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DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Parts 800 and 810

RIN 0580-AA12

U.S. Standards for Canola

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) is establishing U.S. Standards for Canola under the authority of the U.S. Grain Standards Act, as amended (USGSA). This action will result in canola shipped outside the United States being officially inspected and weighed, except under certain provisions. Official inspection and weighing will be available, upon request, for domestic shipments. This action will provide uniform Federal inspection procedures and will facilitate marketing of the canola crop.

EFFECTIVE DATE: February 28, 1992.

FOR FURTHER INFORMATION CONTACT: George Wollam, Federal Grain Inspection Service, USDA, room 0632-S, Box 96454, Washington, DC 20090-6454. Telephone (202) 720-0292.

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

John C. Foltz, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because those persons that apply the

standards and most users of the inspection service do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 610 *et seq.*). Further, the standards are applied equally to all entities.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) and section 3502 (h) of that Act, the information collection and recordkeeping requirements contained in this rule have been approved by OMB and assigned OMB No. 0580-0013.

Background

Production of canola in the United States is increasing. In 1989 and 1990, U.S. producers planted approximately 75,000 and 100,000 acres of canola, respectively (Ref. 1). This year production may reach 200,000 acres (Ref. 2).

Consumer interest in canola oil has grown due to its nutritional characteristics. It is low in saturated fat (6 percent) compared to corn oil (13 percent), olive oil (14 percent), soybean oil (15 percent), and palm oil (51 percent) (Ref. 3). Canola oil is also characterized by a relatively high level of a monounsaturated fatty acid, oleic acid, and an intermediate level of the polyunsaturated fatty acids, linoleic and linolenic acids.

The use of canola meal has also increased in the United States. In 1989, canola meal usage exceeded 270 thousand metric tons versus 140 thousand metric tons in 1985 (Ref. 4). By the end of the century, forecasters predict that the United States will use 600 thousand metric tons of canola meal per year (Ref. 5). Canola meal is used as a component of livestock, swine, and poultry rations. Based on nutrient content and a unit weight basis, canola meal is worth 70 to 75 percent of the value of 44 percent soybean meal for feeding poultry and approximately 75 to 80 percent of the same for feeding swine and ruminants (Ref. 6).

Comment Review

As a result of growing interest in canola varieties of rapeseed in the United States, FGIS requested public

comments on the need for official U.S. Standards for Canola in the May 3, 1991, Federal Register (56 FR 20374). FGIS received a total of 16 comments during a 60-day comment period. The comments were submitted from all segments of the canola/rapeseed industry including producer and trade associations, foreign associations and commissions, processors, producers, grain handlers, seed/biotechnological companies, a U.S. senator, and an official grain inspection agency.

All commentors expressed strong support for the development of standards as reflected by the following statement of the U.S. Canola Association:

The adoption of appropriate U.S. grading standards is an important step toward creating the conditions necessary to further the establishment of canola as a viable commercial crop. Setting standards that reflect consistency with foreign grading factors and tolerances, particularly those used in Canada, will encourage the acceptance of U.S.-produced canola in international trade.

On the basis of the comments and other available information, FGIS is establishing U.S. Standards for Canola under the authority of the USGSA, as amended, to provide uniform Federal inspection procedures and to facilitate marketing of the crop. Under the USGSA, canola shipped outside the United States must be officially inspected and weighed, except under certain provisions of the USGSA and § 800.18 of the regulations. Official inspection and weighing will be available, upon request, for domestic shipments.

Dockage

Of the 16 commentors, 5 commentors supported the inclusion of dockage as a grading factor at export.

Further, four commentors supported the proposed standards in general. Three commentors opposed and two commentors did not address the dockage provision.

The five supporting commentors stated that the inclusion of dockage as a grading factor at export would send a clear message to international buyers that U.S. canola is of the highest quality. The three commentors who opposed this provision, however, stated that a grade limit on export canola could disrupt the movement of canola between domestic

and export markets. One commentor, the National Grain and Feed Association, specifically stated:

We believe this will effectively create a two-tiered market for canola in the United States that will inhibit the acceptance and marketing of that commodity in this country. The U.S. marketing system does not and should not distinguish between domestic and export markets without clear and convincing justification. In our judgment, justification for neither has been established in the proposal.

