Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*	*	
Bear, Baluchistan	*Ursus thibetanus gedrosianus*	Iran, Pakistan	Entire	E	233	NA	NA
*	*	*	*	*	*	*	
Hutia, Cabrera's	*Capromys angelcabrerai*	Ciba	do	E	233	NA	NA
Hutia, dwarf	*Capromys nana*	do	do	E	233	NA	NA
Hutia, large-eared	*Capromys auritus*	do	do	E	233	NA	NA
Hutia, little earth	*Capromys sanfelipensis*	do	do	E	233	NA	NA
*	*	*	*	*	*	*	
Marmoset, buffy tufted-ear	*Callithrix jacchus aurita*	Brazil	do	E	233	NA	NA
*	*	*	*	*	*	*	
Possum, Leadbeater's	*Gymnobelideus leadbeateri*	Australia	do	E	233	NA	NA
*	*	*	*	*	*	*	
Saki, southern beared	*Chiropotes satanas satanas*	Brazil	do	E	233	NA	NA
*	*	*	*	*	*	*	

Dated: April 24, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–11110 Filed 5–15–86; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 18

Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service amends Part 18 to incorporate amendments to the Marine Mammal Protection Act of 1972 and update organizational nomenclature. The revisions affect those sections of Part 18 where the regulations paraphrase the wording in the Act. Also changed are the references to terms, such as "Bureau" and "Area Director," which are no longer used in the Service's organization. These amendments eliminate inconsistencies with the law and avoid reader confusion.

DATE: These changes are effective June 16, 1986.

ADDRESS: Questions may be forwarded to Chief, Division of Wildlife Management, Room 514 Matomic, U.S. Fish and Wildlife Service, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: LeRoy Sowl, Chief, Division of Wildlife Management, address above, telephone (202)–632–2202.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act (MMPA or Act) was enacted in 1972, and the Fish and Wildlife Service has implemented the Act, as amended, by regulations contained in 50 CFR Parts 18, 82 and 403. The MMPA was enacted for the purpose of ensuring that marine mammals are maintained at healthy population levels. In passing the Act, Congress responded to the growing concern regarding the decline of certain marine mammal species and recognized the important role that marine mammals play in the ecosystem as well as their economic, aesthetic and recreational value. Under the MMPA the Department of the Interior is charged with responsibility for polar bears, walruses, sea and marine otters, manatees and dugongs. On October 9, 1981, Congress amended the MMPA with the passage of Pub. L. 97–58.

On July 29, 1983, the Service published a notice in the **Federal Register** (48 FR 34486) that described the various changes made by Pub. L. 97–58. On December 23, 1985, the Service published a proposed rule (50 FR 52348) that proposed revisions to 50 CFR Part 18. While regulatory measures addressing marking and tagging of marine mammal parts and incidental take by commercial fishermen will be addressed in separate rulemaking documents, this action contains changes necessary to remove inconsistencies with the legislative amendments, and corrects several outdated organizational terms. The changes being adopted are described below:

1. Section 18.11 is amended to include a citation to 50 CFR Part 403, the joint regulations issued by the Service and the National Marine Fisheries Service concerning transfer of marine mammal management authority to States. Such reference paraphrases the wording of 16 U.S.C. 1372(a), which was amended by Pub. L. 97–58 to include reference to the transfer of management authority provisions.

2. Section 18.13 paraphrases 16 U.S.C. 1372(a), which was changed by the 1981 MMPA amendments (see section 3 of Pub. L. 97–58) by replacing paragraph (a)(3) with new paragraphs (a) (3) and (4), and redesignating former paragraph (a)(4) as (a)(5). Section 18.13 (b) and (c) of Title 50, CFR are revised to make them consistent with the present wording of the law.

3. Section 18.14(c) is updated by replacing the term "Bureau" with "Service." The "Bureau" term referred to the Service's former name, Bureau of Sport Fisheries and Wildlife.

4. Section 18.22 paraphrases 16 U.S.C. 1379(h), which was revised by Pub. L. 97–58, section 4, by adding Federal employees to the officials that may "take" marine mammals in the course of official duties. Section 18.22 is amended to reflect this statutory change. Section 18.22(b) is also amended by replacing the term "Bureau" with "Service," for the same reason as described in item 3, above.

