

Presidential Documents

Title 3—

Proclamation 5414 of November 26, 1985

The President

National Mark Twain Day, 1985

By the President of the United States of America

A Proclamation

Like the comet that startled the night sky at his birth and returned as a bright chariot to "carry him home" 75 years later, the literary achievements of Mark Twain can truly be called an "astronomical" phenomenon.

Born Samuel Langhorne Clemens, November 30, 1835, in Florida, Missouri, he enjoyed an idyllic boyhood in Hannibal, Missouri. There by the banks of the mighty Mississippi, he came to know and love the common people of America. Their crotchets and kindnesses; their exasperating foibles; their endearing loyalties; their dreams and hopes were printed indelibly in his memory. Annealed through time and art, those recollections would be transformed by his genius into immortal characters in masterworks that not only won great popularity in his day but have also stood the test of time.

Today, as we commemorate the 150th anniversary of Mark Twain's birth—and as Halley's Comet again brightens the skies of our planet—the wit, the wisdom, and the inimitable style of Mark Twain continue to delight and instruct young and old—in more than 50 languages.

It is a measure of the richness of Twain's genius and the complexity of his character that debates still go on as to whether he was primarily a humorist, a novelist, a charming spinner of provincial yarns, a cynic, or a sentimentalist. The truth is he was all of these—and more.

He was American to the core and he was also a sophisticated world traveller. He evoked the concrete details of his own time and place as no one else could, and he was also deeply versed in history.

He relished the innocent joys of childhood and the storybook adventures of his young manhood. He knew the fulfillment of a happy marriage and the heady wine of wealth and adulation. The dons of Yale and Oxford honored him with exalted degrees, and when he died the common people wept.

Twain also knew the shattering humiliation of betrayal and bankruptcy. He endured the soul-searing desolation of bereavement, and in the depths of his grief he could sometimes rail like the proverbial village atheist. But he could also write of the saintly Joan of Arc with the awe and ardor of a hagiographer. In many ways Twain remains a riddle. He still awaits a definitive biography. He would probably have been amused at all the fuss that has been made over him and chuckle at some of the theories the critics have spun about him and his works. Self-deprecation was the hallmark of his humor; he loved to puncture pomposity—even his own.

New York, Connecticut, California, and Hawaii are only some of the States that can claim to have shaped his life, but Hannibal, Missouri, where he grew up, will always have a prior claim. And so it is especially fitting that while all Americans celebrate this anniversary, Hannibal—which maintains his boyhood home as a museum—has been the scene of special events starting in May and culminating on November 30, the 150th anniversary of his birth.

The Congress, by House Joint Resolution 259, has designated November 30, 1985, as "National Mark Twain Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim November 30, 1985, as National Mark Twain Day. I call upon the people of the United States to observe such day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of November, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-28940

Filed 12-3-85; 11:04 am]

Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 50, No. 233

Wednesday, December 4, 1985

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.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Official Inspection and Class X or Class Y Weighing Requirements and Inspection Methods and Procedures

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is finalizing its proposed rule concerning Official Inspection and Class X or Class Y Weighing Requirements and Inspection Methods and Procedures published in the Federal Register February 25, 1985. The provision for contracting with individuals for obtaining official samples for reinspection or appeal inspection services is deleted. Miscellaneous revisions reorganize, condense, and simplify certain language. This final rule also establishes provisions for providing applicants two options for certificating infested grain in railcars or trucks with permanently enclosed tops. These changes clarify and simplify the regulations, conform certain provisions to present trading practices, and facilitate the use of the regulations.

EFFECTIVE DATE: January 3, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, RM, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington DC 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation

1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and section 3504(h) of the Act, the information collection and recordkeeping requirements contained in the final rule have been approved by OMB.

Final Action

The review of the regulations concerning Official Inspection and Class X and Class Y Weighing Requirements (7 CFR 800.15-19) and Inspection Methods and Procedures (7 CFR 800.80-.88) included a determination of continued need for and consequences of the regulations. The objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and the regulations are consistent with FGIS policy and authority. FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. In the February 25, 1985, Federal Register (50 FR 7598), FGIS proposed that §§ 800.15-800.19 and §§ 800.80-800.88 be revised by:

1. Clarifying, condensing, and removing unnecessary language.
2. Redesignating §§ 800.17-800.19 as §§ 800.16, 800.17, and 800.18, and removing § 800.19 for clarity.
3. Incorporating provisions for applying additives for the purpose of controlling insects, suppressing dust, identifying grain, and any other purpose deemed necessary by the Administrator in § 800.80(e). On November 26, 1984, a

proposal was published in the Federal Register (49 FR 46414) to establish provisions for applying additives to grain prior to inbound weighing and after outbound weighing. That proposal indicated that if the November 26, 1984, proposal was adopted, corresponding provisions would be incorporated into § 800.83(e). Since that has not occurred, corresponding changes to § 800.80(e) are not being implemented in this final actions as proposed.

4. Removing the provision in § 800.81(a)(3)(i) for a licensed contract sampler to obtain an official sample for reinspection or appeal inspection services.

5. Providing in §§ 800.84(b)(3) and 800.85(e) two options for applicants for inspection service when grain in railcars or trucks with permanently enclosed tops is determined to be infested. The proposed revision to § 800.84(b)(3) and § 800.85(e) would incorporate the present fumigation procedures into these sections of the regulations to facilitate their use.

6. Removing the definitions for door-probe sample in § 800.84(f)(4)(i) and shallow-probe sample in § 800.84(f)(4)(ii). Deleting these definitions would result in the current § 800.84(f)(5), *Restrictions*, being redesignated as § 800.84(f)(4); § 800.84(f)(5) would be removed.

