For the month of January 1999, 1,248 dairy farmers were producers under the Nebraska-Western Iowa order. Of these producers, 1,176 producers (i.e., 94 percent) were considered small businesses having monthly milk production under 326,000 pounds. A further breakdown of the monthly milk production of the producers on the order during January 1999 is as follows: 753 produced less than 100,000 pounds of milk; 322 produced between 100,000 and 200,000; 101 produced between 200,000 and 326,000; and 72 produced over 326,000 pounds. During the same month, 5 handlers were pooled under the order. None are considered small businesses.

Because this termination of the proceedings concerning the proposed suspension results in no change in regulation it does not change reporting, record keeping or other compliance requirements. Based on comments received from an organization representing producers who supply the Order 65 market with over 40 percent of the monthly average volume of milk pooled under the order, and on our analysis of other relevant information connected with this rulemaking, we have determined that the suspension request should not be granted. While suspension of the supply plant shipping requirements may have served the economic interests of one sector of the producers supplying Order 65, it would have most likely resulted in a significant loss of blend price income to a substantial number of other producers under the Order.

Preliminary Statement

This termination of proceedings is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area.

Notice was published in the **Federal Register** on March 17, 1999 (64 FR 13125) concerning a proposed suspension of certain sections of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon.

One comment opposing the proposed termination was received.

Statement of Consideration

This document terminates the proceeding initiated to suspend portions of the supply plant shipping requirements for the Nebraska-Western Iowa order (Order 65) for the months of March through September 1999. The proposed suspension was requested by North Central Associated Milk Producers, Inc. (AMPI), a cooperative association that supplies milk for the market's fluid needs. AMPI requested that language be suspended from the Order 65 pool supply plant definition for the purpose of allowing producers who had historically supplied the fluid needs of Order 65 distributing plants to maintain their pool status. AMPI contended that because a fluid milk plant operator reduced its purchase of fluid milk from AMPI by more than half, AMPI would not be able to pool milk historically associated with Order 65 for March 1999, and thus would not qualify its supply plant for the automatic pooling qualification months of April through August.

AMPI maintained that through discussions with other handlers in the order, it was certain that no additional milk was needed at that time. Thus, AMPI contended that it was appropriate to suspend the supply plant shipping standards for the months of March through September 1999.

Dairy Farmers of America (DFA) filed a comment opposing the proposal to suspend portions of the supply plant shipping requirements for Order 65. DFA reported that its members produce and market over 40 percent of the monthly average volume of milk pooled under the order.

DFA contended that the suspension would enhance AMPI's ability to pool additional supplies on the market, and DFA members would be disadvantaged because the blend price would be lower. In addition, DFA asserted that Federal order language is routinely suspended to accommodate the pooling of milk as a result of general production increases relative to Class I milk sales, natural disasters, or plant closures. DFA stated that the reasons for these types of suspensions are generally beyond the control of any of the handlers regulated by the order and argued that changes in supplier relationships do not fall into the category of ''beyond control of the party.'' DFA therefore opposed the request.

After consideration of all relevant material, including the proposal in the notice, the comment received, and other available information, it is hereby found and determined that the proposed suspension action be terminated. AMPI's loss of 50 percent of its customary sales to a pool distributing plant will not preclude AMPI from pooling its supply plant and some of its members' milk on Order 65. While AMPI may not be able to pool as much milk under Order 65 during March 1999 as it has in prior periods, its supply plant and associated milk may be pooled under the order as long as some milk is sold by the supply plant to pool distributing plants.

Furthermore, the sole requirement for gaining automatic supply plant pooling status (with no percentage shipping standards for pool supply plants) for the months of April through August is for the supply plant to qualify as a pool plant for the months of September through March. If AMPI is able to pool its supply plant, even with a lesser volume of milk than it desires, the supply plant still would qualify for automatic pooling status for the period April through August.

Suspension of the order's pool supply plant shipping standard for the month of March 1999 would allow AMPI to pool a much greater volume of milk under the order than that associated with its sales to the fluid market and most likely would result in a significant loss of blend price income to all other producers whose milk is pooled under the order.