Based upon available information, including the comments received, FGIS will not establish dockage grading limits for exported canola at this time because this could potentially increase unnecessarily the handling costs in the export market. FGIS believes, however, that information about the percentage of dockage conveys important quality information to both buyers and sellers of canola. As a result, FGIS will report the percentage of dockage, to the nearest tenth of a percent, as part of the overall grade designation in accordance with § 810.106 of the Official United States Standards for Grain.

Glucosinolate and Erucic Acid Monitoring

Five commentors supported FGIS' proposal to require that each canola inspection for grade include screening for glucosinolates. Furthermore, they supported FGIS' proposal to monitor a percentage of all canola inspections for glucosinolate and erucic acid levels to identify any specific incidence where non-canola varieties of rapeseed are represented as canola. Five commentors generally supported the proposed standards. One commentor did not oppose screening for glucosinolates but questioned whether a rapid, inexpensive screening method exists.

FGIS will use the 00-Dip-Test developed at the Institute for Plant Breeding, University of Göttingen, Germany, to screen each canola sample for glucosinolates. The test is both rapid, requiring only several minutes to perform, and inexpensive. Those lots which test high for glucosinolates will be graded as not standardized grain.

Due to the current absence of a rapid screening method, FGIS will not routinely test canola lots for erucic acid content as part of the inspection for grade. Except in those instances where an applicant requests a test for erucic acid content, inspectors will issue a statement in the "Remarks" section of official certificates indicating that each lot was not tested for erucic acid content.

However, FGIS will monitor a percentage of all canola inspections for glucosinolate and erucic acid levels.

FGIS will use this monitoring program to identify any specific incidence where non-canola varieties of rapeseed are represented as canola.

Definition of Canola

Two commentors stated that the definition of canola as proposed was incomplete. They proposed that instead of stating that, "... the air-dried, oil free meal shall contain less than 30.0 micromoles per gram of glucosinolates," the definition should include the specific glucosinolates which are measured. One of these commentors also stated that to be botanically correct, the definition should refer to the genus "Brassica" and not to the Brassica species. The definition was originally proposed as follows:

Seeds of the Brassica species from which the oil shall contain less than two percent erucic acid in its fatty acid profile and the air-dried, oil free meal shall contain less than 30.0 micromoles per gram of glucosinolates. Before the removal of dockage, the seed shall contain not more than 10.0% of other grains for which standards have been established under the United States Grain Standards Act.

FGIS agrees with the comments received. Accordingly, FGIS will revise the definition of canola to read as follows:

Seeds of the genus *Brassica* from which the oil shall contain less than two percent erucic acid in its fatty acid profile, and the solid component shall contain less than 30.0 micromoles of any one or any mixture of 3-butenyl glucosinolate, 4-pentenyl glucosinolate, 2-hydroxy-3-butenyl glucosinolate, or 2-hydroxy-4-pentenyl glucosinolate per gram of air-dried, oil free solid. Before the removal of dockage, the seed shall contain not more than 10.0% of other grains for which standards have been established under the United States Grain Standards Act.

Stones, Ergot, Sclerotinia, and Garlicky Canola

One commentor voiced specific approval for the proposed grade limits for ergot (0.05% for U.S. Nos. 1, 2, and 3) and sclerotinia (0.05%, 0.10%, and 0.15% for U.S. Nos. 1, 2, and 3, respectively). Another commentor stated that the grade limits for sclerotinia may be too low and are not consistent with the Canadian grade limits. The limits for sclerotinia and ergot as proposed and made final here are consistent with the Canadian export grade requirements for canola/rapeseed.

Two commentors stated that the proposed limit of 0.10% on stones for all grades is inconsistent with the Canadian limit of 0.05% for all grades. FGIS agrees; and, to promote consistency between the U.S. and Canadian standards, FGIS

will use the Canadian limit of 0.05% for all grades.

