

Information, 825 North Capitol Street NE., Washington, DC 20426.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 301 and 602

[T.D. 8383]

RIN 1545-AP34

Disclosure of Tax Return Information for Purposes of Quality or Peer Reviews; Disclosure of Tax Return Information Due to Incapacity or Death of Tax Return Preparer; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations relating to the disclosure of tax return information for purposes of quality or peer reviews published in the *Federal Register* for December 27, 1991.

EFFECTIVE DATE: December 28, 1990.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, 202-566-5985.

SUPPLEMENTARY INFORMATION:

Background

The final regulations which are the subject of this correction reflect the changes made by the Omnibus Budget Reconciliation Act of 1989.

Need for Correction

As published, the final regulations contain errors which are misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations published December 27, 1991 (56 FR 66995) FR Doc. 91-30712, are corrected as follows:

Paragraph 1. On page 66995, column 3, in the preamble, the "Explanation of provisions" portion, is corrected to read as follows:

Explanation of Provisions

"The temporary regulations define a quality or peer review as a review that is undertaken to evaluate, monitor, and improve the quality and accuracy of a tax return preparer's tax preparation services. Some commentators suggested that the definition is too broad and might defeat the statutory purpose of maintaining the confidentiality of tax return information. Suggestions to

further limit the scope of the definition were not adopted because of the requirements of section 7216(b)(3) of the Code. Other commentators suggested that this definition is too restrictive. They noted that some preparers must undergo a review of their auditing and accounting services which may require disclosures of tax return information to be properly completed. The final regulations do not change the definition of a quality or peer review to include reviews of auditing and accounting services. However, the Service is issuing a notice of proposed rulemaking addressing the definition of quality or peer reviews and auditing and accounting services.

Persons permitted to conduct quality or peer reviews under the temporary regulations (i.e. persons subject to Circular 230) are attorneys, certified public accountants, enrolled agents, and enrolled actuaries who are not under suspension or disbarment from practice before the Service. Some commentators suggested that the classes of persons permitted to conduct a quality or peer review be expanded to include non-certified, licensed public accountants ("LPAs") who are neither enrolled agents, nor otherwise eligible to practice before the Service. Unenrolled LPAs are not subject to the provisions of Circular 230. The Service believes that permitting only persons subject to Circular 230 to conduct a quality or peer review helps to prevent unauthorized disclosures of tax return information. Accordingly, the final regulations do not adopt this suggestion.

Finally, some commentators suggested that the temporary regulations should be revised to permit franchisees to disclose tax return information to their franchisor for purposes that are unrelated to a quality or peer review. Along similar lines, one commentator suggested that a franchisor's employees who are not eligible to practice before the Service should nonetheless be permitted to conduct quality or peer reviews. Neither suggestion was adopted. The first suggestion raised concerns that were not within the scope of these regulations. The second suggestion would not further the statutory purpose of maintaining the confidentiality of tax return information."

PART 301 [CORRECTED]

§ 301.7216-2 [Corrected]

Par. 2. On page 66996, column 2, in § 301.7216-2, the third sentence of paragraph (c) is corrected to read, "A quality or peer review is a review that is undertaken to evaluate, monitor, and improve the quality and accuracy of a

tax return preparer's tax preparation services."

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL-4085-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule and response to comments.

SUMMARY: On May 19, 1980, as part of its regulations implementing section 3001 of the Resource Conservation and Recovery Act (RCRA), EPA promulgated a series of criteria for listing wastes as hazardous. On July 19, 1991, the Agency proposed to conform the language of the regulation to reflect the Agency's intent and consistent interpretation of that regulation. Today's rule finalizes the proposed rule.

EFFECTIVE DATE: January 13, 1992.

ADDRESSES: The official record for this rulemaking is identified as Docket Number F-91-CLTP-FFFF and is located in the EPA RCRA Docket room M2427, 401 M Street, SW., Washington, DC 20460. The public must make an appointment in order to review docket materials by calling (202) 260-9327. The docket is available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. The public may copy up to 100 pages from the docket at no charge. Additional copies cost \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 or at (202) 260-3000. For technical information, contact Mr. William A. Collins, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-4791.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA promulgated regulations implementing section 3001 of RCRA. Section 3001(a), among other provisions, requires the Agency to promulgate criteria for listing wastes as hazardous. The Agency's regulations to implement this section of the Act are codified at 40 CFR 261.11.