5. Section 18.23 is amended by changing the section title, introductory sentence, and paragraph (a)(1). The revision removes the inconsistencies with 16 U.S.C. 1371(b), which is paraphrased by § 18.23(a). These changes are the product of Pub. L. 97–58, section 2. The two references in the section to the Alaska Area Director are changed to reflect the position's current title of regional director.

6. Section 18.26 is amended by replacing the term "Bureau of Sport Fisheries and Wildlife" with "Service" for the reasons set forth under 3, above.

The Service received one letter of comment concerning the proposed rules from the Marine Mammal Commission. The Commission supported the proposed changes with modifications which are discussed below.

1. In § 18.13, the Commission recommends removal of the phrase "subject to the jurisdiction of the United States" from paragraph (b) and (c). The comparable provisions of the Act do not contain such wording, and, therefore, the Commission believes that such deletion will conform § 18.13 to the wording in the Act and eliminate any potential confusion.

2. In § 18.23, the Commission recommends revising the wording in paragraph (a) to specifically include the provision contained in section 101(b) of

the Act that addresses applicability of State regulations to Alaskan Natives pursuant to the provisions of section 109 of the Act. The Commission also commented that the Service should retain the language "Indian, Aleut, or Eskimo" instead of "Alaskan Native." Although both terms have the same meaning (see 50 CFR 18.3), the Commission believes that the more descriptive term would conform the wording of this section with the language contained in the Act and would, therefore, "eliminate the potential for confusion."

The Service agrees with the comments proffered by the Commission and has made appropriate changes in the final rule to implement these comments.

As noted above, these amendments to Part 18 remove inconsistencies with the MMPA in those areas where the law has been amended. These changes are necessary to conform existing regulations to the law. The Departmemt of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) Similarly, the Service determines that, since the regulatory amendments reflect the statutory language, an environmental assessment, as defined under authority of the National Environmental Policy Act of 1969, need not be prepared for this action. There are no impacts on the public other than to remove any confusion created by the lack of consistent wording contained in the regulations and the law. Additionally, there are no information collection requirements contained in this document that require Office of Management and Budget clearance under 44 U.S.C. 3501. The primary authors of this document are Rupert R. Bonner and James E. Pinkerton of the Fish and Wildlife Service.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Marine mammals, Transportation.

PART 18—[AMENDED]

Accordingly, 50 CFR Part 18 is amended as described below:

1. The authority citation for Part 18 continues to read as follows:

Authority: Marine Mammal Protection Act of 1972, as amended (Pub. L. 92-522, 88 Stat. 1027; Pub. L. 97-58, 95 Stat. 979 (16 U.S.C. 1361-1407).

2. Section 18.11 is amended by revising the introductory text to read as follows:

§ 18.11 Prohibited taking.

Except as otherwise provided in Subpart C, D, or H of this Part 18, or Part 403, it is unlawful for:

* * * * *

3. Section 18.13 is amended by redesignating paragraph (c) as (d), revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 18.13 Prohibited uses, possession, transportation, and sales.

* * * * *

(b) Any person to possess any marine mammal, or product therefrom, taken in violation of the Act or these regulations;

(c) Any person to transport, purchase, sell, or offer to purchase or sell any marine mammal or marine mammal product; or

* * * * *

§ 18.14 [Amended]

4. Section 18.14(c) is amended by replacing the term "Bureau" with "Service."

5. Section 18.22 is amended by revising the section title, and amending paragraph (a), by inserting "Federal," before the term "State."

§ 18.22 Taking by Federal, State or local government officials.

6. The flush paragraph appearing after paragraph (b)(6) of § 18.22 is amended by replacing the term "Bureau of Sport Fisheries and Wildlife" with the term "U.S. Fish and Wildlife Service."

7. Section 18.23 is amended by revising the section title, introductory paragraph (a), and paragraph (a)(1) to read as follows:

§ 18.23 Native exemptions.

(a) *Taking.* Except as otherwise provided in Part 403 of this Title, any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, subject to the restrictions contained in this section, if such taking is:

(1) For subsistence purposes, or

* * * * *

8. Section 18.23 is further amended in introductory paragraph (b) and paragraph (b)(2) by replacing the term "Alaska Area" with "Regional" both times it appears in this section.

§ 18.26 [Amended]

9. Section 18.26(b) is amended by replacing the term "Bureau of Sport Fisheries and Wildlife" with the term "U.S. Fish and Wildlife Service."

