business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There is one handler of Florida celery who would be subject to regulation under the marketing order. This handler is also a producer within the production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The Florida celery producer-handler may be classified as a small entity.

This proposed rule would terminate the order regulating the handling of celery grown in Florida. The order and its accompanying rules and regulations were suspended on January 12, 1995. No regulations have been implemented since then, and there is no indication that such regulations will again be needed.

The industry has been operating without a marketing order since its suspension. Reestablishing the order would mean additional cost to the industry stemming from assessments to maintain the order (the last assessment was $0.01 per crate) and any associated costs generated by regulation. By not reinstating the marketing order, the industry would benefit from avoiding these costs. Regulatory authorities that would be terminated include authority to implement grade, size, container, and inspection requirements and provisions for research and development and volume regulation. Because the industry has been operating without an order for over three years, the termination of the order would have no noticeable effect on either small or large operations.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements under the order were approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0145. When the order was suspended on January 12, 1995, these information collection requirements were also suspended. When the order is terminated, these requirements will be eliminated. There is one handler remaining under the order with an estimated burden of 9.05 hours.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

The Department attempted to solicit as much industry input on this decision as possible. In addition, this action provides the opportunity for all interested persons to comment on this proposal.

The Department believes that conducting a termination referendum would merely reaffirm the Florida celery industry's continued lack of interest in reactivating the marketing order and that conducting such a referendum would be wasteful of Departmental and public resources.

Therefore, pursuant to § 608c(16)(A) of the Act and § 967.85 of the order, the Department is considering the termination of Marketing Order No. 967, covering celery grown in Florida. If the Secretary decides to terminate the order, trustees would be appointed to continue in the capacity of concluding and liquidating the affairs of the former committee.

Section 608c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress will be so notified upon publication of this proposed termination.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 967

Celery, Marketing agreements, Reporting and recordkeeping requirements.

PART 967—[REMOVED]

For the reasons set forth in the preamble, and under authority of 7 U.S.C. 601–674, 7 CFR part 967 is proposed to be removed.

Dated: October 2, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–27178 Filed 10–8–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1065

[DA–98–10]

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal to suspend 11 counties from the marketing area definition of the Nebraska-Western Iowa Federal milk marketing order (Order 65) for the period of November 1, 1998, through December 31, 1999. The action was requested by Gillette Dairy (Gillette) of Rapid City, South Dakota, which contends the suspension is necessary to maintain its milk supply and to remain competitive in selling fluid milk products in the marketing area.

DATES: Comments must be submitted on or before November 9, 1998.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456. Comments may be faxed to (202) 690–0552 or e-mailed to OFB__FMMO__Comments@usda.gov. Reference should be given to the title of action and docket number.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–9368, e-mail address clifford__m__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 is considering the economic impact of this action on 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 April 1998, which is the most recent representative month, 1,649 dairy farmers were producers under Order 65. Of these producers, 1,573 producers (i.e., 95%) 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 April 1998 was as follows: 1,001 produced less than 100,000 pounds of milk; 445 produced between 100,000 and 200,000; 127 produced between 200,000 and 326,000; and 76 produced over 326,000 pounds. During the same month, eight handlers were pooled under the order. One was considered a small business.

Pursuant to authority contained in the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), this proposal would suspend 11 counties in the western panhandle of Nebraska from the marketing area definition of Order 65. The Nebraska counties are Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, and Sioux.

Gillette, the proponent of the proposed action, estimates that its sales in the counties represent 65% to 70% of total fluid milk sales in the 11 counties. Gillette explains that a loss of sales in an unregulated marketing area has resulted in its regulation under Order 65 without any appreciable increase in sales in the Order's marketing area. The handler contends the proposed action is necessary to maintain its milk supply and to remain competitive in selling fluid milk products in the marketing area.