One commentor indicated that the inclusion of a special grade for garlicky canola is inconsistent with the Canadian standards. FGIS agrees but also realizes that garlic infestation of canola fields may occur in particular regions of the United States. Garlic bulblets impart an off-flavor and odor to canola oil and meal. Therefore, to better describe the quality of U.S. canola products, FGIS believes it is necessary to provide information on garlic in the form of a special grade.

Also, FGIS has determined that the portion size indicated in the definition, 1,000 grams, is inaccurate. Accordingly, FGIS will revise the definition of garlicky canola to read as follows:

Canola that contains more than two green garlic bulblets or an equivalent quantity of dry or partly dry bulblets in approximately a 500 gram portion.

Conspicuous Admixture, Damaged Kernels and Ergot

FGIS has determined that the definition of conspicuous admixture as originally proposed in § 810.302(a) was too brief and, as a result, unclear. The definition of conspicuous admixture was originally proposed as follows:

All matter other than canola which is conspicuous and readily distinguishable from canola and which remains in the sample after the removal of dockage.

For the sake of clarity, FGIS will revise the definition of conspicuous admixture to read as follows:

All matter other than canola, including but not limited to ergot, sclerotinia, and stones, which is conspicuous and readily distinguishable from canola and which remains in the sample after the removal of machine separated dockage. Conspicuous admixture is added to machine separated dockage in the computation of total dockage.

FGIS has also determined that several terms, as proposed in § 810.302(b), sprout-damaged, mold-damaged, and otherwise materially damaged, were inadvertently omitted from the definition of damaged kernels as originally proposed. Accordingly, FGIS will revise the definition of damaged kernels to read as follows:

Canola and pieces of canola that are heat-damaged, sprout-damaged, mold-damaged, distinctly green-damaged, frost-damaged, rime-damaged, or otherwise materially damaged.

FGIS will also revise the definition of ergot as proposed in § 810.302(e) for clarity. The definition of ergot is revised to read as follows:

Sclerotia (sclerotium, sing.) of the fungus, *Claviceps* species, which are associated with some seeds other than canola where the fungal organism has replaced the seed.

FGIS is also making minor revisions to § 810.303 for clarity.

Final Action

FGIS is establishing U.S. Standards for Canola under the USGSA as authorized pursuant to section 4 of the USGSA (7 U.S.C. 76). The format and structure of the standards are uniform with other standards under the USGSA.

Specifically, the standards are divided into five parts and into sections which are generally the same or similar to sections in other U.S. Standards for Grain. Part I, Terms Defined, consists of § 810.301, Definition of canola, and § 810.302, Definition of other terms, which includes the terms conspicuous admixture, damaged kernels, distinctly green kernels, dockage, ergot, heat-damaged kernels, inconspicuous admixture, sclerotia, and sclerotinia. Part II, Principles Governing the Application of Standards, consists of § 810.303, Basis of determination, which references certain quality determinations together with all other determinations. Part III, Grades and Grade Requirements, consists of § 810.304, Grades and grade requirements for canola, which gives the actual grading chart. Part IV, Special Grades and Special Grade Requirements, consists of § 810.305, Special grades and special grade requirements, which includes the special grade of garlicky canola. Part V, Nongrade Requirements, consists of § 810.306, Nongrade requirements, which includes the nongrade requirement of glucosinolates.

In § 810.303, Basis of determination, determinations of total damaged kernels, heat-damaged kernels, distinctly green kernels, total conspicuous admixture, ergot, sclerotinia, stones, and inconspicuous admixture are made on the basis of the canola sample when free from dockage. Other determinations are made on the basis of the oilseed as a whole. However, the determination of odor is made on either the basis of the oilseed as a whole or the oilseed when free from dockage. Additionally, determinations of erucic acid, when requested, and glucosinolates are made on the basis of the canola sample according to procedures prescribed in FGIS instructions.

Except for ergot, sclerotinia, and stones, all percentages are stated to the nearest tenth of a percent. Ergot, sclerotinia, and stones are stated to the nearest hundredth of a percent.

Percentages on the basis of count are calculated by dividing the number of unsound kernels by the total number of seeds in the representative portion and multiplying by 100. Percentages on the basis of weight are calculated by dividing the weight of the material removed by the weight of the representative portion and multiplying by 100.