List of Subjects in 7 CFR Part 1065

Milk marketing orders.

The authority citation for 7 CFR part 1065 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: June 1, 1999.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 99–14312 Filed 6–4–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 99–014–1]

Animal Welfare; Acclimation Certificates for Dogs and Cats

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Animal Welfare Act regulations regarding transportation of dogs and cats by removing the requirement that a veterinarian certify that a dog or cat is acclimated to temperatures lower than the minimum temperature requirements in the regulations and requiring instead that the owner of the dog or cat make this certification. We are proposing this action because a veterinarian cannot always know if the dog or cat has been acclimated to a specific temperature. The owner of the dog or cat can best verify that the animal has been

acclimated to the temperature that is recorded on the certificate. This proposed action would give responsibility for certifying an animal's tolerance for a specific temperature to the person who is most likely to know.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by August 6, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–014–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 99–014–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry D. DePoyster, Staff Animal Health Technician, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 734–7586; or e-mail: jerry.d.depoyster@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Under the Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, and carriers and intermediate handlers. The Secretary has delegated the responsibility for enforcing the AWA to the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS). Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. Parts 1 and 2 contain definitions and general requirements, and part 3 contains specific standards for the care of animals. Subpart A of 9 CFR part 3 contains requirements specifically pertaining to dogs and cats.

Section 3.18 of subpart A contains minimum requirements for terminal facilities used in the transportation of dogs and cats. Among other things, § 3.18 requires that the ambient temperature in an animal holding area containing dogs and cats must not fall below 45 °F (7.2 °C) for more than four consecutive hours at any time dogs or cats are present. Section 3.19 of subpart A contains minimum requirements for handling dogs and cats when they are moved within, to, or from an animal holding area of a terminal facility or a primary conveyance when being transported. Among other things, § 3.19 requires that dogs or cats must not be exposed to an ambient temperature below 45 °F (7.2 °C) for a period of more than 45 minutes.

Section 3.13, paragraph (e), of subpart A requires that carriers and intermediate handlers must not accept a dog or cat for transport in commerce unless their animal holding area meets the minimum temperature requirements provided in §§ 3.18 and 3.19, or unless the consigner provides them with a certificate signed by a veterinarian certifying that the animal is acclimated to temperatures lower than those required in §§ 3.18 and 3.19.

Veterinarians are often asked to sign certificates of acclimation for dogs and cats that they have seen only for routine examinations or if the animals are ill. A veterinarian cannot determine if a dog or cat has been acclimated to a specific temperature based on a veterinary examination. Therefore, it is inappropriate to place responsibility for such certification on veterinarians. The owner of the dog or cat is normally the person who would know if the dog or cat has been acclimated to a specific temperature.

Therefore, we are proposing to amend § 3.13(e) to require that the owner of the dog or cat sign the certificate stating that his or her animal is acclimated to temperatures lower than those required in §§ 3.18 and 3.19. This revision would give responsibility for certifying an animal's tolerance for a specific temperature to the person who is most likely to know to what temperature the animal is acclimated.

We are also proposing to correct a typographical error in § 3.13(e). In paragraph (e), the Celsius equivalent of 45 °F is incorrectly listed as 2.2 °C. The correct Celsius equivalent is 7.2 °C.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Animal Welfare Act regulations in 9 CFR part 3, subpart A, provide specifications for the humane transportation of dogs and cats. Among other things under those specifications, carriers and intermediate handlers may not accept a dog or cat for transport in commerce unless their animal holding area meets certain minimum temperature requirements or unless they are provided with a certificate, signed by a veterinarian, certifying that the animal has been acclimated to temperatures lower than those required.

This proposed rule would require instead that the owner of the dog or cat must sign the certification that the animal has been acclimated to temperatures lower than those required by the regulations. The proposal stems from concern that veterinarians are not always the ones who are best able to make such a certification, since they may have minimal knowledge of an animal's history, care, and environment. Licensed dealers are the animal owners who would be primarily affected by the proposal because licensed dealers transport animals more often than other dog and cat owners.