Dated: April 8, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-11064 Filed 5-15-86; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 51, No. 95
Friday, May 16, 1986

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1097

[Docket No. AO-219-A43]

Milk in the Memphis, Tennessee Marketing Area; Emergency Decision on Proposed Amendments To Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts, on an emergency basis, amendments to the plant location adjustment provisions of the Memphis, Tennessee order. The changes are based on evidence presented at a public hearing on March 4–7, 1986, in Irving, Texas. The hearing proceeding included proposed amendments to Texas and six other southwestern orders. However, this decision deals only with the Memphis order. Action on proposed amendments to the other six orders will follow.

The changes adopted herein essentially were proposed by two cooperative associations and the operator of a fluid milk plant that is regulated under the order. The changes are needed to align prices among Federal order markets after May 1, 1986, when the Class I differentials mandated by the Food Security Act of 1985 became effective. Because of the limited time available to complete the rulemaking procedures, a recommended decision for the Memphis market and the opportunity to file exceptions thereto have been omitted. The amended order must be approved by the market's dairy farmers to become effective. A referendum will be conducted to determine whether producers favor issuance of the amended order.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601–12) requires the agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities. The action reflects changes in economic conditions that have occurred in the marketplace as a result of the changes to Class I differentials mandated by the Food Security Act of 1985 and increases in the cost of hauling milk that were recognized in those changes. The amended order recognizes these current economic and marketing conditions that affect producers and handlers and its implementation will not cause any additional significant impact on such producers and handlers.

Prior document in this proceeding:

Notice of Hearing: Issued February 14, 1986; published February 21, 1986 (51 FR 6250).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Memphis, Tennessee marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Irving, Texas, on March 4–7, 1986. Notice of such hearing was issued on February 14, 1986 and published February 21, 1986 (51 FR 6250).

Proposals to amend the location adjustment provisions of Texas and six other Federal orders were involved in the hearing proceeding (Docket No. AO–231–A54 *et al.*). This emergency final decision deals only with proposed amendments to the Memphis, Tennessee milk order (Docket No. AO–219–A43). Action with respect to proposed amendments for the other six orders will follow.

Interested parties were given until March 25, 1986, to file post-hearing briefs on the proposed amendments to the Memphis order as published in the hearing notice and on whether these proposals should be considered on an expedited basis.

The material issues on the record of the hearing relate to:

1. Plant location adjustments for handlers under the Memphis, Tennessee order.
2. Need for emergency action.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Plant location adjustments for handlers under the Memphis, Tennessee order.* The location adjustment provisions of the Memphis order should be amended so that the value of producer milk at various plants will be aligned on an intra-market and inter-market basis to reflect the Class I differentials mandated by the Food Security Act of 1985 that became effective on May 1, 1986.

The 1985 Act increases Class I price differentials under 35 of the 44 milk orders. The amount of increase differs among markets, but the Act establishes progressively greater amounts from northern markets to southern markets. Increases range from 18 cents to $1.00 per hundredweight for those orders that regulate plants that distribute Class I milk in the Memphis marketing area. Plants located in six surrounding order marketing areas compete with Memphis handlers for sales of fluid milk products in the Memphis marketing area. The Class I differential increases under these seven orders are as follows: Greater Kansas City, 18 cents; Southern Illinois, 39 cents; Nashville, 67 cents; Paducah, 69 cents; Central Arkansas, 83 cents; Memphis, 83 cents; and New Orleans-Mississippi, $1.00.

Generally, a fluid milk distributing plant is regulated under the Federal order where the plant has the greater proportion of its fluid milk distribution and the milk is priced at the location of the plant where the milk is received from producers. For example, a distributing plant located in the Nashville marketing area is fully regulated under the Memphis order since a greater proportion of its fluid milk distribution is made in the Memphis marketing area than in any other Federal order marketing area. Because of this circumstance, the plant procures its milk supply in competition with other plants regulated under the Nashville order and sells much of its Class I milk in competition with Nashville handlers. Potentially, other plants located in other marketing areas could become regulated under the Memphis order. In recognition of the competitive milk procurement and sales situation for plants located in or near other Federal order areas, the Memphis order has provided for location adjustments to the applicable Class I and uniform prices that recognize the Federal order pricing structure in surrounding markets. Since the inter-market Class I price structure has been changed by the Class I differentials mandated by the Food Security Act of 1985, the plant location adjustments under the Memphis order should be modified to realign prices under the Memphis order with prices that will apply in neighboring markets.

The changes adopted herein are essentially those proposed jointly by two dairy farmer cooperatives (Associated Milk Producers, Inc. and Mid-America Dairymen, Inc.). The operator of a fluid milk plant that is located in Nashville, Tennessee and regulated under the Memphis order supported the cooperative's proposed location pricing arrangement and specifically testified in favor of the proposed pricing change at Nashville under the Memphis order.

This proposed rule, if adopted, would revise the plant location adjustment provisions of the Memphis order to recognize the location value of milk in a three-state area of Tennessee, Mississippi and Arkansas that surrounds the Memphis market. The amended order would provide a minus 25-cent adjustment for plants in Tennessee that are more than 50 miles from Memphis, a plus 13-cent adjustment for plants in a nine-county area of northern Mississippi, and zone pricing adjustments for plants in Arkansas. The zones in Arkansas would provide no adjustment in central Arkansas, a minus 22-cent adjustment in northern Arkansas, and a plus 31-cent adjustment in southern Arkansas. Also, the rate for determining location adjustments at distant plants would be increased from 1.5 cents to 2.1 cents per 10 miles to provide closer alignment of Class I prices at plants located in other markets. There was only limited opposition to the proposed changes. Such opposition primarily was related to the proposed changes for another market involved in this proceeding.

There are currently five fluid milk plants that are fully regulated under the Memphis order. Three of the five plants (Dean, Loftin and Turner) are located within 50 miles of Memphis where historically a location adjustment has not been applicable under the order. No adjustment for location would apply at such plants under the order as amended. Thus, the competitive Class I price relationships among these three handlers would be unchanged. The Class I differential of $2.77 mandated for the Memphis market by the Food Security Act of 1985 applies at these three plants.

Another of the five fluid milk plants regulated under the Memphis order the plant of Malone & Hyde, is located in downtown Nashville. As proposed by the plant operator and proponent cooperatives, a minus 25-cent location adjustment would apply for milk received at plants in Tennessee that are located more than 50 miles from Memphis. Such adjustment will maintain the existing pricing policy for such plants because the location adjustment equals the difference between the Nashville order Class I differential and the Memphis order Class I differential. A minus 25-cent adjustment under the Memphis order for plants in Tennessee located more than 50 miles from Memphis results in an adjusted Class I differential of $2.52 at Nashville. That is the same Class I differential mandated for the Nashville order by the Food Security Act of 1985.

The other fluid milk plant (Avents Dairy) that is fully regulated under the Memphis order is located at Oxford, Mississippi, in Lafayette County. The hearing notice proposal of the cooperatives provided that a plus 18-cent location adjustment (or an adjusted Class I differential of $2.95) apply under the Memphis order at plants located in a nine-county area across northern Mississippi. Proponents modified their proposal at the hearing and proposed that one of the nine counties (Lafayette County where the Oxford, Mississippi plant is located) be removed from the plus 18-cent zone and that a plus 13-cent location adjustment apply at plants in that county only. Proponents' spokesman testified that this modification is needed to coordinate Class I pricing in northern Mississippi under the New Orleans-Mississippi and Memphis orders and specifically to equate the Class I differential adjusted for location under the Memphis order effective at the plant of Avents Dairy in Oxford, Mississippi in Lafayette County with the $2.90 Class I differential proposed for northern Mississippi under the New Orleans-Mississippi order.

As modified, however, under the Memphis order a plant located at Tupelo, Mississippi that distributes milk throughout northern Mississippi would have a five-cent higher Class I price than a plant located at Oxford, Mississippi. To further accomplish proponents' stated intentions of aligning Class I prices in northern Mississippi under the two orders, the plus 13-cent location adjustment zone of the Memphis order should include all nine counties originally proposed for inclusion in the plus 18-cent zone. By providing this, the same $2.90 Class I differential would apply at all plants located in the nine-county area across northern Mississippi which includes both Tupelo and Oxford, Mississippi. Such a coordinated location pricing arrangement for northern Mississippi will provide equity among handlers competing in that area.

Also, a uniform price zone for the nine-county area that constitutes an east-west band across northern Mississippi will establish price alignment under the orders on the same east-west basis as was provided by the Food Security Act of 1985 through the mandated Class I differentials for Federal order markets. For instance, the same $2.77 Class I differential was provided for the Tennessee Valley, Central Arkansas, Fort Smith and Southwest Plains orders. By providing that the same Class I prices apply at Memphis and Chattanooga, which are both located on the southern border of Tennessee, it has been established that prices are to be aligned on an east-west axis in this area of the country.

