

TABLE 3.—MISCELLANEOUS SERVICES <sup>1</sup>

(1) Grain grading seminars (per hour per service representative) <sup>2</sup> .....	\$48.00
(2) Certification of diverter-type mechanical samplers (per hour per service representative) <sup>2</sup> .....	48.00
(3) Special weighing services (per hour per service representative): <sup>2</sup>	
(i) Scale testing and certification .....	48.00
(ii) Evaluation of weighing and material handling systems .....	48.00
(iii) NTEP Prototype evaluation (other than Railroad Track Scales) .....	48.00
(iv) NTEP Prototype evaluation of Railroad Track Scales (plus usage fee per day for test car) .....	48.00
	110.00
(v) Mass standards calibration and reverification .....	48.00
(vi) Special projects .....	48.00
(4) Foreign travel (per day per service representative) .....	435.00
(5) Online customized data EGIS service:	
(i) One data file per week for 1 year .....	500.00
(ii) One data file per month for 1 year .....	300.00
(6) Samples provided to interested parties (per sample) .....	2.50
(7) Divided-lot certificates (per certificate) .....	1.50
(8) Extra copies of certificates (per certificate) .....	1.50
(9) Faxing (per page) .....	1.50
(10) Special mailing (actual cost).	
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

<sup>1</sup> Any requested service that is not listed will be performed at \$48.00 per hour.

<sup>2</sup> Regular business hours—Monday thru Friday—service provided at other than regular hours charged at the applicable overtime hourly rate.

\* \* \* \* \*  
Dated: December 17, 1998.

**James R. Baker,**  
*Administrator, Grain Inspection, Packers and Stockyards Administration.*  
[FR Doc. 98-33921 Filed 12-22-98; 8:45 am]  
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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 1065**

[Docket No. DA-98-11]

**Milk in the Nebraska-Western Iowa Marketing Area; Termination of Certain Provisions of the Order**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule terminates the advertising and promotion provisions of the Nebraska-Western Iowa Federal milk order (Order 65) with respect to milk marketed on or after December 1, 1998. Termination of the provisions was requested by Dairy Farmers of America and North Central Associated Milk Producers, Inc., two associations of dairy farmers who represent approximately 90 percent of the producers whose milk is pooled under the order. Since a majority of the producers on the market request the removal of the advertising and promotion provisions from the order, the program should be terminated.

**EFFECTIVE DATES:** The effective date for §§ 1065.73(a)(2)(viii), 1065.107 and 1065.121(a) is December 1, 1998. The

effective date for §§ 1065.105 through 1065.122 is March 31, 1999.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 720-2357, e-mail address

Connie\_M\_Brenner@usda.gov.

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule terminates assessments for the Nebraska-Western Iowa milk order advertising and promotion program on milk marketed on and after December 1, 1998. 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.

**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 has certified that this 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.

Six milk handlers operating 4 pool distributing and 3 pool supply plants are regulated under the Nebraska-

Western Iowa milk order, and the milk of 1,111 dairy farmers (559 of whom are located in Nebraska) is pooled under the order. This rule would terminate the advertising and promotion program provisions of the Nebraska-Western Iowa order (7 CFR Part 1065, §§ 1065.105 through 1065.122 and a reference to § 1065.107 in § 1065.73(a)(2)(viii)) and the 10-cent per hundredweight assessment for the purpose of operating the program on producer milk pooled under the order. However, the total amount of assessments deducted from dairy farmer returns for advertising and promotion should not be affected by this rule.

The Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501 *et seq.*) requires that a national assessment of 15 cents per hundredweight be deducted from payments to all dairy farmers for milk marketed, with up to 10 cents of that deduction able to be designated to go to research and promotion programs designated under that Act as "Qualified State or regional programs." The remaining 5-cent portion of the national assessment is directed to go to the National Dairy Promotion and Research Board (the Board). The 10-cent assessment under the qualified Order 65 program totaled \$118,515.94 for September 1998, with \$14,430.90 of that amount paid for Minnesota and South Dakota-produced milk pooled under Order 65 to the Minnesota and South Dakota qualified State promotion and research programs.

Upon termination of the Order 65 advertising and promotion program provisions, a new statutorily-required Nebraska State program (which also will be a qualified program) will begin to receive the 10-cent portion of the 15-cent assessment for producers located within the State of Nebraska. Producers located within the States of Iowa, Missouri, Kansas and Colorado whose milk is pooled under Order 65 will be able to designate these or other qualified programs to receive the 10-cent portion of their national assessment, or that portion will be sent to the Board in addition to the required 5-cent assessment.

The Order 65 Advertising and Promotion Program is set up as a voluntary program, with producers able to request refunds of assessments. However, the 1983 Dairy and Tobacco Adjustment Act requires that the entire assessment for promotion and research be directed either to the Board or to qualified programs, effectively eliminating the ability of any of the assessment to be refunded to dairy farmers. Therefore, this termination will not change the amount of assessments

paid by dairy farmers for promotion and research activities, but will eliminate the Order 65 advertising and promotion agency.

The regulatory impact of the Federal order on milk handlers would be reduced because the order would no longer require advertising and promotion assessments to be sent to the Nebraska-Western Iowa advertising and promotion agency. However, handlers still would be required to remit producer assessments to the qualified program established by Nebraska statute and the National Dairy Promotion and Research Board (for the 559 Order 65 dairy farmers located in Nebraska), or to other qualified programs and the National Dairy Promotion and Research Board (for the 552 dairy farmers located outside Nebraska whose milk is pooled under Order 65).

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act (7 U.S.C. 601-674) and of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area (7 CFR Part 1065).

#### Statement of Consideration

The termination, requested by Dairy Farmers of America and North Central Associated Milk Producers, Inc., associations of dairy farmers whose milk is pooled on the Nebraska-Western Iowa Federal milk order, will eliminate the advertising and promotion provisions of that order. This action terminates funding for the program with respect to milk marketed on and after December 1, 1998. The other provisions of the program are terminated effective March 31, 1999. Such timing will facilitate the orderly termination of the program's activities funded with monies collected on milk marketed prior to December 1, 1998, and will give the market administrator the time needed to complete audit verification work and any other duties related to liquidation of the program.

The Order 65 Advertising and Promotion Program requires a 10-cent per hundredweight assessment on producer milk pooled under the order for the purpose of operating the program.

In addition, the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501 *et seq.*) requires that a national assessment of 15 cents per hundredweight be deducted from payments to all dairy farmers for milk marketed, with up to 10 cents of that deduction able to be designated to go to a qualified State or regional dairy product promotion, research or nutrition education program, such as

the voluntary "Qualified State or regional program" administered through the Nebraska-Western Iowa order. The remaining 5-cent portion of the national assessment is directed to go to the National Dairy Promotion and Research Board (the Board). The 10-cent assessment under the qualified Order 65 program totaled \$118,515.94 for September 1998, with \$14,430.90 of that amount paid for Minnesota and South Dakota-produced milk pooled under Order 65 to the Minnesota and South Dakota qualified State promotion and research programs.

The State of Nebraska has enacted a state law (Nebraska State Statute 2-3958) requiring the 10-cent portion of the 15-cent deduction for milk produced in Nebraska to be sent to the State of Nebraska for disbursement to qualified programs that request funds. The new Nebraska law is ready to take effect. However, a proviso included in the law states that the Nebraska fund cannot begin operation until the Nebraska-Western Iowa Federal order advertising and promotion program has been terminated.

Section 608c(5)(I) of the Act provides that any Federal order advertising and promotion provisions may be terminated separately whenever the Secretary makes a determination that the provisions of Section 608c(16)(B) for terminating an order have been met. Section 608c(16)(B) of the Agricultural Marketing Agreement Act requires that the Secretary terminate an order whenever he finds that a majority of the producers engaged in production of milk for the market during a representative period favor termination, or that such dairy farmers produced more than 50 percent of the milk produced for sale in the market during such period.

Dairy Farmers of America and North Central Associated Milk Producers, Inc., represent approximately 90 percent of the producers and approximately 81 percent of the production of milk pooled under the Nebraska-Western Iowa Federal milk order. The termination order designates the month of September 1998 as the representative period for the purpose of determining that the above described statutory requirement is met.

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

It is hereby found and determined that there is good cause for dispensing with prior notice and comment and that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The termination is necessary to fulfill the statutory requirements of

Sections 608c(5)(I) and 608c(16)(B) of the Act (7 U.S.C. 601-674);

(b) This termination does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The annual operation of the Order 65 advertising and promotion program is based on milk marketed December 1 through November 30.

Therefore, good cause exists for making this order effective without prior notice and comment, and less than 30 days from the date of publication in the **Federal Register**.

#### List of Subjects in 7 CFR Part 1065

Milk marketing orders.

For the reasons set forth in the preamble, the following provisions of 7 CFR Part 1065 are amended as follows:

#### PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. The authority citation for 7 CFR Part 1065 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

#### § 1065.73 [Amended]

2. In § 1065.73, paragraph (a)(2)(viii) is amended by removing the language "and for advertising and promotion pursuant to § 1065.107" effective December 1, 1998.

#### § 1065.107 [Removed]

3. Section 1065.107 is removed effective December 1, 1998.

#### § 1065.121 [Amended]

4. In Section 1065.121, paragraph (e) is removed and reserved effective December 1, 1998.

#### §§ 1065.105 through 1065.122 [Removed]

5. Sections 1065.105 through 1065.122 and the undesignated center heading preceding them are removed effective March 31, 1999.

Dated: December 16, 1998.

**Richard M. McKee,**

*Deputy Administrator, Dairy Programs.*

[FR Doc. 98-33932 Filed 12-22-98; 8:45 am]

BILLING CODE 3410-02-U

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 203

[Regulation C; Docket No. [R-1033]]

#### Home Mortgage Disclosure (Regulation C)

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; staff commentary.

**SUMMARY:** The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation C (Home Mortgage Disclosure). The Board is required to adjust annually the asset-size exemption threshold for depository institutions based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers. The adjustment reflects changes for the twelve-month period ending in November. During this period, the index increased by 1.3%; as a result, the threshold remains at \$29 million. Thus, depository institutions with assets of \$29 million or less as of December 31, 1998 are exempt from data collection in 1999.

**EFFECTIVE DATE:** January 1, 1999. This rule applies to all data collection in 1999.

**FOR FURTHER INFORMATION CONTACT:** Pamela Morris Blumenthal, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452-3667; for users of Telecommunications Device for the Deaf (TDD) *only*, contact Diane Jenkins at (202) 452-3544.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Home Mortgage Disclosure Act (HMDA; 12 U.S.C. 2801 *et seq.*) requires most mortgage lenders located in metropolitan statistical areas to collect data about their housing-related lending activity. Annually, lenders must file reports with their federal supervisory agencies and make disclosures available to the public. The Board's Regulation C (12 CFR part 203) implements HMDA. Provisions of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub. L. 104-208, 110 Stat. 3009) amended HMDA to expand the exemption for small depository institutions. Prior to 1997, HMDA exempted depository institutions with assets totaling \$10 million or less, as of the preceding year end. The statutory amendment increased the asset-size exemption threshold by requiring annual adjustments based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW).

The statutory amendment is implemented in § 203.3(a)(1)(ii), which provides that the Board will adjust the threshold based on the year-to-year change in the average of the CPIW, not seasonally adjusted, for each twelve-month period ending in November, rounded to the nearest million. For 1998 data collection, the exemption threshold was \$29 million. During the period ending in November 1998, the CPIW

increased by 1.3%. As a result, the new threshold remains at \$29 million. Thus, depository institutions with assets of \$29 million or less as of December 31, 1998 are exempt from data collection in 1999. An institution's exemption from collecting data in 1999 does not affect its responsibility to report the 1998 data it was required to collect.

The Board is adopting this amendment to the staff commentary to implement the fact that the exemption threshold remains at \$29 million for data collected in 1999. The Administrative Procedure Act provides that notice and opportunity for public comment are not required if the Board finds that notice and public comment are unnecessary or would be contrary to the public interest. 5 U.S.C. 553(b)(B). The Board believes such a finding is appropriate in this case. Regulation C establishes a formula for determining adjustments to the exemption threshold, if any, and the amendment to the staff commentary merely applies the formula. This amendment is technical and not subject to interpretation. For these reasons, the Board has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment for the following amendment is unnecessary and would be contrary to the public interest. Therefore, the amendment is adopted in final form.

##### II. Section by Section Analysis

###### Section 203.3—Exempt Institutions

Comment 3(a)-2 has been revised to provide that depository institutions with assets that are at or below the threshold as of December 31, 1998 need not collect data for 1999.

###### List of Subjects in 12 CFR Part 203

Banks, banking, Consumer protection, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

###### Text of Revisions

For the reasons set forth in the preamble, the Board amends 12 CFR Part 203 as follows:

#### PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for Part 203 continues to read as follows:

**Authority:** 12 U.S.C. 2801-2810.

2. In Supplement I to Part 203, under Section 203.3—Exempt Institutions, under 3(a) *Exemption based on location, asset size, or number of home-purchase loans*, paragraph 2 is revised to read as follows: