

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary of Agriculture

#### 7 CFR Part 2

RIN 0524-AA33

#### Revisions of Delegations of Authority

**ACTION:** Final rule.

**SUMMARY:** This document amends the delegations of authority from the Secretary of Agriculture to the Under Secretary for Research, Education, and Economics (FEE) to carry out a program of entering into agreements with veterinarians under which they provide veterinary services in veterinarian shortage situations as authorized by the National Veterinary Medical Service Act (NVMSA) (7 U.S.C. 3151a). This rule also further delegates this authority from the Under Secretary for REE to the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES).

**DATES:** *Effective Date:* March 19, 2007.

**FOR FURTHER INFORMATION CONTACT:** Gary Sherman, National Program Leader, Veterinary Science, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2220, 1400 Independence Avenue, SW., Washington, DC 20250-2220, (202) 401-4952, [gsherman@csrees.usda.gov](mailto:gsherman@csrees.usda.gov).

**SUPPLEMENTARY INFORMATION:** In 2003 NVMSA, 7 U.S.C. 3151a, authorized the Secretary of Agriculture to carry out the Veterinary Medicine Loan Repayment Act program. In fiscal year 2006 the first funding for this program was appropriated to CSREES of the United States Department of Agriculture (USDA). Not having previously delegated the authority to implement the NVMSA program, the Secretary of Agriculture is delegating the authority to implement this program to CSREES.

In accordance with the authorizing legislation, CSREES is prepared to lead a collaborative effort with USDA's Food Safety and Inspection Service and Animal and Plant Health Inspection Service to carry out the intent of the authorizing legislation.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553(a)(2), notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, because this rule relates to internal agency management, it is exempt from the provisions of Executive Order Nos. 12291 and 12866. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and is, therefore, exempt from the provisions of that Act. Accordingly, as authorized by section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 808, this rule may be made effective upon publication.

#### List of Subjects in 7 CFR Part 2

Administrative practice and procedure, Authority delegations (Government agencies).

■ Accordingly, Title 7 of the Code of Federal Regulations is amended as follows:

#### PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICES OF THE DEPARTMENT

■ 1. The authority citation for 7 CFR part 2 continues to read as follows:

**Authority:** 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR parts 1949-1953 Comp., p. 1024.

#### Subpart C—Delegations of Authority to the Deputy Secretary and to the Under Secretaries and Assistant Secretaries

■ 2. Section 2.21 is amended by adding paragraph (a)(1)(lxxxiv):

##### § 2.21 Under Secretary for Research, Education, and Economics.

(a) \* \* \*

(1) \* \* \*

(lxxxiv) Formulate and carry out the Veterinary Medicine Loan Repayment Act program authorized by the National Veterinary Medical Service Act (7 U.S.C. 3151a).

\* \* \* \* \*

#### Subpart K—Delegations of Authority by the Under Secretary for Research, Education, and Economics

■ 3. Section 2.66 is amended by adding paragraph (a)(141) to read as follows:

##### § 2.66 Administrator, Cooperative State Research, Education and Extension Service.

(a) \* \* \*

(141) Formulate and carry out the Veterinary Medicine Loan Repayment Act program authorized by the National Veterinary Medical Service Act (7 U.S.C. 3151a).

\* \* \* \* \*

For Part 2, Subpart C, Paragraph 2.21(a)(1):  
Dated: March 12, 2007.

**Mike Johanns,**  
*Secretary of Agriculture.*

For Part 2, Subpart C, Paragraph 2.66(a):  
Dated: March 8, 2007.

**Gale A. Buchanan,**  
*Under Secretary, Research, Education, and Economics.*

[FR Doc. 07-1308 Filed 3-16-07; 8:45 am]

BILLING CODE 3410-22-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1209

[Docket No. : AMS-FV-07-0019; FV-06-704 IFR]

#### Mushroom Promotion, Research, and Consumer Information Order; Reallocation of Mushroom Council Membership

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule amends, on an interim basis, provisions of the Mushroom Promotion, Research, and Consumer Information Order (Order) to reapportion membership of the Mushroom Council (Council) to reflect shifts in United States mushroom production. Specifically, the amendments reapportion the Order's four United States geographic regions, and reallocate Council member representation in two of the four United States geographic regions (Regions 1 and 4). The Council, which administers the

Order, proposed the amendments in conformance with Order requirements to review—at least every 5 years and not more than every three years—the geographic distribution of United States mushroom production volume and import volume, and recommend changes accordingly. The amendments will be effective for the 2008 Council appointments.

**DATES:** Effective date: March 20, 2007. Comments must be submitted on or before April 18, 2007.

**ADDRESSES:** Interested persons are invited to submit written comments on the Internet at <http://www.regulations.gov> or to the Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244–Room 0634–S, 1400 Independence Avenue, SW., Washington, DC 20250–0244; *Fax:* (202) 205–2800. Comments, which should reference the docket number, title of action, date, and page number of this issue of the **Federal Register**, will be made available for public inspection at the above address during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Daniel Manzoni, Marketing Specialist, or Sonia N. Jimenez, Chief, Research and Promotion Branch, FV, AMS, USDA, Stop 0244–Room 0634–S, Washington, DC 20250–0244; telephone (202) 720–9915 or (888) 720–9917 (toll free).