Comments on the February 25, 1985, proposal were to be submitted by April 26, 1985. A total of five comments were received on the proposed changes.

Two commenters agreed with all the proposed changes. The other three commenters agreed with the proposed changes but offered three specific recommendations for consideration.

All the comments supported including provisions for fumigation of railcars and trucks in §§ 800.84(b)(3) and 800.85(e). Two commenters pointed out that the language in the proposed regulation was not clear. FGIS agrees with these comments and clarified the language in §§ 800.84(b)(3) and 800.85(e) to include specific references to railcars and trucks.

Three comments questioned the use of the term *infested* to describe the special grade *Weevily* in §§ 800.84(b)(3) and 800.85(e). The commenters felt the change in terminology could be misunderstood and cause confusion in the grain market. FGIS reviewed these comments and concluded that the

proposed terminology be finalized as proposed.

FGIS is in the process of revising the Official U.S. Standards for Grain to include a change in terminology from weevily to infested. On January 27, 1984, FGIS published a proposal in the Federal Register (49 FR 3485) for sunflower seed. On December 20, 1984, another proposal was published (49 FR 49474) covering changes to the soybean standards. Each proposal changed the terminology from weevily to infested and solicited comments. No comments were received on either proposal opposing the change in terminology. On June 1, 1984, and May 1, 1985, final rules were published for sunflower seed and soybeans, respectively. These final rules replaced the term weevily with infested. Official certificates are currently being issued with the term infested without apparent confusion. Accordingly, FGIS finds no need for changing the proposed wording in the February 25, 1985, proposal.

Two commenters recommended the provisions in § 800.84(e) be restricted to land carriers only. The provisions in this section cover bulk grain offered for inspection at rest in a carrier.

When bulk grain is offered for inspection while at rest in a carrier, the grain is sampled with an approved probe. In some instances, the bottom of the carriers cannot be sampled. In these instances, a statement is included on the official certificate indicating the depth probed. The two commenters do not want barges sampled with a probe because the bottom, in most cases, cannot be sampled. If these provisions were so restricted, there would be no means by which a probe sample of grain in a barge at rest could be taken. Further, other methods of sampling would not be available, with the exception of online sampling methods. The issue of allowing only diverter-type mechanical sampling for barges was the subject of a previous rulemaking which appeared in the December 1, 1982, issue of the Federal Register (47 FR 54056). After evaluating information provided by grain merchandising companies, elevator operators, and the FGIS Advisory Committee, it was determined at that time that a provision allowing for probe sampling of barges at rest was necessary to facilitate the orderly marketing of grain. FGIS does not have any information that would indicate that the present provision does not accomplish its original purpose. Accordingly, FGIS finds that a provision allowing for probe sampling of grain at rest in a barge is necessary and is adopting § 800.84(e) as proposed.

In addition to the changes made in this final action from those which were proposed, miscellaneous nonsubstantive changes are made for clarity.

List of Subjects in 7 CFR Part 800

Administrative practices and procedures, Grain, Export.

Accordingly, 7 CFR Part 800 of the regulations is amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for Part 800 continues to read as follows:

Authority: (Pub. L. 94-582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*))

Official Inspection and Class X or Class Y Weighing Requirements

2. Section 800.15 is revised as follows:

§ 800.15 Services.

(a) *General.* These regulations implement requirements for a national inspection and weighing system. This system promotes the uniform and accurate application of the official grain standards and provides inspection and weighing services required by the Act and as requested by applicants for official services. The types and kinds of services available under the Act and regulations can be obtained at all specified service points in the United States and on U.S. grain in Canadian ports.

(b) *Responsibilities for complying with official inspection and weighing requirements.* (1) *Export grain.* Exporters are responsible for complying with all inspection, Class X weighing, and other certification provisions and requirements of section 5(a)(1) of the Act and the regulations applicable to export grain.

(2) *Intercompany barges.* Operators of export elevators at export port locations are responsible for complying with Class X weighing requirements and regulations covering intercompany grain shipments received by barge.

(3) *Grain in marked containers.* When grain is in a container that bears an official grade designation or mark, the person who places the designation or mark on the container or the person who places the grain in a container that bears the designation or mark shall be responsible for determining that the grain has been inspected or weighed by official personnel and qualifies for the official grade designation or mark.

(4) *Grain for which representations have been made.* Any person who makes a representation that (i) grain has been officially inspected or weighed; or (ii) grain has been officially inspected or weighed and found to be of a particular

kind, class, quality, condition, or weight; or (iii) particular facts have been established with respect to the grain by official inspection or weighing, shall be responsible for determining that the representation is true and is not in violation of the Act and regulations.

3. Section 800.17 is redesignated as § 800.16 and revised to read as follows:

§ 800.16 Certification requirements for export grain.

(a) *General.* Official Export Grain Inspection and Weight Certificates, Official Export Grain Inspection Certificates, and Official Export Grain Weight Certificates for bulk or sacked grain shall be issued according to § 800.162 for export grain loaded by an export elevator. Only these types of export certificates showing the official grade and/or the Class X weight of the grain shall be considered to be in compliance with the inspection and/or weighing requirements under the Act for export grain.

(b) *Promptly furnished.* Export certificates shall be considered promptly furnished if they are forwarded by the shipper or the shipper's agent to the consignee not later than 10 business days after issuance.

4. Section 800.18 is redesignated as § 800.17 and revised to read as follows:

§ 800.17 Special inspection and weighing requirements for sacked export grain.