Section 261.11(a)(3) of the regulations sets forth the criteria for listing toxic

wastes. The original version of this provision stated that the Agency would list a waste as toxic if the waste contains any toxic constituent listed in appendix VIII of part 261 unless, after considering a series of enumerated factors, the Administrator determines that the waste is not capable of posing a substantial hazard to human health and the environment even if managed improperly. Appendix VIII contains a list of substances shown in scientific studies to be toxic, carcinogenic, mutagenic or teratogenic at certain concentrations. The factors set out in the rule—drawn for the most part from sections 1004(5) and 3001(a) of RCRA—include the nature of the toxic constituents, the concentration of toxic constituents in the waste, the migratory potential of the constituents and their mobility and persistence after migrating from a waste. Other factors were the plausible ways the waste could be mismanaged, the quantity of waste generated, damage incidents caused by past management of the waste, and action by other regulatory agencies regarding the waste or waste constituents.

In promulgating the regulations, EPA intended to evaluate, and in actual practice always has evaluated, relevant waste factors in its specific listing actions, and then made determinations as to whether wastes containing an appendix VIII constituent are capable of causing substantial harm if mismanaged. (See Listing Background Documents of: May 19, 1980, 45 FR 33084-33137; November 12, 1980, 45 FR 74884-74894; November 25, 1980, 45 FR 78524-78550; January 16, 1981, 46 FR 4614-4620; May 29, 1981, 46 FR 27473-27480; May 10, 1984, 49 FR 19922-19923; January 14, 1985, 50 FR 1978-2006; October 23, 1985, 50 FR 42936-42943; December 31, 1985, 50 FR 53315-53320; February 13, 1986, 51 FR 5327-5331; February 25, 1986, 51 FR 6537-6542; May 28, 1986, 51 FR 19320-19322; September 13, 1988, 53 FR 35412-35421; October 6, 1989, 54 FR 41402-41408; and December 11, 1989, 54 FR 50968-50979 (evaluating waste streams for presence of appendix VIII constituents together with factors enumerated at 40 CFR 261.11(a)(3)).) As originally written, however, the rule has been read by some to imply that wastes are presumed to be hazardous if they contain an appendix VIII constituent (conceivably in any concentration), and that the enumerated factors are to be used only to rebut the presumption. As stated above, the Agency has never applied the rule in this way, and has always considered appropriate factors in determining whether to list wastes.

Accordingly, on May 4, 1990 (55 FR 18726), the Agency amended the wording of the rule to more clearly reflect the intent of § 261.11(a)(3), and the Agency's proper and longstanding practice in applying it.

Since the amendment represented no change in EPA listing policy, it was viewed as a technical amendment, and was promulgated without allowing an opportunity for public notice and comment. However, the Agency learned that some organizations opposed EPA's interpretation, and favored a retention of the May 19, 1980 language which they perceived as including a "presumption." As stated above, EPA has never listed a waste on the basis of such a presumption. The Agency does not believe that the mere presence of an appendix VIII constituent by itself justifies the listing of a waste as hazardous. However, in the interest of a full public airing of the issue, the Agency obtained a judicial remand¹ of the May 4, 1990 amendment and proposed to amend § 261.11(a)(3) to clarify that wastes will be listed as hazardous if they contain one or more appendix VIII constituents and, after considering the enumerated factors, the Administrator determines that the waste is capable of posing substantial harm if managed improperly. The proposal was published on July 19, 1991 (56 FR 33238).

