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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1075

[DA-96-12]

Milk in the Black Hills, South Dakota, Marketing Area; termination of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; Termination order.

SUMMARY: This rule terminates the remaining administrative provisions of the Black Hills, South Dakota, Federal milk marketing order (Order 75), effective December 31, 1996. All of the monthly operating provisions were terminated as of October 1, 1996. Termination of this order was requested by Black Hills Milk Producers, a cooperative association that represents all of the producers whose milk is pooled under the order.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Termination Order: Issued August 30, 1996; published September 6, 1996 (61 FR 47038).

The Department is issuing this rule in conformance with Executive Order 12866.

This termination order has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies,

unless they present an irreconcilable conflict with this 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 the 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.

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Black Hills, South Dakota, marketing area.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and prepared an analysis which was included in the Black Hills, South Dakota, termination order published September 6, 1996 (61 FR 47038). This action merely terminates the administrative provisions that were embodied, by reference, in § 1075.1 of the order. The market administrator, in his capacity as the orders liquidating agent, has completed the disbursement of all of the money remaining in the administrative, producer-settlement, and marketing service funds established under the order. Accordingly, the remaining provisions of the order are terminated.

Statement of Consideration

This rule terminates the remaining administrative provisions of the Black Hills, South Dakota, Federal milk order. Termination is favored by a majority of the producers engaged in the production of milk for sale in the marketing area in

the representative period, determined to be June 1996, and such producers produced more than 50 percent of the milk produced for sale in the Black Hills, South Dakota, milk marketing area in such representative period. Section 608(c)(16)(B) of the Agricultural Marketing Agreement Act of 1937, as amended, requires that if a majority of the producers engaged in the production of milk for sale in the marketing area in a representative period determined by the Secretary favor termination of the order, and such producers produced more than 50 percent of the milk produced for sale in the marketing area in the representative period, that such order shall be terminated. Therefore, the provisions of the order, as amended, were terminated effective October 1, 1996 subject to specific exceptions. The termination order left intact certain administrative provisions that were embodied, by reference, in § 1075.1 of the order.

The market administrator, in his capacity as the order's liquidating agent, has completed the disbursement of all of the money remaining in the administrative, producer-settlement, and marketing service funds established under the order. Hence, the remaining provisions of the order should be terminated.

Therefore, the aforesaid provisions of § 1075.1 of the order are hereby terminated.

For good cause shown, this rule shall be effective December 31, 1996. Neither a comment period nor a 30-day effective date is provided in that all other provisions of the order were terminated effective October 1, 1996, and no parties are affected by this action.

List of Subjects in 7 CFR Part 1075

Milk marketing orders.

PART 1075—MILK IN THE BLACK HILLS, SOUTH DAKOTA MARKETING AREA—[REMOVED]

For the reasons set forth in the preamble and under the authority of 7 U.S.C. 601-674, 7 CFR part 1075 is removed.

Dated: December 19, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 96-32851 Filed 12-24-96; 8:45 am]

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