(a) *General.* Subject to the provisions of § 800.18, sacked export grain shall be (1) officially inspected on the basis of official samples obtained with an approved sampling device and operated in accordance with instructions, (2) Class X weighed or checkweighed, and (3) officially checkloaded by official personnel at the time the grain is loaded aboard the export carrier, in accordance with the provisions of paragraphs (b) and (c) of this section.

(b) *Services at time of loading.* When official sampling, official inspection, Class X weighing or checkweighing, and checkloading of sacked export grain loaded aboard an export carrier is performed at one location and time, official export inspection and weight certificate(s) which identify the export carrier shall be issued.

(c) *Services prior to loading.* When official sampling, official inspection, and Class X weighing or checkweighing of sacked export grain is performed prior to the date of loading aboard an export carrier, official "OUT" certificates shall be issued. An examination by official personnel for condition and checkloading of the grain shall be made as the grain is loaded aboard the export

carrier. If the examination for condition and the checkloading shows that the identity or quantity of the grain has not changed or the condition of the grain has not changed beyond expected variations prescribed in the instruction, official export inspection and weight certificates shall be issued on the basis of the official "OUT" certificates and the checkloading. If the identity, quantity, or the condition has changed, official export inspection and weight certificates shall be issued on the basis of the most representative samples, including weight samples, obtained at the time the grain is loaded aboard the export carrier.

5. Section 800.19 is redesignated as § 800.18 and revised to read as follows:

§ 800.18 **Waivers of the official inspection and Class X weighing requirements.**

(a) *General.* Waivers from the official inspection and Class X weighing requirements for export grain under section 5 of the Act shall be provided in accordance with this section and the Act.

(b) *Waivers.* (1) *15,000 metric-ton waiver.* Official inspection and Class X weighing requirements apply only to exporters and individual elevator operators who (i) exported 15,000 metric tons or more of grain during the preceding calendar year, or (ii) have exported 15,000 metric tons or more of grain during the current calendar year. Exporters and elevator operators who are granted a waiver by reason of this paragraph shall, as a condition of the waiver, keep such accounts, records, and memorandum to fully and correctly disclose all transactions concerning lots of all export grain shipments. In addition, the exporters or elevator operators shall notify the Service in writing of the intention to export grain under this waiver. In the case of lots waived under this provision, if such lots are required by contract to be inspected or weighed, or if the lots are represented by official inspection or weight certificates, then such certificates shall meet the requirements of section 5 of the Act.

(2) *Grain exported for seeding purposes.* Official inspection and Class X weighing requirements do not apply to grain exported for seeding purposes, provided that (i) the grain is (A) sold or consigned for sale and invoiced as seed; and (B) identified as seed for seeding purposes on the Shipper's Export Declaration; and (ii) records pertaining to these shipments are made available, upon request by the Service, for review or copying purposes.

(3) *Grain shipped in bond.* Official inspection and weighing requirements do not apply to grain that is shipped

from a foreign country to a foreign country through the United States in bond in accordance with applicable regulations of the United States Customs Service (19 CFR Part 18).

(4) *Grain exported by rail or truck to Canada or Mexico.* Inspection and weighing requirements do not apply to grain exported by rail or truck from the United States to Canada or Mexico.

(5) *Grain not sold by grade.* Official inspection requirements may be waived by the Service on a shipment-by-shipment basis for export grain not sold, offered for sale, or consigned for sale by official grade if (i) the contract and any amendments clearly show that the buyer and seller mutually agree to ship the grain without official inspection and (ii) a copy of the contract and any amendments is furnished in advance of loading, along with a completed application on a form prescribed by the Service.

(6) *Service not available.* Upon request, any required official inspection or Class X weighing of grain may be waived on a shipment-by-shipment basis if (i) official personnel are not and will not be available within a 24-hour period to perform needed inspection or weighing services and (ii) both the buyer and seller of the grain are made aware that the grain has not been officially inspected or Class X weighed.

(7) *Emergency waiver.* Upon request, the requirements for official inspection or Class X weighing may be waived whenever the Service determines (i) that an emergency exists that precludes official inspection or Class X weighing and (ii) that granting an emergency waiver will not impair the objectives of the Act. To qualify for an emergency waiver, the exporter or elevator operator shall make timely application and comply with all conditions which may be required by the Service.

(Approved by the Office of Management and Budget under control number 0560-0011)

Inspection Methods and Procedures

6. Section 800.80 is revised as follows:

§ 800.80 **Methods and order of performing official inspection services.**

(a) *Methods.* (1) *General.* All official inspection services shall be performed in accordance with methods and procedures prescribed in the regulations and the instructions.

(2) *Lot inspection services.* A lot inspection service shall be based on a representative sampling and examination of the grain in the entire lot, except as provided in § 800.85, and an accurate analysis of the grain in the sample.

(3) *Stowage examination service.* A stowage examination service shall be based on a thorough and accurate examination of the carrier or container into which grain will be loaded.

(4) *Submitted sample inspection service.* A submitted sample inspection service shall be based on a submitted sample of sufficient size to enable official personnel to perform a complete analysis for grade. If a complete analysis for grade cannot be performed because of an inadequate sample size or other conditions, the request for service shall be dismissed or a factor only inspection may be performed upon request.

(5) *Reinspection and appeal inspection service.* A reinspection, appeal inspection, or Board appeal inspection service shall be based on an independent review of official grade information, official factor information, or other information consistent with the scope of the original inspection.

(b) *Order of service.* Official inspection services shall be performed, to the extent practicable, in the order in which they are received. Priority shall be given to inspections required for export grain. Priority may be given to other kinds of inspection services under the Act with the specific approval of the Service.

(c) *Recording receipt of documents.* Each document submitted by or on behalf of an applicant for inspection services shall be promptly stamped or similarly marked by official personnel to show the date of receipt.

(d) *Conflicts of interest.* No official personnel shall perform or participate in performing an official inspection service on grain or on a carrier or container in which they have a direct or indirect financial interest.

7. Section 800.81 is revised as follows:

§ 800.81 **Sample requirements; General.**

(a) *Samples for official sample-lot inspection service.* (1) *Original official sample-lot inspection service.* For original sample-lot inspection purposes, an official sample shall be (i) obtained by official personnel; (ii) representative of the grain in the lot; (iii) protected from manipulation, substitution, and improper or careless handling; and (iv) obtained within the prescribed geographical boundaries of the agency or field office performing the service.

(2) *Official sample-lot reinspection and appeal inspection service.* For an official sample-lot reinspection service or an official appeal sample-lot inspection service, the sample(s) on which the reinspection or appeal is determined shall (i) be obtained by

official personnel and (ii) otherwise meet the requirements of paragraph (a)(1) of this section. If the reinspection or appeal inspection is determined on the basis of official file sample(s), the samples shall meet the requirements of § 800.82(d).

(3) *New sample.* Upon request and if practicable, a new sample shall be obtained and examined as a part of a reinspection or appeal inspection. The provision for a new sample shall not apply if obtaining the new sample involves a change in method of sampling.

(b) *Representative sample.* A sample shall not be considered representative unless it (1) has been obtained by official personnel, (2) is of the size prescribed in the instructions, and (3) has been obtained, handled, and submitted in accordance with the instructions. A sample which fails to meet the requirements of this paragraph may, upon request of the applicant, be inspected as a submitted sample.

(c) *Protecting samples.* Official personnel shall protect official samples, warehouseman's samples, and submitted samples from manipulation, substitution, or improper and careless handling which may deprive the samples of their representativeness or which may change the physical or chemical properties of the grain, as appropriate, from the time of sampling or receipt until the inspection services are completed and the file samples have been discarded.

(d) *Restriction on sampling.* Official personnel shall not perform an original inspection or a reinspection service on an official sample or a warehouseman's sample unless the grain from which the sample was obtained was located within the area of responsibility assigned to the agency or field office at the time of sampling. Upon request, the Administrator may grant an exception to this rule on a case-by-case basis.

(e) *Disposition of samples.* (1) *Excess grain.* Any grain in excess of the quantity specified in the instructions for the requested service, the file samples, and samples requested by interested persons shall be returned to the lot from which the grain was obtained or to the owner of the lot or the owner's order.

(2) *Inspection samples.* Inspection samples, after they have served their intended purpose, shall be disposed of as follows:

- (i) Samples which contain toxic substances or materials shall be kept out of food and feed channels, and
- (ii) Official personnel shall dispose of samples obtained or submitted to them according to procedures established by the Service. Complete and accurate

records of disposition shall be maintained.

(Approved by the Office of Management and Budget under control number 0580-0011).

8. Section 800.82 is revised as follows:

§ 800.82 Sampling provisions by level of service.

(a) *Original inspection service.* (1) *Official sample-lot inspection service.* Each original inspection service shall be performed on the basis of one or more official samples obtained by official personnel from grain in the lot and forwarded to the appropriate agency or field office.

(2) *Warehouseman's sample-lot inspection.* Each original warehouseman's sample-lot inspection service shall be performed on the basis of samples obtained by a licensed warehouseman and sent to the appropriate agency or field office in whose circuit the warehouse is located.

(3) *Submitted sample service.* Each original submitted sample inspection service shall be performed on the basis of the sample as submitted.

(b) *Reinspection, and appeal inspection services.* (1) *Official sample-lot inspection service.* Each of these inspection services shall be performed on the basis of official samples as available, including file samples, at the time the service is requested. In performing these services, a sample obtained with an approved diverter-type mechanical sampler or with a pelican sampler generally shall be used with respect to quality factors and official criteria, and a sample obtained with a probe at the time of the reinspection or appeal, generally, shall be used with respect to heating, musty, sour, insect infestation, and other condition and odor factors. In instances where original inspection results are based on samples obtained by probe, the decision as to whether file samples or new samples obtained by probe are to be used shall be made by the official personnel performing the service.

(2) *Warehouseman's sample-lot inspection service.* Each reinspection service and appeal inspection service on a warehouseman's sample shall be performed on an analysis of the official file sample.

(3) *Submitted sample service.* Each reinspection service and appeal inspection service on a submitted sample shall be performed on an analysis of the official file sample.

(c) *Board appeal inspection services.* Board appeal inspection services shall be performed on an analysis of the official file sample.

(d) *Use of file samples.* (1) *Requirements for use.* A file sample that

is retained by official personnel in accordance with the procedures prescribed in the instructions may be considered representative for a reinspection service, appeal inspection service, and a Board appeal inspection service if (i) the file sample has remained at all times in the custody and control of the official personnel that performed the inspection service in question; and (ii) the official personnel who performed the original inspection service and those who are to perform the reinspection, the appeal inspection, or the Board appeal inspection service determine that the samples were representative at the time the original inspection service was performed and that the quality or condition of the grain in the samples has not changed.

(2) *Certificate statement.* When the results of a reinspection, appeal inspection, or Board appeal inspection service are based on an official file sample, the certificate for the reinspection service, the appeal inspection service, and the Board appeal inspection service shall show a statement, as specified in the instructions, indicating that the results are based on the official file sample.