The plants at Oxford and Tupelo are located essentially the same distance from the southern boundary of Tennessee. Accordingly, it is consistent with the mandated differentials to adopt an equal price zone on an east-west axis across northern Mississippi. The 13-cent plus adjustment proposed for this zone under the Memphis order is essentially the same amount as the 12-cent plus adjustment now applicable at the Oxford plant based on its distance from Memphis under the order's current location adjustment provisions.

Additionally, the Oxford plant is located about 40 miles south of the fully regulated plant at Red Banks, Mississippi, which is within 50 miles of Memphis and no location adjustment applies. The 13-cent higher price proposed for the Oxford plant represents a rate of about 3 cents per 10 miles distance between the two plants.

Such a rate approaches the full cost that may be associated with distance in moving milk. Thus, it would be inappropriate to provide the higher 18-cent plus location adjustment at Oxford as originally proposed, because the Oxford plant would be at a disadvantage in competing with the plant at Red Banks for Class I sales in northern Mississippi.

The location adjustment provisions of the Memphis order have provided that no location adjustment apply in a large number of counties in central Arkansas, since the Class I differentials under the central Arkansas and Memphis orders are identical. Differentials for Class I milk under both orders are now $2.77. Accordingly, the no location adjustment policy now applicable under the Memphis order for territory in central Arkansas should be continued and the 40-county area in central Arkansas where the cooperatives proposed that no location adjustment be applied should be adopted.

Proponents proposed a plus 31-cent location adjustment zone under the Memphis order for territory in southern Arkansas. This territory is situated about 200 miles southwest of Memphis and is located adjacent to and north of the Greater Louisiana marketing area where a $3.28 Class I differential was mandated. The 51-cent higher differential at Shreveport, which is in the base pricing zone of that market, represents an increasing value of milk in that direction from Memphis at the rate of 1.5 cents per 10 miles. Thus, the proposed 31-cent plus location adjustment zone in the intervening territory between the two markets in southern Arkansas adequately reflects the 1.5 cents per 10 miles rate that the mandated differentials for such orders represent. By so doing, it will provide proper alignment of prices in that area between the Memphis order and other nearby orders.

The only other specific pricing zone proposed for the Memphis order is the territory in northern Arkansas that is north of the no location adjustment zone in central Arkansas. A fluid milk plant located in northern Arkansas at Paragould and regulated under the Central Arkansas order has some fluid milk distribution in the Memphis marketing area. The current location adjustment provisions of the Memphis order would provide for a minus location adjustment of 16.5 cents at Paragould, since the plant is about 100 miles from Memphis.

Proponents proposed that a minus 22-cent location adjustment apply in the northern Arkansas zone. This is essentially the same adjustment that would apply at Paragould if the plant's adjustment were computed on the basis of the 2.1 cents per 10-miles rate that is proposed for plant locations in all territory not otherwise specifically zoned under the order.

The higher 2.1 cents per 10-miles rate for plants outside any zone was proposed to more nearly reflect under the order the current cost associated with distance in transporting milk. Also, it serves the purpose of providing inter-market price alignment in situations where plants in distant areas may become regulated udner the order. The record indicates that the current cost of hauling milk is more than twice the 1.5 cents per 10-miles rate now used to compute location adjustments under the order. However, the use of such a rate would result in adjusting prices more than is necessary to provide alignment of prices on an inter-market basis under the price structure mandated through the Class I differentials that became effective on May 1, 1986.

No location adjustments are needed to align prices in this region on an east-west axis, since the mandated Class I differentials are idential along a line extending from Oklahoma City to Chattanooga. On a strictly north-south axis, the mandated differentials reflect up to 3 cents per 10-miles distance. For example, the $3.85 Class I differential at New Orleans exceeds the Memphis Class I differential by a rate of about 3 cents per 10-miles. To the north, the Class I price at a plant in Fulton, Kentucky, which is regulated under the Paducah order and distributes fluid milk products in the Memphis marketing area, is below the Memphis Class I price by 3 cents per 10-miles distance also. Similarly, for plants regulated under the Southern Illinois order that have sales in the Memphis market, the difference in Class I prices reflects a rate of about 2.7 cents per 10-miles distance.