The Agency received 28 written comments on the proposal. Twenty-seven of these comments strongly supported the change in regulatory language as proposed. Their reasoning was that the mere presence of an appendix VIII constituent in a waste in any concentration or under any conditions should not result in the regulation of a waste as hazardous. The last commenter strongly disagreed with the proposed change in regulatory language. The commenter maintained that the "two minor but significant wording changes * * * reverse() the presumption under which EPA lists particular wastes as hazardous * * *." In response, as noted above, EPA intended to evaluate, and in actual practice always has evaluated, relevant waste factors in its specific listing actions, and then made determinations as to whether wastes containing an appendix VIII constituent are capable of causing substantial harm if mismanaged. The Agency does not believe that a "presumption" should exist that the mere presence of an appendix VIII constituent, no matter how small, justifies the listing of a waste as

hazardous. The lone dissenting commenter also claims that the revision would increase EPA's burden in making waste listings. In response, the Agency notes that this wording change will not increase the Agency's burden in listing determinations because the Agency always has made its listing determinations based upon the interpretation clearly reflected in the language being finalized today. Based upon the comments received, the Agency is promulgating the change in regulatory language as proposed.

As stated in the preamble to the May 4, 1990, amendment and July 19, 1991, proposal, the change in language is merely intended to more clearly reflect the Agency's consistent interpretation of the 1980 regulatory language; it is not intended to and will not affect existing Agency listing practices. Thus, EPA has considered and will continue to consider the factors identified in 40 CFR 261.11(a)(3) in making listing determinations.

Economic Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and, therefore, subject to the requirement that a Regulatory Impact Analysis (RIA) be prepared. Since today's rule does not impose any new substantive regulatory requirements on the regulated community, this rule is not a major rule subject to the RIA requirements of Executive Order 12291.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis for all final rules unless the Administrator certifies that the rule will not have a significant impact on a substantial number of small entities. Accordingly, I hereby certify, pursuant to 5 U.S.C. 601(b), that this rule will not have a significant impact on a substantial number of small entities because it merely revises the language of § 261.11(a)(3) to reflect the Agency's consistent interpretation and does not impose any new substantive regulatory requirements on the regulated community.

Paperwork Reduction Act

Today's rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

¹ The remand was issued in the case of *EDF v. EPA*, No. 90-1387 (D.C. Cir.) on May 20, 1991.

List of Subjects in 40 CFR Part 261

Hazardous Waste, Recycling, Reporting and recordkeeping requirements.

Dated: December 12, 1991

F. Henry Habicht II,
Acting Administrator.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In § 261.11, paragraph (a)(3) introductory text, is revised to read as follows:

§ 261.11 Criteria for listing hazardous waste.

(a) * * *

(3) It contains any of the toxic constituents listed in appendix VIII and, after considering the following factors, the Administrator concludes that the waste is capable of posing a substantial

present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

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Proposed Rules

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 Parts 1001, 1004, and 1124

[Docket No. AO-14-A65, etc; DA-91-013]

Milk in the New England and Certain Other Marketing Areas; Revised Tentative Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR Part	Marketing area	AO Nos.
1001	New England	AO-14-A65
1002	New York-New Jersey	AO-71-A80
1004	Middle Atlantic	AO-160-A68
1005	Carolina	AO-388-A5
1007	Georgia	AO-366-A34
1011	Tennessee Valley	AO-251-A36
1030	Chicago Regional	AO-381-A29
1033	Ohio Valley	AO-166-A62
1036	Eastern Ohio-Western Pennsylvania	AO-179-A57
1040	Southern Michigan	AO-225-A43
1044	Michigan Upper Peninsula	AO-299-A27
1046	Louisville-Lexington-Evansville	AO-123-A63
1049	Indiana	AO-319-A40
1065	Nebraska-Western Iowa	AO-66-A48
1068	Upper Midwest	AO-178-A46
1079	Iowa	AO-295-A42
1093	Alabama-West Florida	AO-386-A12
1094	New Orleans-Mississippi	AO-103-A54
1096	Greater Louisiana	AO-257-A41
1097	Memphis, Tennessee	AO-219-A47
1098	Nashville, Tennessee	AO-184-A56
1099	Paducah, Kentucky	AO-183-A46
1106	Southwest Plains	AO-210-A53
1108	Central Arkansas	AO-243-A44

7 CFR Part	Marketing area	AO Nos.
1124	Pacific Northwest	AO-388-A20
1126	Texas	AO-231-A61
1131	Central Arizona	AO-271-A30
1135	Southwestern Idaho-Eastern Oregon	AO-380-A10
1138	New Mexico-West Texas	AO-335-A37

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; amendment.