9. Section 800.83 is revised to read as follows:

§ 800.83 Sampling provisions by kind of movement.

(a) *Export cargo movements.* (1) *Bulk grain.* Except as may be approved by the Administrator on a shipment-by-shipment basis in an emergency, each inspection for official grade, official factor, or official criteria on an export cargo shipment of bulk grain shall be performed on official samples obtained from the grain (i) as the grain is being loaded aboard the final carrier; (ii) after the final elevation of the grain prior to loading and as near to the final loading spout as is physically practicable (except as approved by the Administrator when representative samples can be obtained before the grain reaches the final loading spout); and (iii) by means of a diverter-type mechanical sampler approved by the Service and operated in accordance with instructions. If an approved diverter-type mechanical sampler is not properly installed at an elevator or facility as required, each certificate issued at that elevator or facility for an export cargo shipment of bulk grain shall show a statement indicating the type of approved sampling method used, as prescribed in the instructions.

(2) *Sacked grain.* Each inspection for official grade, official factor, or official criteria on an export cargo shipment of

sacked grain shall be performed on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with instructions.

(b) *Other movements.* Each inspection for official grade, official factor, or official criteria on a domestic cargo movement ("In," "Out," or en route barge movement), a movement in a land carrier (any movement in a railcar, truck trailer, truck/trailer combination, or container), or a "LOCAL" movement of bulk or sacked grain shall be performed on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with the instructions.

10. Section 800.84 is revised to read as follows:

§ 800.84 Inspection of grain in land carriers, containers, and barges in single lots.

(a) *General.* The reinspection of bulk or sacked grain loaded or unloaded from any carrier or container, except shipload grain, shall be conducted in accordance with the provisions in this section and procedures prescribed in the instructions.

(b) *Single and multiple grade procedure.* (1) *Single grade.* When grain in a carrier or container is offered for inspection as one lot and the grain is found to be uniform in condition, the grain shall be sampled, inspected, graded, and certificated as one lot. For the purpose of this paragraph, condition only includes the factors heating, musty, or sour.

(2) *Multiple grade.* When grain in a carrier or container is offered for inspection as one lot and the grain is found to be not uniform in condition because portions of the grain are heating, musty, or sour, the grain in each portion will be sampled, inspected, and graded separately; but the results shall be shown on one certificate. The certificate shall show the approximate quantity or weight of each portion, the location of each portion in the carrier or container, and the grade of the grain in each portion.

(3) *Infested.* If any portion of grain in a lot is found to be infested, according to applicable provisions of the Official U.S. Standards for Grain, the entire lot shall be considered infested. When grain in railcars or trucks with permanently enclosed tops is considered infested, the applicant for inspection shall be promptly notified and given the option of (i) receiving a grade certificate with a special grade designation indicating that the entire lot is infested or (ii) fumigating the grain in the lot in accordance with instructions and

receiving a grade certificate without the special grade designation.

(c) *One certificate per carrier; exceptions.* Except as provided in this paragraph, one official certificate shall be issued for the inspection of the grain in each truck, trailer, truck/trailer(s) combination, railcar, barge, or similarly sized carrier. The requirements of this paragraph are not applicable to (1) grain inspected in a combined lot under § 800.85 or (2) grain inspected under paragraph (d) of this section.

(d) *Bulkhead lots.* If grain in a carrier is offered for official inspection as two or more lots and the lots are separated by bulkheads or other partitions, the grain in each lot shall be sampled, inspected, and graded separately in accordance with paragraphs (a) and (b) of this section. An official certificate shall be issued for each lot inspected. Each certificate shall show the term "Bulkhead Lot," the approximate quantity or weight of the grain in the lot, the location of the lot in the carrier, and the grade of the grain in the lot.

(e) *Bottom not sampled.* If bulk grain offered for official inspection is at rest in a carrier or container and is fully accessible for sampling in an approved manner, except that the bottom of the carrier or container cannot be reached with each probe, the grain shall be sampled as thoroughly as possible with an approved probe. The grain in the resulting samples shall be inspected, graded, and certificated, except that each certificate shall show a statement, as specified in the instructions, indicating the depth probed. Any inspection which is based on a sample that does not represent the entire carrier or container does not meet the mandatory inspection requirements of section 5(a)(1) of the Act.

(f) *Partial inspection—heavily loaded.* (1) *General.* When an "In" movement of bulk grain is offered for inspection at rest in a carrier or container and is loaded in such a manner that it is possible to secure only door-probe or shallow-probe samples, the container shall be considered to be "heavily loaded," and the request for inspection either shall be dismissed or a partial inspection shall be made. If the request is for the inspection of an "Out" movement of grain, the request shall be dismissed on the grounds that the grain is not accessible for a correct "Out" inspection.

(2) *Certification procedure.* If a partial inspection is made, the grain will be sampled as thoroughly as possible with an approved probe and inspected, graded, and a "partial inspection—heavily loaded" certificate issued. The certificate shall show the words "Partial

inspection—heavily loaded" in the space provided for remarks. The type of samples that were obtained shall be described in terms of "door probe" or "shallow probe."

(3) *Reinspection and appeal inspection procedure.* A request for a reinspection or an appeal inspection service on grain in a carrier or container that is certificated as "partial inspection—heavily loaded" shall be dismissed in accordance with § 800.48(a)(4).

(4) *Restriction.* No "partial inspection—heavily loaded" certificate shall be issued for sacked grain or any inspection other than the inspections described in paragraphs (f) (1) through (4) of this section and § 800.85(h)(2).