For markets located off of a straight north-south axis from Memphis the differences in Class I differentials would reflect a somewhat lesser rate than those centered directly on the north-south axis. For example, to the northwest in the direction of the Greater Kansas City order, which regulates a handler who has Class I sales in the Memphis market, the Class I differentials between the Memphis and Kansas City markets reflects a rate of 1.9 cents per 10 miles.

In view of the variation in rates between markets, no single location adjustment rate will provide exact price alignment in areas that are not specifically zoned. The proposed rate of 2.1 cents per 10-miles falls within the range of rates that would provide reasonable inter-market price alignment at distant locations.

The only opposition to the proposed changes in the location adjustment provisions for the Memphis market was presented by the operator of a distributing plant at Paragould, Arkansas. The handler's primary concern was that the proposed order amendments would adversely impact the Paragould plant's competitive position in the marketplace. The handler contents that the location adjustment at Paragould under both the Memphis, Tennessee and Central Arkansas orders be minus 34 cents rather than minus 22 cents.

The Paragould plant is fully regulated under the Central Arkansas order and has only a limited association with the Memphis market. For example, only three percent of the plant's fluid milk sales are distributed on routes in the Memphis marketing area. About 50 percent of the plant's sales are distributed on routes in the Paragould area in competition with handlers regulated under the Memphis order who will be subject to higher Class I prices. The handler's opposition would appear to be more relevant to the proposed changes in the location pricing provisions of the Central Arkansas order, which regulates the handler, than to the Memphis order provisions. Accordingly, the handler's position with respect to the location value of milk at Paragould will be dealt with later in a decision involving the Central Arkansas market.

2. *Need for emergency action.* The representative for Malone & Hyde testified that if the mandated Class I differentials become effective before the location adjustment provisions of the Memphis order are amended, the Class I price at its Nashville plant under the Memphis order will be 16 cents higher than plants similarly located but regulated under the Nashville order. The handler estimated that if this happened, milk for the Nashville plant would cost $15,000 per month more than at the Class I price for plants of other handlers who are similarly located but regulated under the Nashville order. Because of the adverse impacts on the handler's Nashville plant in such case, the handler asked that the decision for the Memphis order be dealt with separately on an expedited basis so that the amended order effective on May 1, 1986, would reflect the Memphis order's higher mandated Class I differential and the proposed changes in the location adjustment provisions.

Disorderly marketing conditions could result if the location adjustment provisions of the Memphis order are not amended as expeditiously as possible. Expedited action for the Memphis market was widely favored by interested parties and no opposition to such action was expressed. Omission of a recommended decision and the opportunity to file exceptions thereto is necessary to amend the order's location adjustment provisions as soon as possible. For the above reasons, a recommended decision is omitted on the basis that the due and timely execution of the Secretary's functions imperatively and unavoidably requires such omission.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed by certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Memphis, Tennessee order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) 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 the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, 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; and

(c) The tentative marketing agreement and the order, 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, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Memphis, Tennessee marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which was published with this decision.

Referendum Order to Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 20th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 *et seq.*), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Memphis, Tennessee, marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be November 1985.

The agent of the Secretary to conduct such referendum is hereby designated to be Richard E. Arnold.

List of Subjects in 7 CFR Part 1097

Milk marketing orders, Milk, Dairy products.

Signed at Washington, DC, on May 8, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order [1] amending the order, regulating the handling of milk in the Memphis, Tennessee, marketing area.

Findings and determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in Memphis, Tennessee, marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby 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 the said marketing area; and the minimum prices specified in the order as hereby 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; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Memphis, Tennessee, marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

PART 1097—MILK IN THE MEMPHIS, TENNESSEE, MARKETING AREA

1. The authority citation for 7 CFR Part 1097 continues to read as follows:

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

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[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

2. Section 1097.52 is revised to read as follows:

§ 1097.52 Plant location adjustments for handlers.

(a) For milk received at a fluid milk plant from producers or a handler described in § 1097.9(c) and which is classified as Class I milk without movement to another fluid milk plant, the price specified in § 1097.50(a) shall be adjusted by the amount or at the rate specified in paragraphs (a) (1) through (4) of this section for the location of such plant.

(1) For a plant located in the State of Tennessee and more than 50 miles from the City Hall in Memphis, Tennessee, the adjustment shall be minus 25 cents.