SUMMARY: A tentative decision was issued on December 10, 1991, which proposed a separate class and price for skim milk used to produce nonfat dry milk under the New England, Middle Atlantic, and Pacific Northwest marketing orders. That tentative decision contained a product price formula using a nonfat dry milk yield factor of 9. This revised tentative decision changes from 9 to 8.5 the yield factor used to compute Class III-A prices for skim milk used to manufacture nonfat dry milk (NFD) under these orders, since the latter number is more appropriate. All of the other findings and conclusions of the tentative decision remain unchanged.

DATES: Comments are due on or before February 3, 1992.

ADDRESSES: Comments (six copies) should be filed with the Hearing Clerk, room 1081, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-6274.

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. 601-612) 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 certified that this action will not have a significant economic impact on a

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substantial number of small entities. The amendments will facilitate the orderly disposition of the market's reserve milk supplies.

Prior documents in this proceeding: Notice of Hearing: Issued July 16, 1991, published July 22, 1991 (56 FR 33395).

Tentative Decision. Issued December 10, 1991; published December 19, 1991 (56 FR 65801) and corrected December 23, 1991 (56 FR 66482).

Notice is hereby given of the filing with the Hearing Clerk of this revised tentative decision with respect to proposed amendments to the tentative marketing agreements and the orders regulating the handling of milk in the New England and Certain Other marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Interested parties may file written exceptions to this revised tentative decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC 20250, by the 30th day after publication of this decision in the **Federal Register**. Six copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments and findings and conclusions set forth below are based on the record of a public hearing held at Alexandria, Virginia, on July 30-August 1, 1991, pursuant to a notice of hearing issued July 16, 1991 (56 FR 33395).

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

1. Pricing producer milk used to manufacture butter and nonfat dry milk; and
2. The need for emergency action with respect to issue 1.

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. Pricing producer milk used to manufacture butter and nonfat dry milk. These findings are added to supplement

the findings and conclusions of the tentative decision issued on December 10, 1991. The tentative decision proposed a separate price and class for skim milk used to produce nonfat dry milk under the New England, Middle Atlantic, and Pacific Northwest marketing orders. That decision provided a special pricing formula for skim milk that is used to make nonfat dry milk (NFDm). The formula used a yield factor of 9. After further consideration, it is concluded that a factor of 8.5 would more appropriately coordinate Class III-A prices with basic formula prices when the market prices for milk and dairy products are at support buying levels.

There a number of comparative calculations which are based on the yield factor of 9 in the tentative decision. However, the skim milk values that would result from the application of the formula when milk and product prices are at support levels were not computed. For example, if the market price for nonfat dry milk was at the support purchase price of 85 cents per pound, the Class III-A price for skim milk would be \$6.525 per hundredweight, based on a yield factor of nine pounds. Also, if the basic formula price and butter prices were at supports, the resulting values of a hundredweight of skim milk would be \$6.175. Thus, the formula price for Class III-A would overstate the value of skim milk by about 35 cents per hundredweight. The use of an 8.5-pound yield factor, which is more representative of manufacturing yields, would result in a Class III-A price of \$6.16, which approximates the skim milk value of the basic formula price at the price support level.

As a result of this modification, the proposed order amendments in the tentative decision are revised as indicated below. In addition, paragraphs 34 through 39 under issue number 1 of the tentative decision issued December 10, 1991 are revised to read as follows:

The Class III-A skim value would be computed, by subtracting a processing allowance of 12.5 cents from the powder price and multiplying the result by 8.5. For Orders 1 and 4, the Extra Grade Powder Price for the Central States production area should be used. For Order 124, the Grade A powder price for the Western production area should be used. In August 1991, the skim value of Class III-A milk would have been \$6.87 per hundredweight under Order 1 and \$6.89 under Order 4. For Order 124, the skim value would have been \$6.51 per hundredweight. This compares with a \$7.89 skim value under orders providing

the M-W price as the Class III price, \$7.99 and \$8.01 under Orders 1 and 4, respectively, which provided seasonal adjustments to Class III prices and \$7.63 under Order 124, which provided a lower butter/powder "snubber" price for Class III milk in that month.