(g) *Part lots.* (1) *General.* If a portion of the grain in a carrier or container is removed, the grain that is removed and the grain remaining shall be considered separate lots. When an official inspection service is requested on either portion, the grain shall be sampled, inspected, graded, and a "part-lot" inspection certificate issued.

(2) *Grain remaining in carrier or container.* The certificate for grain remaining in a carrier or container shall show (i) the following completed statement: "Partly unloaded; results based on portion remaining in (show carrier or container identification)," (ii) the term "Part lot" following the quantity information, (iii) the identification of the carrier or container, and (iv) the estimated amount and location of the part lot.

(3) *Grain unloaded from carrier or container.* If grain is sampled by official personnel during unloading, the certificate for the grain that is unloaded shall show (i) the completed statement: "Part lot; results based on portion removed from (show carrier identification)" and (ii) the term "Part lot" following the quantity information. If the grain is not sampled by official personnel during unloading, the certificate may, upon request of the applicant, show a completed statement such as "Applicant states grain is ex-car" or "Applicant states grain is ex-barge," but the certificate shall not otherwise show a carrier or container identification or the term "Part lot."

(h) *Identification for compartmented cars.* The identification for compartments in a compartmented railcar shall, in the absence of readily visible markings, be stated in terms of the location of the grain in a compartment, with the first compartment at the brake end of the car being identified as B-1, and the remaining compartments being

numbered consecutively towards the other end of the car.

11. Section 800.85 is revised to read as follows:

§ 800.85 Inspection of grain in combined lots.

(a) *General.* The official inspection for grade of bulk or sacked grain loaded aboard, or being loaded aboard, or discharged from two or more carriers or containers (including barges designed for loading aboard a ship) as a combined lot shall be performed according to the provisions of this section and procedures prescribed in the instructions.

(b) *Application procedure.* (1) *For inspection during loading, unloading, or at rest.* Applications for official inspection of grain as a combined lot shall (i) be filed in accordance with § 800.116; (ii) show the estimated quantity of grain that is to be certificated as one lot; (iii) show the contract grade if applicable; and (iv) identify each carrier into which grain is being loaded or from which grain is being unloaded.

(2) *Recertification.* An application for recertification as a combined lot of grain that has been officially inspected and certificated as two or more single lots shall (i) be filed not later than 2 business days after the latest inspection date of the single lots and (ii) show information specified in paragraph (b)(1) of this section.

(c) *Inspection procedure; general—land carriers and barges.* (1) *Inspection during loading, or unloading, or at rest.* Grain in two or more land carriers and barges that are to be officially inspected as a combined lot shall be sampled in a reasonably continuous operation. Representative samples shall be obtained from the grain in each individual carrier and inspected in accordance with procedures as prescribed in the instructions.

(2) *Recertification.* Grain that has been officially inspected and certificated as two or more single lots may be recertificated as a combined lot if (i) the grain in each lot was sampled in a reasonably continuous operation; (ii) the original inspection certificates issued for the single lots have been surrendered to official personnel; (iii) representative file samples of the single lots are available; (iv) the grain in the single lots is of one grade and quality; (v) official personnel who performed the inspection service for the single lots and those who are to recertificate the grain as a combined lot determine that the samples used as a basis for the inspection of the grain in the single lots were representative at the time of

sampling and have not changed in quality or condition; and (vi) the quality or condition of the grain meets uniformity requirements established by the Service for official inspection of grain in combined lots.

(d) *Weighted or mathematical average.* Official factor and official criteria information shown on a certificate for grain in a combined lot shall, subject to the provisions of paragraphs (e) through (g) of this section, be based on the weighted or mathematical averages of the analysis of the sublots in the lot and shall be determined in accordance with the instructions.

(e) *Infested grain.* If the grain in a combined lot is offered for official inspection as it is being loaded aboard a carrier and the grain, or a portion of the grain, in a lot is found to be infested, according to applicable provisions of the Official U.S. Standards for Grain, the applicant shall be notified and may exercise options specified in the instructions. When grain in railcars or trucks with permanently enclosed tops is considered infested, the applicant shall be given the option of (1) receiving a grade certificate with a special grade designation indicating that the entire lot is infested or (2) fumigating the grain in the lot in accordance with instructions and receiving a grade certificate without the special grade designation.

(f) *Grain uniform in quality.* Samples obtained from grain officially inspected as a combined lot shall be examined for uniformity of quality. If the grain in the samples is found to be uniform in quality and the grain is loaded aboard or is unloaded from the carriers in a reasonably continuous operation, the grain in the combined lot shall be officially inspected and certificated as one lot. The requirements of this paragraph (f) and paragraph (c) of this section with respect to reasonably continuous loading or unloading do not apply to grain which is at rest in carriers when the grain is offered for inspection.

(g) *Grain not uniform in quality.* When grain officially inspected as a combined lot is found to be not uniform in quality or if the grain is not loaded or unloaded in a reasonably continuous operation, the grain in each portion, and any grain which is loaded or unloaded at different times, shall be officially sampled, inspected, graded, and certificated as single lots.

(h) *Special certification procedures.* (1) *Grain not uniform in quality.* When grain in a combined lot is found to be not uniform in quality under paragraph (g) of this section, the official inspection certificate for each portion of different quality shall show (i) the grade,

identification, and approximate quantity of the grain and (ii) other information required by the instructions.

(2) *Partial inspection.* When an inbound movement of bulk grain is offered for official inspection at rest as a combined lot and all carriers are not fully accessible for sampling, the request for official inspection either shall be dismissed or a combined lot inspection shall be made on those carriers that are accessible. Those lots that are not accessible shall be handled in accordance with § 800.84. If the request is for an official inspection service on an outbound movement of grain at rest in a combined lot, the request shall be dismissed on the ground that the grain is not accessible for a correct "Out" inspection.

