(c) When performing inspections of products from sea containers unloaded directly from sea transportation or when palletized products unloaded directly from sea transportation are not offered for inspection at dock-side, the carlot fees in § 51.38(a) shall apply.

(d) When performing inspections for Government agencies, or for purposes other than those prescribed in the preceding paragraphs, including weight-only and freezing-only inspections, fees for inspection shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of $49 an hour: Provided, That:

(1) Charges for time shall be rounded to the nearest half hour;

(2) The minimum fee shall be two hours for weight-only inspections, and one-half hour for other inspections; and

(3) When weight certification is provided in addition to quality and/or condition inspection, a one-hour charge shall be added to the carlot fee.

(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.

(e) When performing inspections at the request of the applicant during periods which are outside the grader's regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of $24.50 per hour or portion thereof in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Overtime or holiday charges for time shall be rounded to the nearest half hour.

(f) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be made at the prevailing hourly rate in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Waiting time shall be rounded to the nearest half hour.

Dated: September 15, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–24438 Filed 9–17–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1137

[DA–99–07]

Milk in the Eastern Colorado Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; suspension.

SUMMARY: This document invites written comments on a proposal to suspend certain sections of the Eastern Colorado Federal milk marketing order until implementation of Federal milk order reform on October 1, 1999. The proposed rule would reinstate a suspension that expired on August 31, 1999, which makes it easier for cooperative associations to qualify milk for pooling under the order. Dairy Farmers of America, Inc. (DFA), a cooperative association that represents nearly all of the producers who supply milk to the Eastern Colorado market, has requested continuation of the suspension. DFA asserts that the suspension is necessary to prevent uneconomical and inefficient movements of milk.

DATES: Comments must be submitted on or before September 27, 1999.

ADDRESSES: Comments (two copies) should be filed with USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, PO Box 96456, Washington, DC 20090–6456. Advance, unofficial copies of such comments may be faxed to (202) 690–0552. Reference should be given to the title of the action and its docket number.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, PO Box 96456, Washington, DC 20090–6456, (202) 720–9368, e-mail address: clifford.carman@usda.gov.

SUPPLEMENTARY INFORMATION: The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are ''small businesses,'' the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of June 1999, the milk of 203 producers was pooled on the Eastern Colorado milk order. Of these producers, 105 were below the 326,000-pound production guideline and are considered small businesses.

For June 1999, there were eight handlers operating pool plants under the Eastern Colorado milk order. Of these handlers, five are considered small businesses.

This rule would lessen the regulatory impact of the order on certain milk

handlers and would tend to ensure that dairy farmers would have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities. Also, parties may suggest modifications of this proposal for the purpose of tailoring their applicability to small businesses.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provisions of the order regulating the handling of milk in the Eastern Colorado marketing area is being considered until Federal milk order reform is implemented October 1, 1999:

In § 1137.12(a)(1), the words ''from whom at least three deliveries of milk are received during the month at a distributing pool plant'; and in the second sentence ''30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of'', and the word ''distributing''.

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, PO Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures before the start of the next marketing period.

All written submissions made pursuant to this notice will be made available for public inspection in Dairy Programs during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed rule would suspend certain provisions of the Eastern Colorado order until implementation of Federal Order Reform. The proposed suspension would make it easier for a cooperative association to qualify milk for pooling under the order.

Continuation of the suspension that expired on August 31, 1999, was requested by DFA, a cooperative association which represents nearly all of the dairy farmers who supply the Eastern Colorado market. DFA contends that milk from some producers is required every day of the month in order to meet market demands, while milk from some other producers is required most days of the month and milk from a few producers is required only a few days each month to meet market demands. DFA asserts that with the suspension in place the market can be served in the most efficient manner possible because milk required by the market only a few days each month can maintain association with the market without being required to be delivered to pool distributing plants each month. DFA projects that, without the suspension, inefficient and costly movements of milk would have to be made to maintain the pool status of producers who historically have supplied the market.

Accordingly, it may be appropriate to suspend the aforesaid provisions until completion of Federal Order Reform.

List of Subjects in 7 CFR Part 1137

Milk marketing orders.

The authority citation for 7 CFR part 1137 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: September 13, 1999.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 99–24435 Filed 9–17–99; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 61

Proposed Compatibility Designation Change and Draft Emplacement Criticality Guidance for Low-Level Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting public comment as to whether the compatibility designation of 10 CFR 61.16(b)(2) should be changed. The compatibility designation relates to the extent which an Agreement State's regulations must be compatible with NRC requirements. The section of the Commission's regulations under consideration requires low-level waste (LLW) disposal facility licensees who receive and possess special nuclear material (SNM) to describe proposed procedures to avoid accidental criticality for storage of SNM waste prior to disposal and after disposal in the ground. In addition, NRC also is requesting comment on draft guidance on emplacement criticality at LLW disposal facilities.

DATES: Submit comments by October 20, 1999. Comments received after this date will be considered, if it is practical to do so, but assurance of consideration can only be given to comments received on or before this date.

ADDRESSES: Submit comments to David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Hand deliver comments to 11545 Rockville Pike, Rockville, MD between 5:15 am and 4:30 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (*http://www.nrc.gov*). From the home page, select ''Rulemaking'' from the tool bar. The interactive rulemaking website can then be accessed by selecting ''New Rulemaking Website.'' This site provides the ability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail cag@nrc.gov.

A copy of the draft guidance (NUREG/CR–6626, Emplacement Guidance for Criticality Safety in Low-Level Waste Disposal) can be obtained from the Internet at ''http://ruleforum.llnl.gov,'' or contact Mr. Tim Harris (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Tim Harris, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC, 20555, telephone (301) 415–6613, or e-mail at TEH@NRC.GOV.

Background

Section 274 of the Atomic Energy Act of 1954 (AEA), as amended, provides a statutory basis for discontinuance by the NRC, and the assumption by the State, of regulatory authority for byproduct material, source material, and SNM in quantities not sufficient to form a critical mass. As stated in the Commission's Policy Statement on Adequacy and Compatibility of Agreement State Programs (62FR46517, September 3,1997), NRC and Agreement States have the responsibility to ensure that there is adequate protection of public health and safety and that radiation control programs are administered consistent and compatible with NRC's program.

Quantities of SNM not sufficient to form a critical mass are defined in 10 CFR 150.11 as enriched uranium not exceeding 350 grams, uranium-233 not exceeding 200 grams, plutonium not