(2) For a plant located in the State of Mississippi, the adjustment shall be as follows:

(i) In the Mississippi counties of Itawamba, Lafayette, Lee, Panola, Pontotoc, Prentiss, Tate, Tunica or Union, the adjustment shall be plus 13 cents; and

(ii) In any Mississippi county not specified in paragraph (a)(2)(i) of this section and more than 50 miles from the City Hall in Memphis, Tennessee, the adjustment shall be plus 2.1 cents for each 10 miles or fraction thereof (rounded to the nearest cent) that such plant is located from the City Hall in Memphis, Tennessee.

(3) For a plant located in the State of Arkansas, the adjustment shall be as follows:

(i) In the Arkansas counties of Arkansas, Clark, Cleburne, Cleveland, Conway, Crawford, Crittenden, Cross, Dallas, Desha, Faulkner, Franklin, Garland, Grant, Hot Spring, Howard, Jefferson, Johnson, Lee, Lincoln, Logan, Lonoke, Monroe, Montgomery, Perry, Phillips, Pike, Polk, Pope, Prairie, Pulaski, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, White, Woodruff or Yell, no adjustment shall apply;

(ii) In any Arkansas county lying north of any county specified in paragraph (a)(3)(i) of this section, the adjustment shall be minus 22 cents;

(iii) In any Arkansas county lying south of any county specified in paragraph (a)(3)(i) of this section, the adjustment shall be plus 31 cents.

(4) For a plant located outside the areas described in paragraphs (a) (1), (2) and (3) of this section, the adjustment shall be minus 2.1 cents for each 10 miles or fraction thereof (rounded to the nearest cent) that such plant is located from the City Hall in Memphis, Tennessee.

(b) For fluid milk products transferred in bulk between fluid milk plants and classified as Class I milk, such location adjustments shall be assigned to the Class I disposition at the transferee-plant in excess of the sum of receipts at such plant from producers and from handlers described in § 1097.9(c) times 1.05, and the pounds assigned in Class I to receipts from other order plants and unregulated supply plants, such assignment to be made in sequence beginning with the transferor plant with the highest Class I price.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Informal Airspace Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: This notice announces an informal airspace meeting to seek information on proposing a modification of the Houston Terminal Control Area (TCA).

DATE: July 15, 1986, 7:00 p.nm. Central daylight time.

ADDRESS: Houston Police Academy, 17000 Aldine Westfield, Houston, Texas 77073.

FOR FURTHER INFORMATION CONTACT: Everett J. Sinon, Jr., Manager, Houston Intercontinental Airport Traffic Control Tower, P.O. Box 60158, Houston, Texas 77205; Telephone (713) 443-1333.

Issued in Fort Worth, Texas, on May 9, 1986.

Richard L. Failor,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86-11005 Filed 5-15-86; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 379

[Docket No. 60228-6028]

General License GTDA; Technical Data Available To All Destinations

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: Export Administration has reviewed the Export Administration Regulations pertaining to scientific communications, especially those exportable under General License *GTDA*: Technical Data Available to All Destinations. This proposed rule seeks to provide clarified guidelines for the use of General License *GTDA*, and preserves the free flow of ideas and people that is fundamental to effective research. This rule covers the areas of publications, conferences, educational instruction, correspondence and informal scientific exchanges, federal contract controls, and commercial consulting.

The current *GTDA* regulations have three categories of eligibility: (1) Data generally available to the public; (2) scientific or educational data; and (3) information contained in patent applications. Several issues have arisen over the years in applying these categories. "Data Generally Available" included publications available at "nominal cost". The "nominal cost" test often indicated general availability, but it could also often be unduly restrictive. Moreover, determining what dollar amount constituted "nominal" cost was difficult. The transfer of data in a scientific conference was permitted under GTDA if the conference was "open". However, determining an "open" conference was difficult. Finally, the regulations for "Scientific or Educational Data" did not provide express guidance as to the type of research that qualified for this exception.

The proposed regulations redefine these three categories. Under the new regulation to qualify for *GTDA*, technical data must fit into one of four categories. (1) Public availability; (2) Fundamental Research; (3) Educational Information; or, (4) Patents. While the proposed regulations establish parameters for each of these categories, their major thrust is aimed at defining "public availability" and "fundamental research."

The proposed regulations make it clear that data need not be available to every person on the street to qualify for GTDA, but rather availability to a community of persons, such as those in a scientific or engineering discipline, is sufficient. In defining "fundamental research," the proposed regulations examine the degree of "control" on the dissemination of the data and the "entity" performing the research. If the research is conducted at a university and is neither contractually controlled nor classified, it will be deemed fundamental research. In contrast,