(3) *Official mark.* If grain in a combined lot is inspected for grade as it is being loaded aboard two or more carriers, upon request of the applicant, the following mark shall be shown on the inspection certificate: "Loaded under continuous official inspection" or "Loaded under continuous official inspection and weighing."

(4) *Combined-lot certification; general.* Each official certificate for a combined-lot inspection service shall show the identification for the "combined lot" or, at the request of the applicant, the identification of each carrier in the combined lot. If the identification of each carrier is not shown, the statement "Carrier identification available on official inspection log" shall be shown on the inspection certificate in the space provided for remarks. The identification and any seal information for the carriers may be shown on the reverse side of the inspection certificate, provided the statement "See reverse side" is shown on the face of the certificate in the space provided for remarks.

(5) *Recertification.* If a request for a combined-lot inspection service is filed after the grain has been officially inspected and certificated as single lots, the combined-lot inspection certificate shall show (i) the date of inspection of the grain in the combined lot (if the single lots were inspected on different dates, the latest of the dates shall be shown); (ii) a serial number other than the serial numbers of the official inspection certificates that are to be superseded; (iii) the location of the grain, if at rest, or the name of the elevator from which or into which the grain in the combined lot was loaded or unloaded; (iv) a statement showing the approximate quantity of grain in the combined lot; (v) a completed statement showing the identification of any

superseded certificates; and (vi) if at the time of issuing the combined-lot inspection certificate the superseded certificates are not in the custody of the official personnel, a statement indicating that the superseded certificates have not been surrendered shall be clearly shown in the space provided for remarks. If the superseded certificates are in the custody of official personnel, the superseded certificates shall be clearly marked "Void."

(i) *Further combining.* After a combined-lot inspection certificate has been issued, there shall be no further combining and no dividing of the certificate.

(j) *Limitation.* No combined-lot inspection certificate shall be issued (1) for any official inspection service other than as described in this section or (2) which shows a quantity of grain in excess of the quantity in the single lots.

12. Section 800.86 is revised to read as follows:

§ 800.86 Inspection of shiplot grain in single lots.

(a) *General.* Official inspection for grade of bulk or sacked grain aboard, or being loaded aboard, or being unloaded from a ship as a single lot shall be performed according to the provisions of this section and procedures prescribed in the instructions.

(b) *Application procedure.*

Applications for the official inspection of shiplot grain as a single lot shall (1) be filed in advance of loading or unloading; (2) show the estimated quantity of grain that is to be certificated; (3) show the contract grade if applicable; and (4) identify the carrier and the stowage area into which the grain is being loaded, or from which the grain is being unloaded, or in which the grain is at rest.

(c) *Inspection procedure; general.* Shiplot grain being officially inspected as a single lot shall be sampled in a reasonably continuous operation. Representative samples shall be obtained from the grain offered for inspection and inspected and graded in accordance with procedures prescribed in the instructions.

(d) *Weighted or mathematical average.* Official factor and official criteria information shown on a certificate for shiplot grain shall, subject to the provisions of paragraphs (e) through (g) of this section, be based on the weighted or mathematical averages of the analysis of the sublots.

(e) *Infested grain.* (1) *Available options.* If grain or any portion of grain in a single shiplot is found to be

infested, according to the provisions of the Official U.S. Standards for Grain, the applicant shall be promptly notified and have the option of (i) unloading the portion of infested grain from the lot and an additional amount of other grain in common stowage with the infested grain; or (ii) when applicable, completing the loading and the treating all the grain in the lot, or portion of the lot; or (iii) when applicable, treating the infested grain for the purpose of destroying the insects, subject to subsequent examination by official personnel; or (iv) continuing loading without treating the infested grain, in which case all of the infested grain in the lot and all grain in common stowage areas with the infested grain will be officially certificated as infested according to the provisions of the Official U.S. Standards for Grain. If, however, the infested grain is loaded into common stowage with a lot, or a portion of a lot, which has not been officially certificated as being infested, the applicant loading the infested grain may not use the option in paragraph (e)(1)(i) of this section.

(2) *With treatment.* If infested grain is treated with a fumigant in accordance with the instructions and the treatment is witnessed by official personnel, the official sampling, inspection, grading, and certification of the lot shall continue as though the infested condition did not exist.

(f) *Grain uniform in quality.* Shiplot grain officially inspected as a single lot shall be examined for uniform quality. If the grain is found to be uniform in quality according to the rules of a specific loading plan established by instructions and is loaded aboard or is unloaded from the ship in a reasonably continuous operation, the grain in the lot shall be officially inspected, graded, and certificated as a single lot.

(g) *Grain not uniform in quality.* When the grain in a shiplot is found to be not uniform in quality according to the provisions of a specified loading plan established by the instructions or if the grain is not loaded or unloaded in a reasonably continuous operation, the grain in each portion, and any grain which is loaded or unloaded at different times, shall be officially sampled, inspected, graded, and certificated separately.

(h) *Special certification procedures.*

(1) *Grain not uniform in quality.* When grain in a single shiplot is found to be not uniform in quality under paragraph (g) of this section, the official inspection certificate for each different portion of different quality shall show (i) a statement that the grain has been loaded

aboard with grain of other quality; (ii) the grade, location, or other identification and approximate quantity of the grain in the portions; and (iii) other information required by the regulations and the instructions. The requirements of paragraph (h)(1)(i) of this section do not apply to grain that is inspected as it is unloaded from a ship or to portions loaded in separate stowage space.

(2) *Common stowage.*—(i) *Without separations.* When bulk grain is offered for official inspection as it is being loaded aboard a ship and is loaded without separation in a stowage area with other grain or another commodity, the official inspection certificate for the grain in each lot shall show the kind, the grade, if known, and location of the other grain, or the kind and location of the other commodity in the adjacent lots.

(ii) *With separation.* When separations are laid between the lots, the official inspection certificates shall show the kind of material used in the separations and the locations of the separations in relation to each lot.

(iii) *Exception.* The common stowage requirements of this paragraph are not applicable to the first lot in a stowage area unless a second lot is loaded, in whole or in part, in the stowage area prior to issuing the official inspection certificate for the first lot.

(3) *Inbound movement of shiplot grain.* Each lot inspection service for official grade, official factor, or official criteria on an inbound movement of shiplot grain shall be based on official samples obtained from the lot (i) as the grain is being unloaded from the carrier, (ii) immediately after initial elevation and as near as necessary to initial elevation to obtain a representative sample and to protect the grain flow, and (iii) by means of a diverter-type mechanical sampler approved by and operated in accordance with the instructions.

(4) *Part lot.* If part of a lot of grain in an inbound carrier is unloaded and part is left in the carrier, the unloaded grain shall be officially inspected and certificated in accordance with the provisions of § 800.84(g).

(5) *Official mark.* If the grain in a single shiplot is officially inspected for grade as it is being loaded aboard a ship, upon request, the following official mark shall be shown on the inspection certificate: "Loaded under continuous official inspection."

(i) *Reinspection service and appeal inspection service on a shiplot.* A reinspection service or an appeal

inspection service may be obtained on either the total sublots in a shiplot or a material portion of the shiplot as prescribed in the instructions.

13. Section 800.87 is revised to read as follows:

§ 800.87 New inspections.

(a) *Identity lost.* An applicant may request official personnel to perform a new original inspection service on an identified lot of grain, or on an identified carrier or container, if the identity of the lot or the carrier or container has been lost.

(b) *Identity not lost.* If the identity of the grain or the carrier or container is not lost, a new original inspection shall not be performed on the same identified lot of grain or carrier or container in the same assigned area of responsibility within 5 business days after the last official inspection.

14. Section 800.88 is revised to read as follows:

§ 800.88 Loss of identity.

(a) *Lots.* The identity of a lot of grain shall be considered lost if (1) a portion of the grain is unloaded, transferred, or otherwise removed from the carrier or container in which the grain was located at the time of the original inspection; or (2) a portion of grain or other material, including an insecticide or fumigant, is added to the lot after the original inspection was performed, unless the addition of the insecticide or fumigant was performed in accordance with the regulations and the instructions. At the option of official personnel performing a reinspection, appeal inspection, or Board appeal inspection service, the identity of grain in a closed carrier or container shall be considered lost if the carrier or container is not sealed or if the seal record is incomplete.

(b) *Carriers and containers.* The identity of a carrier or container shall be considered lost when (1) the stowage area is cleaned, painted, treated, fumigated, or fitted after the original inspection was performed; or (2) the identification of the carrier or container has been changed since the original inspection was performed.

(c) *Submitted samples.* The identity of a submitted sample of grain shall be considered lost when (1) the identifying number, mark, or symbol for the sample is lost or destroyed or (2) the samples have not been retained and protected by official personnel as prescribed in the instructions.

Dated: November 14, 1985.

K.A. Gilles,
Administrator.

[FR Doc. 85-28796 Filed 12-3-85; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Parts 1002 and 1004

[Docket Nos. AO-160-A62 and AO-71-A74]

Milk in the Middle Atlantic and New York-New Jersey Marketing Areas; Order Suspending Effective Date of Order Amending the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of effective date of rules.

SUMMARY: This action suspends the December 1, 1985, effective date of the order amending the Middle Atlantic and New York-New Jersey milk orders. The action stems from an order by the U.S. District Court for the Eastern District of Pennsylvania which restrains the Secretary of Agriculture from implementing the amendments to the above-mentioned orders at this time.

EFFECTIVE DATE: December 1, 1985.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued June 17, 1983; published June 23, 1983 (48 FR 28655).

Recommended Decision: Issued March 5, 1985; published March 11, 1985 (50 FR 9637).

Extension of time for filing Exceptions: Issued April 5, 1985; published April 10, 1985 (50 FR 14110).

Final Decision: Issued August 9, 1985; published August 14, 1985 (50 FR 32716).

Final Order: Issued October 29, 1985; published November 1, 1985 (50 FR 45595).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the orders regulating the handling of milk in the aforesaid marketing areas.

Statement of Consideration

On November 22, 1985, the U.S. District Court for the Eastern District of Pennsylvania issued, on the basis of a civil action before it, a preliminary injunction restraining the Secretary from effectuating an order amending the Middle Atlantic and New York-New Jersey milk orders. The amended orders were to become effective on December 1, 1985, and would expand the marketing areas of the two orders and revise each order's location adjustment provisions.

List of Subjects in 7 CFR Parts 1004 and 1002

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that on the basis of the preliminary injunction of the U.S. District Court for the Eastern District of Pennsylvania, the December 1, 1985, effective date of the order amending the two aforesaid orders that was issued on October 29, 1985 (50 FR 45595), is hereby suspended until further notice.

The authority citation for Parts 1004 and 1002 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

Effective date: December 1, 1985.

Signed at Washington, DC on November 27, 1985.

Alan T. Tracy,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 85-28860 Filed 12-3-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 24844; Amdt. No. 327]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: November 21, 1985.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95)