

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[No. LS-98-002]

Beef Promotion and Research; Reapportionment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adjust representation on the Cattlemen's Beef Promotion and Research Board (Board), established under the Beef Promotion and Research Act (Act) of 1985, to reflect changes in cattle inventories and cattle and beef imports that have occurred since the most recent Board reapportionment rule became effective in 1996. These adjustments are required by the Beef Promotion and Research Order (Order) and would result in a decrease in Board membership from 111 to 110, effective with the Secretary's appointments for terms beginning early in the year 2000.

DATES: Comments must be received by October 27, 1998.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch, STOP 0251; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA, Room 2606-S; P.O. Box 96456; Washington, DC 20090-6456. Comments will be available for public inspection during regular business hours at the above office in Room 2606-South Building, 14th and Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, on 202/720-1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

The Department of Agriculture (Department) is issuing this rule in

conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 United States Code (U.S.C.) 601 *et seq.*). The Administrator of AMS has considered the economic effect of this action on small entities and has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

In the January 30, 1998, issue of "Cattle," the Department's National Agricultural Statistics Service (NASS) estimates that in 1997 the number of cattle operations in the United States totaled about 1.17 million. The majority of these operations subject to the Order are considered small businesses under the criteria established by the Small Business Administration.

The proposed rule imposes no new burden on the industry. It only adjusts representation on the Board to reflect changes in domestic cattle inventory and cattle and beef imports. This action would adjust representation on the Board, established under the Act. The adjustments are required by the Order and would result in a decrease in Board membership from 111 to 110.

The Board was initially appointed August 4, 1986, pursuant to the provisions of the Act (7 U.S.C. 2901 *et seq.*) and the Order issued thereunder (7 CFR 1260.101 *et seq.*). Domestic representation on the Board is based on cattle inventory numbers, and importer representation is based on the conversion of the volume of imported cattle, beef, or beef products into live animal equivalencies.

Section 1260.141(b) of the Order provides that the Board shall be

composed of cattle producers and importers appointed by the Secretary from nominations submitted by certified producer organizations. A producer may only be nominated to represent the unit in which that producer is a resident.

Section 1260.141(c) of the Order provides that at least every 3 years and not more than every 2 years, the Board shall review the geographic distribution of cattle inventories throughout the United States and the volume of imported cattle, beef, and beef products and, if warranted, shall reapportion units and/or modify the number of Board members from units in order to reflect the geographic distribution of cattle production volume in the United States and the volume of cattle, beef, or beef products imported into the United States.

Section 1260.141(d) of the Order authorizes the Board to recommend to the Secretary modifications in the number of cattle per unit necessary for representation on the Board.

Section 1260.141(e)(1) provides that each geographic unit or State that includes a total cattle inventory equal to or greater than 500,000 head of cattle shall be entitled to one representative on the Board. Section 1260.141(e)(2) provides that States that do not have total cattle inventories equal to or greater than 500,000 head shall be grouped, to the extent practicable, into geographically-contiguous units, each of which have a combined total inventory of not less than 500,000 head. Such grouped units are entitled to at least one representative on the Board. Each unit that has an additional one million head of cattle within a unit qualifies for additional representation on the Board as provided in § 1260.141(e)(4). As provided in § 1260.141(e)(3), importers are represented by a single unit, with the number of Board members based on a conversion of the total volume of imported cattle, beef, or beef products into live animal equivalencies.

The initial Board appointed in 1986 was composed of 113 members. Reapportionment based on a 3-year average of cattle inventory numbers and import data, reduced the Board to 111 members in 1990 and 107 members in 1993 before the Board was increased to 111 members with appointments for terms effective early in 1997.

The current Board representation by States or units has been based on an

average of the January 1, 1993, 1994, and 1995 inventory of cattle in the various States as reported by NASS of the Department. Importer representation has been based on a combined total average of the 1992, 1993, and 1994 live cattle imports as published by the Foreign Agricultural Service (FAS) of the Department and the average of the 1992, 1993, and 1994 live animal equivalents for imported beef products.

Recommendations concerning Board reapportionment were approved by the Board at its July 19, 1998, meeting. In considering reapportionment, the Board reviewed cattle inventories as well as cattle, beef, and beef product import data for the period January 1, 1995, to January 1, 1998. The Board recommended that a 3-year average of cattle inventories and import numbers should be continued. The Board determined that an average of the January 1, 1996, 1997, and 1998 Department cattle inventory numbers

would best reflect the number of cattle in each State or unit since publication of the 1996 reapportionment rule.

The Board reviewed the March 1998 FAS circular, "U.S. Trade and Prospects, Dairy, Livestock, and Poultry," to determine proper importer representation. The Board recommended the use of a combined total of the average of the 1995, 1996, and 1997 cattle import data and the average of the 1995, 1996, and 1997 live animal equivalents for imported beef products. The method used to calculate the total number of live cattle equivalents was the same as that used in the previous reapportionment of the Board. The recommendation for importer representation is based on the most recent 3-year average of data available to the Board at its July 19, 1998, meeting to be consistent with the procedures used for domestic representation.

The Board's recommended reapportionment plan would decrease the number of representatives on the Board from 111 to 110. Two States and one unit—Missouri, Texas, and the Northwest unit—lose one member each; two States—Kansas and Nebraska—gain one member each. The Board also recommends that the two member Western unit, composed of Nevada and Oregon which was formed in the most recent reapportionment because Nevada did not have sufficient cattle inventory to qualify independently for a position on the Board, be dissolved. Since Nevada and Oregon each qualify for a Board member based on the 1996–98 inventory numbers, the Board recommends that Nevada and Oregon again be listed separately with one member each. The States and units affected by the reapportionment plan and the current and revised member representation per unit are as follows:

States	Current representation	Proposed representation
1. Kansas	6	7
2. Missouri	5	4
3. Nebraska	6	7
4. Texas	15	14
5. Northwest unit	2	1
6. Western unit	2	0
7. Nevada	0	1
8. Oregon	0	1

The 1998 nomination and appointment process was in progress while the Board was developing its recommendations. Thus, the Board reapportionment as proposed by this rulemaking would be effective, if adopted, with 1999 nominations and appointments which will be effective early in the year 2000.

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural

research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that 7 CFR part 1260 be amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for 7 CFR part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901 *et seq.*

2. In § 1260.141, paragraph (a) and the table immediately following it, are revised to read as follows:

§ 1260.141 Membership of Board.

(a) Beginning with the 1999 Board nominations and the associated appointments effective early in the year 2000, the United States shall be divided into 40 geographical units and one unit representing importers, and the number of Board members from each unit shall be as follows:

CATTLE AND CALVES ¹

State/unit	(1,000 head)	Directors
1. Alabama	1,627	2
2. Arizona	810	1
3. Arkansas	1,870	2
4. California	4,600	5
5. Colorado	3,117	3
6. Florida	1,937	2
7. Georgia	1,497	1
8. Idaho	1,763	2
9. Illinois	1,720	2
10. Indiana	1,103	1
11. Iowa	3,867	4
12. Kansas	6,550	7
13. Kentucky	2,550	3
14. Louisiana	1,010	1

CATTLE AND CALVES ¹—Continued

State/unit	(1,000 head)	Directors
15. Michigan	1,133	1
16. Minnesota	2,767	3
17. Mississippi	1,343	1
18. Missouri	4,450	4
19. Montana	2,683	3
20. Nebraska	6,517	7
21. Nevada	510	1
22. New Mexico	1,480	1
23. New York	1,527	2
24. North Carolina	1,160	1
25. North Dakota	1,857	2
26. Ohio	1,483	1
27. Oklahoma	5,467	5
28. Oregon	1,440	1
29. Pennsylvania	1,770	2
30. South Carolina	517	1
31. South Dakota	3,733	4
32. Tennessee	2,460	2
33. Texas	14,467	14
34. Utah	903	1
35. Virginia	1,797	2
36. Wisconsin	3,700	4
37. Wyoming	1,477	1
38. Northwest .....	.....	1
Alaska	11	.....
Hawaii	167	.....
Washington	1,230	.....
Total	1,408	.....
39. Northeast .....	.....	1
Connecticut	70	.....
Delaware	29	.....
Maine	113	.....
Massachusetts	63	.....
New Hampshire	41	.....
New Jersey	68	.....
Rhode Island	7	.....
Vermont	302	.....
Total	693	.....
40. Mid-Atlantic .....	.....	1
District of Columbia	0	.....
Maryland	275	.....
West Virginia	447	.....
Total	722	.....
41. Importer ²	6535	7

¹ 1996, 1997, and 1998 average of January 1 cattle inventory data.² 1995, 1996, and 1997 average of annual import data.

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Dated: August 24, 1998.

Barry L. Carpenter,*Deputy Administrator, Livestock and Seed Program.*

[FR Doc. 98-23227 Filed 8-27-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 1260****[No. LS-98-005]****Amendment to the Beef Promotion and Research Rules and Regulations****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Proposed rule.**SUMMARY:** This proposed rule would amend the Beef Promotion and Research Rules and Regulations (Rules and Regulations) established under the Beef Promotion and Research Act of 1985

(Act) to clarify requirements for documenting cattle sales transactions for which no assessments are due. This amendment would specifically require the timely filing of Statement of Certification of Non-Producer Status forms to obtain exemption from assessment.

DATES: Written comments must be received by October 27, 1998.**ADDRESSES:** Send two copies of comments to Ralph L. Tapp, Chief, Marketing Programs Branch, STOP 0251; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA, Room 2606-S; P.O. Box 96456; Washington, D.C. 20090-6456. Comments received may be inspected at