The entities most affected by this proposed rule would be dealers of dogs and cats and the animal's attending veterinarian. Affected dealers and veterinarians would benefit, but the economic effect is not likely to be significant.

Practicing veterinarians would benefit because they would no longer be put in the position of having to deny certifications when they have little or no knowledge of the animal's history, care, and environment. Veterinarians would also benefit because they would avoid any potential liability stemming from the certifications. Veterinarians would no longer receive fees that they might otherwise charge animal owners for signing certifications. However, any such fees are likely to be insignificant when judged against the veterinarian's overall revenues from all sources.

The owners of the dogs and cats would benefit from the proposed rule because it would make the process of obtaining certification easier. They would be able to make the certification themselves without having to rely on veterinarians who may not always be readily available. Another potential benefit for animal owners is that they may avoid having to pay fees to veterinarians to obtain their signatures, although any such savings are not likely to be significant.

Finally, the animals themselves would benefit in that a more accurate representation of the temperature to which the dog or cat has been acclimated would have a positive effect on the animal's health and welfare.

The Regulatory Flexibility Act requires that agencies consider the economic effect of rules on small entities, i.e., small businesses, organizations, and governmental jurisdictions. In FY 1996, there were 4,075 animal dealers licensed by the Animal and Plant Health Inspection Service, including dealers of dogs and cats. The American Veterinary Medical Association estimates that, as of January 1, 1998, there were 30,255 veterinarians in private practice in the United States who deal either exclusively or predominately with small animals, including dogs and cats.

It is reasonable to assume that most of the affected entities are small in size, based on composite data for providers of the same and similar services in the United States. In 1992, the per firm average annual gross receipts for all 6,804 firms in animal specialty services, except veterinary, which include dog and cat dealers, were $115,290. This amount is well below the U.S. Small Business Administration's (SBA) small entity threshold of $5.0 million annually for firms in that category. Similarly, the per practice average annual gross receipts for all 15,880 U.S. veterinary practices, which include practices having more than one veterinarian on staff, that deal exclusively in small animals were $421,000 in 1995. This is well below the SBA's small entity threshold of $5.0 million annually for firms in veterinary services for animal specialties, which include dog and cat veterinarians. It is very likely, therefore, that small entities would be those most affected by the proposed rule change. As stated previously, we believe any economic effects of this proposed rule would not be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 3

Animal welfare, Marine mammals, Pets, Reporting and recordkeeping requirements, Research, Transportation.

Accordingly, we propose to amend 9 CFR part 3 as follows:

PART 3—STANDARDS

1. The authority citation for part 3 would continue to read as follows:

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(d).

§ 3.13 [Amended]

2. In § 3.13, paragraphs (e) introductory text, (e)(3), and (e)(4) would be amended as follows:

a. In paragraph (e), the introductory text, by removing the phrase ''signed by a veterinarian'' and replacing it with the phrase ''signed by the dog or cat owner''; and by removing ''2.2 °C'' both times it appears and replacing it with ''7.2 °C''.

b. In paragraph (e)(3), by removing the phrase ''a veterinarian'' and replacing it with the phrase ''the dog or cat owner''.

c. In paragraph (e)(4), by removing the word ''veterinarian'' and replacing it with the phrase ''dog or cat owner''.

Done in Washington, DC, this 1st day of June 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–14305 Filed 6–4–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AEA–07]

Proposed Establishment of Class D Airspace; Salisbury, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class D airspace area at Salisbury, MD. The Commissioning of a new Air Traffic Control Tower (ATCT) at the Salisbury-Ocean City; Wicomico Regional Airport. (SBY), Salisbury, MD has made this proposal necessary. Controlled airspace extending upward from the surface to 2,500 feet Above Ground Level (AGL) is needed to accommodate Instrument Flight Rules (IFR) operations to the airport.

DATES: Comments must be received on or before July 7, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 99–AEA–07, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental,