

Proposed Rules

Federal Register

Vol. 68, No. 116

Tuesday, June 17, 2003

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 1220

[No. LS-03-03]

Soybean Promotion and Research: Amend the Order To Adjust Representation on the United Soybean Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adjust the number of members for certain States on the United Soybean Board (Board) to reflect changes in production levels that have occurred since the last time the Board was reapportioned in 2000. These adjustments are required by the Soybean Promotion and Research Order (Order). The results of the adjustments would be an additional member for Maryland and Michigan. New York would no longer be part of the Eastern Region unit. The State has sufficient soybean production to qualify as a separate State unit with one representative on the Board. New Jersey would be merged into the Eastern Region unit. The State no longer has sufficient soybean production to be a separate State unit. As a result of these changes, the total Board membership would increase from 62 members to 64 members. These changes to the Board would be effective with the Secretary's 2004 appointments.

DATES: Written comments on this proposed rule must be received by August 18, 2003.

ADDRESSES: Send two copies of comments to Kenneth R. Payne, Chief, Marketing Programs Branch, Livestock and Seed Program, Agricultural Marketing Service (AMS), USDA, Room 2638-S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250-0251. Comments may also be sent by e-mail to soybeancomments@usda.gov or by fax to 202/720-1125. State that your

comment refers to Docket No. LS-03-03. Comments received may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays or on the Internet at www.ams.usda.gov/lsg/mpb/rp-soy.htm.

FOR FURTHER INFORMATION CONTACT:

Marlene M. Betts, Agricultural Marketing Specialist, Marketing Programs Branch on 202/720-1115, fax 202/720-1125, or by e-mail at marlene.betts@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have a retroactive effect. This proposed rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this proposed rule.

The Soybean Promotion, Research, and Consumer Information Act (Act) provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1971 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with law and requesting 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 of Agriculture (USDA) would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has their principal place of business, has jurisdiction to review USDA's ruling on the petition, if a complaint for this purpose is filed within 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act

The Administrator of AMS has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities

as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because it merely adjusts representation on the Board to reflect changes in production levels that have occurred since the Board was reapportioned in 2000. As such, these changes will not have an impact on those persons subject to the program. There are an estimated 600,813 soybean producers who pay assessments and an estimated 10,000 first purchasers who collect assessments, most of whom would be considered small entities under the criteria established by the Small Business Administration (13 CFR 121.201).

Paperwork Reduction Act

In accordance with OMB regulations (5 CFR part 1320), which implements the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection requirements and recordkeeping requirements contained in the Order have been previously approved by OMB under OMB control number 0581-0093.

Background and Proposed Changes

The Act (7 U.S.C. 6301-6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 percent of the net market price of soybeans sold by producers. Pursuant to the Act, an Order was made effective July 9, 1991. The Order established a Board of 60 members. For purposes of establishing the Board, the United States was divided into 31 geographic units. Representation on the Board from each unit was determined by the level of production in each unit. The Secretary appointed the initial Board on July 11, 1991. The Board is composed of domestic soybean producers.

Section 1220.201(c) of the Order provides that at the end of each 3-year period, the Board shall review soybean production levels in the geographic units throughout the United States. The Board may recommend to the Secretary modification in the levels of production necessary for Board membership for each unit. At its March 2003 meeting the Board decided not to recommend

any changes to the levels of production necessary for Board membership for each unit.

Section 1220.201(d) of the Order provides that at the end of each 3-year period, the Secretary must review the volume of production of each unit and adjust the boundaries of any unit and the number of Board members from each such unit as necessary to conform with the criteria set forth in § 1220.201(e): (1) To the extent practicable, States with annual average soybean production of less than 3,000,000 bushels shall be grouped into geographically contiguous units, each of which has a combined production level equal to or greater than 3,000,000 bushels, and each such group shall be entitled to at least one member on the Board; (2) units with at least 3,000,000 bushels, but fewer than 15,000,000 bushels shall be entitled to one Board member; (3) units with 15,000,000

bushels or more but fewer than 70,000,000 bushels shall be entitled to two Board members; (4) units with 70,000,000 bushels or more but fewer than 200,000,000 bushels shall be entitled to three Board members; and (5) units with 200,000,000 bushels or more shall be entitled to four Board members.

Current representation on the Board (62), and the number of geographical units (30), have been based on average production levels for the years 1995–1999 (excluding crops in years that production was the highest and that production was the lowest) as reported by USDA's National Agricultural Statistics Service (NASS).

Proposed representation on the Board (64) is based on average production levels for the years 1998–2002 (excluding crops in years that production was the highest and that production was the lowest) as reported by NASS.

The results of the reapportionment based on the 1998–2002 production levels would be an additional member for Maryland and Michigan. New York would no longer be part of the Eastern Region unit because the State has sufficient soybean production to qualify as a separate State unit with one representative on the Board. New Jersey would lose its only member because the State no longer has sufficient soybean production to be a separate State unit. It is proposed that New Jersey merge with the Eastern Region unit, and be represented on the Board by the Eastern Region's representative. There are no adjustments to the other States or regions.

The number of geographical units would remain at 30. This proposed rule would adjust representation on the Board as follows:

State	1998–2002 Average production level (bushels)	Current representation	Proposed representation
Maryland	16,568,000	1	2
Michigan	74,797,000	2	3
New York	4,503,000	0	1
New Jersey	2,882,000	1	0

Board adjustment as proposed by this rulemaking would be effective with the 2004 nominations and appointments.

List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that title 7, part 1220 be amended as follows:

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301–6311.

2. In § 1220.201, the table in paragraph (a) is revised to read as follows:

§ 1220.201 Membership of board.

(a) * * *

Unit	Number of members
Illinois	4
Iowa	4
Minnesota	4

Unit	Number of members	Unit	Number of members
Indiana	4	Western Region (Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California, Hawaii, and Alaska)	1
Missouri	3	* * * * *	
Ohio	3	Dated: June 11, 2003.	
Arkansas	3	Kenneth C. Clayton,	
Nebraska	3	<i>Acting Administrator, Agricultural Marketing Service.</i>	
South Dakota	3	[FR Doc. 03–15270 Filed 6–16–03; 8:45 am]	
Kansas	3	BILLING CODE 3410–02–P	
Michigan	3		
Mississippi	2		
Louisiana	2		
Tennessee	2		
North Carolina	2		
Kentucky	2		
North Dakota	2		
Wisconsin	2		
Maryland	2		
Virginia	1	DEPARTMENT OF TRANSPORTATION	
Georgia	1	Federal Aviation Administration	
South Carolina	1	14 CFR Part 39	
Alabama	1	[Docket No. 2003–NE–09–AD]	
Delaware	1	RIN 2120–AA64	
Texas	1	Airworthiness Directives; Pratt & Whitney Canada PT6A–60A and PT6A–65B Turboprop Engines	
Pennsylvania	1	AGENCY: Federal Aviation Administration (FAA), DOT.	
Oklahoma	1		
New York	1		
Eastern Region (New Jersey, Massachusetts, Connecticut, Florida, Rhode Island, Vermont, New Hampshire, Maine, West Virginia, District of Columbia, and Puerto Rico)	1		