In Orders 1 and 4, the skim values for Class III-A milk would have averaged 63 cents per hundredweight less in 1990 and 48 cents per hundredweight less for the first 10 months of 1991 under the Class III pricing formula adopted herein. For Order 124, the Class III-A skim value would have been 76 cents per hundredweight less in 1990 and 56 cents per hundredweight less during January-October 1991.

The skim values for Class III-A milk under the product formulas provided for Orders 1, 4 and 124 would have averaged somewhat lower than such values for Class III milk in both 1990 and 1991. However, it is noteworthy that for Orders 1 and 4 the values would have been lower in 8 months and higher in 4 months of 1990 and lower in each month of January-October 1991. For Order 124, skim values under the new formula for NFDm would have been lower in 10 months and higher in 2 months of 1990 and lower in each month of January-October 1991.

The price formula provides a yield factor of 8.5 so that the order price for milk used to make NFDm compares favorably with the recognized value of such milk when market prices for milk and dairy products are at supports. A 12.5-cent-per-pound drying cost is compatible with industry experience and also with the processing allowance formerly recognized under the support program in connection with drying whey. Such factor is now used in the computation of the Class II formula price under Federal orders.

The plant operating cost information in this record is not exhaustive. However, there is sufficient data to indicate that the \$1.06 make allowance provided in the formula for drying a hundredweight of skim milk into powder is not so high that it would create an incentive for handlers to divert milk to drying plants rather than making the milk available to other plant operators processing dairy products demanded by consumers. On the other hand, it is not so low that such plants would be unable to continue functioning as outlets of last resort for distress milk which exceeds the needs of the market's handlers.

The record also indicates that the California Milk Stabilization Branch regularly collects data on operating costs for the purpose of establishing make-allowance costs under the State's

milk program. The latest survey covered plants that processed 98 percent of the nonfat dry milk processed in that area. The results of that survey indicate that for a wide range of plant volumes the weighted average per pound cost of producing NFDm was 12.87 cents. Using a yield factor of 8.5, a manufacturing cost of \$1.09 per hundredweight of skim milk is reflected.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of 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 each of the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid interim marketing agreements and orders:

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

(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 interim marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The interim marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and

commercial activity specified in a marketing agreement upon which a hearing has been held.

Interim Marketing Agreement and Interim Order Amending the Orders

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

It is hereby ordered, That this entire revised tentative decision plus the interim order and the interim marketing agreement annexed hereto be published in the Federal Register.

Determination of Producer Approval and Representative Period

September 1991 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the New England, Middle Atlantic and Pacific Northwest marketing areas is approved or favored by producers, as defined under the terms of each of the orders, 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 areas.

List of Subjects in 7 CFR Parts 1001, 1004, and 1124

Milk marketing orders.

Signed at Washington, DC, on: December 24, 1991.

John E. Frydenlund,

Deputy Assistant Secretary for Marketing and Inspection Service.

Interim Order Amending the Orders Regulating the Handling of Milk in Certain Specified Marketing Areas

This interim 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.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were

amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the revised tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), 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 orders 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 aforesaid marketing areas; and the minimum prices specified in the orders 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 orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements 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 New England, Middle Atlantic and Pacific Northwest marketing areas shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The authority citation for 7 CFR parts 1001, 1002 and 1124 continues to read as follows:

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

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

In the amendments to part 1001 contained in the tentative decision issued December 10, 1991 (56 FR 65819, December 19, 1991), amendment number 3 to § 1001.50 is revised to read as follows:

3. Section 1001.50 is amended by adding a new paragraph (d) to read as follows:

§ 1001.50 Class prices.

* * * * *

(d) *Class III-A price.* The Class III-A price for the month shall be the average Central States Extra Grade nonfat dry milk price for the month, as reported by the Department, less 12.5 cents, times 8.5, plus the butterfat differential times 35 and rounded to the nearest cent, and subject to the adjustments set forth in paragraph (c) of this section for the applicable month.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

In the amendments to Part 1004 contained in the tentative decision issued December 10, 1991 (56 FR 65819, December 19, 1991), amendment number 3 to § 1004.50 is revised to read as follows:

3. Section 1004.50 is amended by revising the section heading and by adding a new paragraph (g) to read as follows:

§ 1004.50 Class and component prices.

* * * * *

(g) *Class III-A price.* The Class III-A price for the month shall be the average Central States Extra Grade nonfat dry milk price for the month, as reported by the Department, less 12.5 cents, times 8.5, plus the butterfat differential value per hundredweight of 3.5 percent milk and rounded to the nearest cent, and subject to the adjustments set forth in paragraph (c) of this section for the applicable month.

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

In the amendments to part 1124 contained in the tentative decision issued December 10, 1991 (56 FR 65819, December 19, 1991), amendment number 3 to § 1124.50 is revised to read as follows:

3. Section 1124.50 is amended by revising paragraph (c) and adding a new paragraph (d) to read as follows:

§ 1124.50 Class prices.

* * * * *

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

(d) *Class III-A price.* The Class III-A price for the month shall be the average Western Grade A nonfat dry milk price for the month, as reported by the Department, less 12.5 cents, times 8.5, plus the butterfat differential times 35 and rounded to the nearest cent.

Interim Marketing Agreement Regulating the Handling of Milk in the Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR Part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ 1 to _____, all inclusive, of the order regulating the handling of milk in the New England and certain other marketing areas (7 CFR Part 2) which is annexed hereto; and

II. The following provisions:
 § 2 Record of milk handled and authorization to correct typographical errors.
 (a) Record of milk handled. The undersigned certifies that he handled during the month of September 1991, hundredweight of milk covered by this marketing agreement.
 (b) Authorization to correct typographical errors. The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ 3 Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

(Signature) (Seal)

By _____

(Name) (Title)

(Address)

Attest _____

[FR Doc. 91-31232 Filed 12-31-91; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-ASW-42]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI), Model 204B, 205A, 205A-1, 205B, and 212 Helicopters; and BHTI manufactured military Model UH-1B, UH-1F and UH-1H Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This supplemental notice proposes to adopt an airworthiness directive (AD) that would establish a mandatory replacement schedule for the main rotor pillow bolts, washers, and nuts on certain BHTI manufactured helicopters. This supplemental notice contains changes to an earlier notice of proposed rulemaking. The proposed AD is needed to prevent separation and failure of the main rotor hub assembly which could result in loss of control of the helicopter.

DATES: Comments must be received by February 18, 1992.

ADDRESSES: The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, Bldg. 3B, room 158, Fort Worth, Texas. Comments may be inspected between 9 a.m. and 3:30 p.m., weekdays, except Federal holidays.

Submit comments in triplicate to: Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76193-0007, Docket Number 90-ASW-42.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Henry, Rotorcraft Directorate, Rotorcraft Certification Office, ASW-170, FAA, Southwest Region, Fort Worth, Texas 76193-0170, telephone (817) 624-5168.

SUPPLEMENTARY INFORMATION:

Comments Invited
 Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking

action on the proposed rule. The proposal contained in this Notice may be changed in light of comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 90-ASW-42." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this SNPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket Number 90-ASW-42, 4400 Blue Mound Road, Fort Worth, Texas 76193-0007.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to Bell Model 204B, 205A, A-1, B, and 212 helicopters; and Military Model UH-1B, 1F and 1H helicopters, was published as a notice of proposed rulemaking (NPRM) in the *Federal Register* on February 5, 1991 (56 FR 4581). That NPRM would have required a retirement life of 1,200 hours' time in service for the main rotor pillow block bolts, washers and nuts. That NPRM was prompted by reports of at least five cases of pillow block bolt fatigue cracks on BHTI Model 205A-1 and 212 helicopters. Failure of all four bolts will allow separation of the main rotor from the helicopter.

The FAA determined that these special pillow block bolts, part number (P/N) 204-011-171-003, can no longer be operated with an unlimited service life and that these bolts, along with the mating nuts, P/N EB080 or 42FLW-820, and washers, P/N 140-007-33S28-3, should be removed from further service as specified in the proposal. These same bolts, nuts, and washers are used also on the military Model UH-1B, UH-1F, and UH-1H helicopters and are subject to the same operating environment. It was proposed that they be removed at the same time in service as the

¹ First and last sections of orders.

² Appropriate Part Number.

³ Next consecutive Section Number.