

(a) *Environmental Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

(b) *Wage Rates.* Unless triggered by other Federal funds for a project under this grant, the requirements of the Davis-Bacon Act do not apply.

(c) *Relocation.* The Uniform Relocation Act applies to anyone who is displaced as a result of acquisition, rehabilitation, or demolition, for a HUD-assisted activity.

(d) *Federalism.* The General Counsel, as the Designated Official under section 7(a) of the Executive Order 12612, *Federalism*, has determined that the policies contained in this funding notice will not have substantial direct effects on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government. Specifically, this notice makes funds available through specific entities for specific activities, as required by statute, and does not impinge upon the relationships between the Federal government, and State and local governments.

(e) *Prohibition against lobbying activities.* Applicants for funding under this notice are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995, Pub. L. 104–65 (December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal Executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment or modification. The Byrd Amendment applies to the funds that are the subject of this notice. Therefore, applicants must file with their application a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted.

The Lobbying Disclosure Act of 1995, Pub. L. 104–65 (December 19, 1995), which repealed section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR

part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

(f) *Fair Housing and Equal Opportunity.* Applications must contain a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

Authority: Section 4 of the HUD Demonstration Act of 1993, Pub. L. 103–120, 42 U.S.C. 9816 note, as amended and Pub. L. 105–18, 111 Stat 198.

Dated: January 23, 1998.

Saul N. Ramirez, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 98–2270 Filed 1–29–98; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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The List of Public Laws for the 105th Congress, First Session, has been completed. It will resume when bills are enacted into Public Law during the second session of the 105th Congress, which convenes on January 27, 1998.

Note: A Cumulative List of Public Laws was published in the **Federal Register** on December 31, 1997.

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