Gillette was pooled under Order 65 during the months of January through May 1998. For the period of February through May 1998, Order 65 price data shows that the average uniform price to producers was $13.34 per hundredweight. If Gillette would not have been a regulated handler under Order 65 during this period, the average uniform price to producers would have been about $13.31 per hundredweight. Thus, the regulation of Gillette for the February through May 1998 period resulted in an increase in the average uniform price of 3 to 4 cents per hundredweight.

There are three handlers other than Gillette that possibly have sales into the 11 Nebraska counties. The handlers are Meadow Gold of Lincoln, Nebraska; Roberts Dairy in Omaha, Nebraska; and Meadow Gold in Greeley, Colorado. Roberts Dairy hauls milk for Nebraska Dairy, Inc., which is a distribution facility that is owned by the same principal company that owns Gillette. However, the dairy appears to be a separate entity from Gillette. Market information indicates that if these three handlers have sales into the 11 counties the volume is relatively small. Because these handlers have relatively small sales, if any, into the 11 counties, the proposed rule is projected to not have a significant economic impact. The exact impact of the proposed rule on these handlers would be dependent upon the specific sales the handlers chose to pursue.

The July 1996 population estimate and the December 1992 fluid milk per capita consumption data show that the 11 Nebraska counties represent a small amount of the population and fluid milk consumption in the State of Nebraska and in the entire Order 65 marketing area. The 11 counties represent about 6% of the population and fluid milk consumption in the State of Nebraska and about 5% of the population and fluid milk consumption in the Order 65 marketing area.

Gillette was a fully regulated handler under the Black Hills, South Dakota, Federal milk marketing order prior to its termination at the request of the Black Hills Milk Producers. After termination of the Black Hills order, Gillette for some time was a partially regulated handler under three Federal milk marketing orders: Eastern South Dakota (Order 76), Eastern Colorado (Order 137), and Order 65. From January 1998 through May 1998, Gillette was a fully regulated handler under Order 65 because its fluid milk sales in the marketing area represented more than 15 percent of its receipts.

When Gillette was a partially regulated handler, it paid to the producers supplying its plant at least the full Class use value of its milk each month. Thus, Gillette had no further obligation to the producer settlement funds of the orders under which it was a partially regulated handler. However, as a fully regulated handler, Gillette is required to pay the difference between its Class use value and the marketwide Class use value to the Order 65 producer settlement fund. This payment, Gillette contends, increases its cost for milk and reduces the amount it can pay its producers.

A review of the current reporting requirements was completed pursuant to the paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and it was determined that this proposed suspension would have little impact on reporting, recordkeeping, or other compliance requirements because these would remain almost identical to the current system. No new forms would need to be proposed.

No other burdens are expected to fall upon the dairy industry as a result of overlapping Federal rules. This proposed regulation does not duplicate, overlap or conflict with any existing Federal rules.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities. Specifically, interested parties should address the potential impact of the proposed action on both Order 65 producers and producers who supply Gillette as well as the competition that exists for fluid milk sales in the 11 counties between regulated and unregulated handlers. 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 Nebraska-Western Iowa Federal milk marketing area is being considered for the period of November 1, 1998, through December 31, 1999:

In § 1065.2, the words ''Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux''.

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 30th day after publication of this notice in the **Federal Register**. The comment period is limited to 30 days due to the request for immediate action by the proponent of this proposed action.

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

Statement of Consideration

The proposed rule would suspend 11 counties from the marketing area definition of the Nebraska-Western Iowa Federal milk marketing order. The counties, which are located in the western panhandle of Nebraska, include Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, and Sioux.

The July 1996 population estimate, which represents the most recent population statistics, shows that the total population for the Order 65 marketing area is 2,000,529 (i.e., 412,167 for Iowa counties and 1,588,362 for Nebraska counties). The population estimate for the entire State of Nebraska is 1,652,093, while the population for the 11 Nebraska counties is 91,194. In addition, the *December 1992 Federal Milk Order Statistics Report* (Per Capita Sales of Fluid Milk Products in Federal Order Markets) indicates that the Nebraska fluid milk per capita consumption is about 20 pounds per person per month. It is estimated that the fluid milk consumption per month within the 11 Nebraska counties is 1,823,880 (20 lbs. * 91,194).

The July 1996 population estimate and the December 1992 fluid milk per capita consumption data show that the 11 Nebraska counties represent a small amount of the population and fluid milk consumption in the State of Nebraska and in the entire Order 65 marketing area. The 11 counties represent about 6% of the population and fluid milk consumption in the State of Nebraska and about 5% of the population and fluid milk consumption in the Order 65 marketing area.

Gillette was a fully regulated handler under the Black Hills, South Dakota, Federal milk marketing order prior to its termination at the request of the Black Hills Milk Producers. After termination of the Black Hills order, Gillette for some time was a partially regulated handler under three Federal milk marketing orders: Eastern South Dakota (Order 76), Eastern Colorado (Order 137), and Order 65. From January 1998 through May 1998, Gillette was a fully regulated handler under Order 65 because its fluid milk sales in the marketing area represented more than 15 percent of its receipts.

When Gillette was a partially regulated handler, it paid to the producers supplying its plant at least the full Class use value of its milk each month. Thus, Gillette had no further obligation to the producer settlement funds of the orders under which it was a partially regulated handler. However, as a fully regulated handler, Gillette is required to pay the difference between its Class use value and the marketwide Class use value to the Order 65 producer settlement fund. This payment, Gillette contends, increases its cost for milk and reduces the amount it can pay its producers.

According to Gillette, marketing conditions in Order 65 have changed significantly since the order was promulgated. Gillette estimates that its sales in the 11 counties represent 65% to 70% of total fluid milk sales in the counties. Gillette explains that a loss of sales in an unregulated marketing area has resulted in its regulation under Order 65 because such sales represented at least 15 percent of its receipts, but without any appreciable increase in sales in the Order's marketing area. Furthermore, the handler states that since its milk supply comes from the Black Hills Milk Producers there is no balancing of milk supply for the plant from Order 65 or any other Federal milk marketing order.

Black Hills Milk Producers also requested that the counties be removed from the Order 65 marketing area definition. The cooperative representing the producers explained that it is dependent on Gillette's survival. It states that the regulation of Gillette under Order 65 has caused its producers hardship by costing them as much as $1.00 per hundredweight during some months. According to the cooperative, this cost results from an agreement that it has with Gillette in which it refunds to Gillette an amount equal to half of the handler's obligation to the producer settlement fund when Gillette is fully regulated. Although the producers pay this amount to Gillette, Order 65 price data for the February through May 1998 period indicates that their monthly pay prices were above the Order 65 uniform price.

The Federal Order Reform Proposed Rule, which was issued on January 21, 1998 (63 FR 4802), recommended excluding the 11 Nebraska counties from the consolidated Central order. The recommendation currently is under consideration. However, Gillette has requested that the proposed action be considered immediately.

Accordingly, it may be appropriate to suspend the aforesaid provisions for the period of November 1, 1998, through December 31, 1999.

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: September 23, 1998.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 98–27179 Filed 10–8–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1788

RIN 0572–AA86

RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) proposes to streamline its fidelity and insurance requirements for electric and telecommunications systems. The rule was last revised in 1986, and the proposed revisions are intended to update requirements. The rule proposes a flexible approach to insurance that protects the government's security interest in mortgaged assets and conforms to today's business practices.

DATES: Written comments must be received by RUS or carry a postmark or equivalent by December 8, 1998.

ADDRESSES: Written comments should be addressed to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, 1400 Independence Avenue, SW., Washington, DC 20250–1522. RUS requires a signed original and 3 copies of all comments (7 CFR 1700.4).

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, Room 4034 South Bldg., 1400 Independence Avenue, SW., Washington, DC 20250–1522.