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Mushroom Promotion, Research, and Consumer Information Order [7 CFR part 1209]. The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (Act) [7 U.S.C. 6101–6112].

#### Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have a retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act provides that any person subject to the Order may file a written petition with the Department of Agriculture (Department) if they believe that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with law. In any petition, the person may request a

modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides or conducts business shall have the jurisdiction to review the Department's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

#### Initial Regulatory Flexibility Analysis and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) has examined the economic impact of this rule on small entities that would be affected by this rule. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (importers) as having receipts of no more than \$6,500,000 million. Under these definitions, there are 97 producers and 18 importers subject to the Order, and thus, eligible to serve on the Council. The majority of these producers and importers are considered small entities as defined by the Small Business Administration. Producers and importers of less than 500,000 pounds or less of mushrooms for the fresh market are exempt from the Order.

The Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. For importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceeds 35,000,000 pounds of mushrooms annually. The Order also specifies that the Council will review—at least every five years and not more than every three years—the geographic distribution of United States mushroom production volume and import volume, and recommend changes accordingly.

At its June 2006 meeting, the Council reviewed mushroom production volume in the United States and import volume for the July 1, 2002, through June 30,

2005, yearly periods. Based on the data, the Council reviewed and discussed reapportionment proposals. After considerable discussion, the Council approved a reapportionment proposal for recommendation to the Department. The Council recommends reapportionment of the Order's four United States geographic regions, and the reallocation of Council member representation in two of the four United States regions (Regions 1 and 4) to reflect shifts in United States mushroom production.

This rule adopts, on an interim basis, the Council's recommendation to change the four United States geographic regions as follows: Region 1—the States of Colorado, Oklahoma, Wyoming, Washington, Oregon, Florida, Illinois, Tennessee, Texas and Utah; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—all other States including the District of Columbia and the Commonwealth of Puerto Rico. Also, the amendments will change the number of Council member representatives from one member to three members for Region 1 and from two members to zero members for Region 4. Representation for Region 2, Region 3, and importers remain unchanged at three members, two members, and one member, respectively.

The overall impact of the amendments will be favorable for producers and importers because the producers and importers would have more equitable representation on the Council based on United States mushroom production volume and import volume.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection requirements under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*], there are no new requirements contained in this rule. The information collection requirements have been previously approved by the Office of Management and Budget (OMB) under OMB control number 0581–0093. In terms of alternatives to this rule, this action reflects the volume thresholds and procedures that have been established previously under the provisions of the Order for reallocation of Council membership.

There are no Federal rules that duplicate, overlap, or conflict with this rule.

## Background

The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 [7 U.S.C. 6101–6112], and is administered by the Council. Under the Order, the Council administers a nationally coordinated program of research, development, and information designed to strengthen the fresh mushroom's position in the market place and to establish, maintain, and expand markets for fresh mushrooms. The program is financed by an assessment of \$0.0043 cents per pound on any person who produces or imports over 500,000 pounds of mushrooms for the fresh market annually. Under the Order, handlers collect and remit producer assessments to the Council, and assessments paid by importers are collected and remitted by the United States Customs Service.

The Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. For importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceeds 35,000,000 pounds of mushrooms annually.

Section 1209.30 of the Order provides that at least every five years, the Council should review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four years. Based on the review, the Council is required to recommend reapportionment of the regions or modification of the number of members from such regions, or both, to reflect shifts in the geographic distribution of mushroom production volume and importer representation.

The Order provides that each producer region that produces, on average, at least 35 million pounds of mushrooms annually is entitled to one member. Further, each producer region is entitled to an additional member for each 50 million pounds of annual production, on average, in excess of the initial 35 million pounds required to qualify for representation, until the nine seats on the Council are filled. For purposes of this rule and as provided under the Order, "on average" reflects a

rolling average of production or imports during the last three fiscal years.

Under the current Order, regions and Council member representation for each region are the following: Region 1: Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New York, New Hampshire, North Dakota, Ohio, Rhode Island, South Dakota, Vermont, Wisconsin, and Wyoming—1 producer member; Region 2: Delaware, Maryland, New Jersey, Pennsylvania, the District of Columbia, West Virginia, and Virginia—3 producer members; Region 3: Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington—2 producer members; Region 4: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, the Commonwealth of Puerto Rico, South Carolina, Tennessee, and Texas—2 producer members; and Region 5: Importers—1 member. Based on data for July 1, 2002, through June 30, 2005, there is about 725 million pounds of mushrooms assessed on average annually under the Order. Currently, the Order's Regions 1, 2, 3, 4, and 5 represent 32 million pounds, 382 million pounds, 133 million pounds, 113 million pounds, and 65 million pounds, respectively. Since Region 1 represents 32 million pounds of mushroom production, the region no longer qualifies for member representation because production within the region falls below the 35 million pounds Order requirement.

Based on data for the July 1, 2002, through June 30, 2005, the Order is revised to reapportion membership of the Council to reflect shifts in the geographic distribution of mushroom production. The annual average production of mushrooms for the Order's Regions 1, 2, 3, 4, and 5 as adopted in this rule will be 168 million pounds, 382 million pounds, 109 million pounds, 0 million pounds, and 65 million pounds. As adopted in this rule, Regions 1, 2, and 3 will be comprised of states with mushroom production, and Region 4 will be comprised of all other states with no mushroom production.

Based on a review of United States mushroom production volume and import volume, this interim final rule adopts amendments to change the four United States geographic regions as follows: Region 1—the States of Colorado, Oklahoma, Wyoming, Washington, Oregon, Florida, Illinois, Tennessee, Texas and Utah; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—all

other States including the District of Columbia and the Commonwealth of Puerto Rico. Also, the amendments will change the number of Council member representatives from one member to three members for Region 1 and from two members to zero members for Region 4. Representation for Region 2, Region 3, and importers remain unchanged at three members, two members, and one member, respectively. The amendments, which represent shifts in mushroom production volume, will provide more equitable producer and importer representation on the Council based on U.S. mushroom production volumes and import volumes.

Nominations and appointments to the Council are conducted pursuant to §§ 1209.30 and 1209.230. Nominations for Council positions for terms of office that will begin January 1, 2008 will be based on the amendments contained in this rule.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This rule should be effective as soon as possible to allow the nomination process to be conducted based on the changes to the establishment and membership provision of this rule. The new term of office begins on January 1, 2008. In addition and for the same reasons, a 30-day period is provided for interested persons to comment on this rule.

## List of Subjects in 7 CFR Part 1209

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mushroom promotion, Reporting and recording, requirements.

■ For the reasons set forth in the preamble, 7 CFR part 1209 is amended as follows:

## PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1209 continues to read as follows:

Authority: 7 U.S.C. 6101–6112.

■ 2. Section 1209.230 is revised to read as follows:

## § 1209.230 Reallocation of council members.

Pursuant to § 1209.30 of the Order, the regions and their number of

members on the Council shall be as follows:

(a) *Region 1*: Colorado, Florida, Illinois, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, and Wyoming—3 Members.

(b) *Region 2*: Pennsylvania—3 Members.

(c) *Region 3*: California—2 Members.

(d) *Region 4*: All other States, the District of Columbia, and the Commonwealth of Puerto Rico—0 Members.

(e) *Region 5*: Importers—1 member.

Dated: March 13, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 07–1315 Filed 3–14–07; 11:37 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Rural Business–Cooperative Service

#### 7 CFR Part 4279

RIN 0570–AA26

#### Business and Industry Guaranteed Loan Program; Technical Correction

**AGENCY:** Rural Business–Cooperative Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Rural Business–Cooperative Service (RBS) is revising its program regulations to correct an inadvertent omission in a sentence concerning eligibility of debt refinancing. The words “existing lender debt” will be added to a sentence that currently limits refinancing to less than 50 percent of the overall loan. The intended effect is to limit existing lender debt refinancing to less than 50 percent of the overall loan.

**DATES:** *Effective Date:* March 19, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Brenda Griffin, Loan Specialist, Business and Industry Division, Rural Business–Cooperative Service, U.S. Department of Agriculture, STOP 3224, 1400 Independence Avenue, SW., Washington, DC 20250–3224. Telephone: (202) 720–6802; TDD number is (800) 877–8339 or (202) 708–9300; Fax number: (202) 720–6003; e-mail: [brenda.griffin@usda.gov](mailto:brenda.griffin@usda.gov).

**SUPPLEMENTARY INFORMATION:**

#### Classification

This 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 (OMB).

#### Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.768, Business and Industry Loans.

#### Intergovernmental Review

Business and Industry Guaranteed Loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with state and local officials. RBS will conduct intergovernmental consultation in the manner delineated in RD Instruction 1940–J, “Intergovernmental Review of Rural Development Programs and Activities,” available in any Rural Development office and on the Internet at <http://rurdev.usda.gov regs/> and in 7 CFR part 3015, subpart V.

#### Paperwork Reduction Act

The information collection requirements contained in this regulation have been previously approved by OMB under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0570–0017, in accordance with the Paperwork Reduction Act (PRA) of 1995. There is no new paperwork burden associated with this correction.

#### E-Government Act Compliance

RBS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-GOV compliance related to this proposed rule, please contact Brenda Griffin at (202) 720–6802.

#### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. Since this rule is a technical correction and has no significant economic impact on a substantial number of small entities, a regulatory flexibility analysis was not performed.

#### Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given this rule, and (3) administrative proceedings in

accordance with 7 CFR part 11 must be exhausted before bringing litigation challenging action taken under this rule unless these regulations specifically allow bringing suit at an earlier time.

#### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, “Environmental Program.” RBS has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, an Environmental Impact Statement is not required.

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### Executive Order 13132

It has been determined under Executive Order 13132, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

#### Background

A final rule was published in the **Federal Register** on June 8, 2006, concerning tangible balance sheet equity requirements for the Business and Industry Guaranteed Loan Program. The