Section 810.304 includes three numerical grades and a Sample grade. The grading factors are heat-damaged kernels, distinctly green kernels, total damaged kernels, ergot, sclerotinia, stones, total conspicuous admixture, and inconspicuous admixture.

Section 810.305 includes one special grade, garlicky canola. Section 810.306 includes the nongrade requirement of glucosinolates which is ascertained during the inspection process and shown on the official inspection certificate for grade.

Furthermore, FGIS is revising § 800.162(a)(2) of the regulations under the USGSA, as amended, and § 810.102(d) of the Official United States Standards for Grain to indicate that test weight is not an official factor in the canola standards. Test weight is extremely variable in canola and has not been shown to be correlated to the end-use value of the seed.

Additionally, FGIS is revising § 800.0(b)(42) of the regulations under the USGSA, as amended, to include canola and sunflower seed in the definition of grain. The United States Standards for Sunflower Seed were established in 1984 (49 FR 22761). The authority citation for part 810 would be amended for clarity. In addition, § 810.101 is amended to include canola as an oilseed for which standards are established.

It should be noted that pursuant to section 4(b) of the USGSA, no standards established or amendments or revocations of standards under the USGSA are to become effective less than 1 calendar year after promulgation unless, in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. Pursuant to section 4(b)(1) of the USGSA, the Administrator has determined that, in the public interest, an effective date of less than 1 calendar year after promulgation is warranted. An early effective date will facilitate domestic and export marketing and allow implementation during this crop year of the standards that are adopted. Therefore, the standards will be effective 30 days after publication.

References

- (1) Kohn, F., "Is Canola Coming," *Soybean Digest*, March 1989, 8-10.
- (2) ———, "Agriculture: A New Season," *Wall Street Journal*, April 18, 1991.
- (3) United States Department of Agriculture, *Agricultural Handbook No. 8-4 and Human Nutrition Information Service*, 1979.
- (4) Dixon, P., "U.S. Production—What's the Potential," presentation to the Canola Council of Canada's Annual Convention on March 20-22, 1989.
- (5) Canola Council of Canada, "U.S. Canola Oil Demand Projected at 1.5 Million Tonnes by 2003," *Canola Digest*, April 1990.
- (6) Canola Council of Canada, "Canola: The Specifics," *Canada's Canola*, 19-21.

List of Subjects

7 CFR Part 800

Administrative practice and procedure, Grain.

7 CFR Part 810

Exports, Grain.

For reasons set out in the preamble, 7 CFR parts 800 and 810 are 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.*).

2. Section 800.0(b)(42) is revised to read as follows:

§ 800.0 Meaning of terms.

* * *

(b) * * *

(42) *Grain*. Corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, triticale, mixed grain, sunflower seed, canola, and any other food grains, feed grains, and oilseeds for which standards are established under section 4 of the Act.¹

* * *

3. Section 800.162(a)(2) is revised to read as follows:

§ 800.162 Certification of grade; special requirements.

(a) * * *

(2) The test weight of the grain, if applicable; * * *

* * *

¹ A definition taken from the U.S. Grain Standards Act, as amended, with certain modifications which do not change the meanings.

PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

4. The Authority Citation for Part 810 is revised to read as follows:

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

5. Section 810.101 is revised to read as follows:

§ 810.101 Grains for which standards are established.

Grain refers to barley, canola, corn, flaxseed, mixed grain, oats, rye, sorghum, soybeans, sunflower seed, triticale, and wheat. Standards for these food grains, feed grains, and oilseeds are established under the United States Grain Standards Act.

6. Section 810.102(d) is amended by revising the last sentence and adding a new sentence following the last sentence to read as follows:

§ 810.102 Definition of other terms.

(d) * * * Test weight per bushel for all other grains, if applicable, is recorded in whole and half pounds, with a fraction of a half pound disregarded. Test weight per bushel is not an official factor for canola.

7. Section 810.104(b) is amended by revising the seventh sentence to read as follows:

§ 810.104 Percentages.

(b) * * * The percentage of smut in barley, sclerotinia and stones in canola, and ergot in all grains is reported to the nearest hundredth percent.

8. Section 810.107(b) introductory text is revised to read as follows:

§ 810.107 Special grades and special grade requirements.

(b) *Infested barley, canola, corn, oats, sorghum, soybeans, sunflower seed, and mixed grain.* Tolerances for live insects responsible for infested barley, canola, corn, oats, sorghum, soybeans, sunflower seed, and mixed grain are defined according to sampling designations as follows:

9. Subparts C through L are redesignated as subparts D through M.

10. New subpart C is added to read as follows:

Subpart C—United States Standards for Canola—Terms Defined

§ 810.301 Definition of canola.

§ 810.302 Definition of other terms.

Principles Governing the Application of Standards

§ 810.303 Basis of determination.

Grades and Grade Requirements

§ 810.304 Grades and grade requirements for canola.

Special Grades and Special Grade Requirements.

§ 810.305 Special grades and special grade requirements

Nongrade Requirements

§ 810.306 Nongrade requirements.

Subpart C—United States Standards for Canola—Terms Defined

§ 810.301 Definition of canola.

Seeds of the genus *Brassica* from which the oil shall contain less than 2 percent erucic acid in its fatty acid profile and the solid component shall contain less than 30.0 micromoles of any one or any mixture of 3-butenyl glucosinolate, 4-pentenyl glucosinolate, 2-hydroxy-3-butenyl, or 2-hydroxy-4-pentenyl glucosinolate, per gram of air-dried, oil free solid. Before the removal of dockage, the seed shall contain not more than 10.0% of other grains for which standards have been established under the United States Grain Standards Act.

§ 810.302 Definitions of other terms.

(a) *Conspicuous Admixture.* All matter other than canola, including but not limited to ergot, sclerotinia, and stones, which is conspicuous and readily distinguishable from canola and which remains in the sample after the removal of machine separated dockage. Conspicuous admixture is added to machine separated dockage in the computation of total dockage.

(b) *Damaged kernels.* Canola and pieces of canola that are heat-damaged, sprout-damaged, mold-damaged, distinctly green damaged, frost damaged, rimed damaged, or otherwise materially damaged.

(c) *Distinctly green kernels.* Canola and pieces of canola which, after being crushed, exhibit a distinctly green color.

(d) *Dockage.* All matter other than canola that can be removed from the original sample by use of an approved device according to procedures prescribed in FGIS instructions. Also, underdeveloped, shriveled, and small pieces of canola kernels that cannot be recovered by properly rescreening or recleaning. Machine separated dockage is added to conspicuous admixture in the computation of total dockage.

(e) *Ergot.* Sclerotia (sclerotium, sing.) of the fungus, *Claviceps* species, which are associated with some seeds other than canola where the fungal organism has replaced the seed.

(f) *Heat-damaged kernels.* Canola and pieces of canola which, after being crushed, exhibit that they are discolored and damaged by heat.

(g) *Inconspicuous admixture.* Any seed which is difficult to distinguish from canola. This includes, but is not limited to, common wild mustard (*Brassica kaber* and *B. juncea*), domestic brown mustard (*Brassica juncea*), yellow mustard (*B. hirta*), and seed other than the mustard group.

(h) *Sclerotia* (*Sclerotium*, sing.). Dark colored or black resting bodies of the fungi *Sclerotinia* and *Claviceps*.

(i) *Sclerotinia.* Genus name which includes the fungus *Sclerotinia sclerotiorum* which produces sclerotia. Canola is only infrequently infected, and the sclerotia, unlike sclerotia of ergot, are usually associated within the stem of the plants.

Principles Governing the Application of Standards

§ 810.303 Basis of determination.

Each determination of conspicuous admixture, ergot, sclerotinia, stones, damaged kernels, heat-damaged kernels, distinctly green kernels, and inconspicuous admixture is made on the basis of the sample when free from dockage. Other determinations not specifically provided for under the general provisions are made on the basis of the sample as a whole, except the determination of odor is made on either the basis of the sample as a whole or the sample when free from dockage. The content of glucosinolates and erucic acid is determined on the basis of the sample according to procedures prescribed in FGIS instructions.

Grades and Grade Requirements

§ 810.304 Grades and grade requirements for canola.

Grading factors	Grades, U.S. Nos.		
	1	2	3
Maximum percent limits of:			
Damaged kernels:			
Heat damaged	0.1	0.5	2.0
Distinctly green	2.0	6.0	20.0
Total	3.0	10.0	20.0
Conspicuous admixture:			
Ergot	0.05	0.05	0.05
Sclerotinia	0.05	0.10	0.15
Stones	0.05	0.05	0.05
Total	1.0	1.5	2.0
Inconspicuous admixture...	5.0	5.0	5.0

Grading factors	Grades, U.S. Nos.		
	1	2	3
Maximum count limits of:			
Other material:			
Animal filth.....	3	3	3
Glass.....	0	0	0
Unknown foreign substance.....	1	1	1

U.S. Sample grade Canola that:

- (a) Does not meet the requirements for U.S. Nos. 1, 2, 3; or
- (b) Has a musty, sour, or commercially objectionable foreign odor; or
- (c) Is heating or otherwise of distinctly low quality.

Special Grades and Special Grade Requirements

§ 810.305 Special grades and special grade requirements.

Garlicky canola. Canola that contains more than two green garlic bulblets or an equivalent quantity of dry or partly dry bulblets in approximately a 500 gram portion.

Nongrade Requirements

§ 810.306 Nongrade requirements.

Glucosinolates. Content of glucosinolates in canola is determined according to procedures prescribed in FGIS instructions.

Dated: January 2, 1992.

John C. Foltz,

Administrator.

[FR Doc. 92-2016 Filed 1-28-92; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 1106

[DA-91-024]

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends from the Southwest Plains milk order for the months of February through August 1992, the shipping standards for supply plants that were pooled during the preceding September through January and the monthly requirements that a producer's milk be received at a pool plant in order to be eligible for diversion to non-pool plants. The action was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association

that represents producers who supply milk for the market. The action is essential to insure the efficient disposition of an increasing supply of milk from dairy farmers who have historically supplied the market's fluid milk requirements.

EFFECTIVE DATE: February 1, 1992 through August 31, 1992.

FOR FURTHER INFORMATION CONTACT:

Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued December 27, 1991; published January 3, 1992 (57 FR 221).

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 substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Southwest Plains marketing area.

Notice of proposed rulemaking was published in the *Federal Register* on January 3, 1992 (57 FR 221) concerning a proposed suspension of certain provisions of the order. The notice indicated that suspension was being requested for January through August for two provisions and for February through August for a third provision. Interested persons were afforded opportunity to file written data, views, and arguments thereon. Mid-America Dairymen, Inc. (Mid-Am) requested that we modify the time period of the suspension to February through August 1992 for all three provisions for which suspension was requested. The sections

for which the suspension was requested pertain to milk produced in February through August. Accordingly, the suspension will be in effect for the months of February through August 1992. Mid-Am supplied additional written materials supporting their view. Kraft General Foods also filed a written statement in support of the suspension of the requested provisions of the order.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of February through August 1992 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.6, the words "during the month".

2. In § 1106.7(b)(1), the words "of February through August until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) or (e) of this section. A plant not meeting such 20 percent requirement in any month of such February-August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) or (e) of this section are not less than 50 percent of receipts or diversions, as previously specified".

3. In § 1106.13, paragraph (d)(1) in its entirety.

Statement of Consideration

This action suspends for February through August 1992 the shipping standard for supply plants that were previously associated with the market. The order defines a supply plant as a plant from which fluid milk products are transferred or diverted to distributing plants during the month. It also provides that in order to be pooled under the order during the months of September through January, 50 percent of a supply plant's receipts must be shipped to distributing plants each month. A supply plant that was pooled during each of the immediately preceding months of September through January shall continue to be pooled during the following months of February through August if 20 percent of its receipts are shipped to distributing plants. That action would eliminate during the months of February through August 1992 the shipping standard for supply plants that were pooled under the order during