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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[Document No. AMS–LP–19–0012]

Beef Promotion and Research; Reapportionment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adjusts representation on the Cattlemen's Beef Promotion and Research Board (Board), established under the Beef Promotion and Research Act of 1985 (Act), to reflect changes in domestic cattle inventories as well as changes in levels of imported cattle, beef, and beef products that have occurred since the Board was last reapportioned in July 2017. These adjustments are required by the Beef Promotion and Research Order (Order) and will result in an increase in Board membership from 99 to 101, effective with the Secretary of Agriculture's (Secretary) appointments for terms beginning early in the year 2021.

DATE: Effective July 31, 2020.

FOR FURTHER INFORMATION CONTACT: Kahl Sesker, Agricultural Marketing Specialist; Research and Promotion Division; Livestock and Poultry Program, AMS, USDA; Room 2610–S, STOP 0251, 1400 Independence Avenue SW, Washington, DC 20250–0251; via telephone at (202) 253–8253; or by email at *Kahl.Sesker@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule does not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866, and therefore, the Office of Management and Budget (OMB) has waived review of this action. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

Section 11 of the Act (7 U.S.C. 2910) 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 U.S. or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct efforts on Tribal governments or significant Tribal implications.

Paperwork Reduction Act

In accordance with OMB regulations (5 CFR 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. part 35), the information collection and recordkeeping requirements contained in the Order and accompanying Rules and Regulations have previously been approved by OMB and were assigned OMB control number 0581–0093.

Background

The Board was initially appointed on August 4, 1986, pursuant to the provisions of the Act (7 U.S.C. 2901–2911), and the Order issued thereunder. Domestic representation on the Board is based on cattle inventory numbers, while importer representation is based on the conversion of the volume of imported cattle, beef, and beef products into live animal equivalencies.

Reapportionment

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 and importer organizations. A producer may only be nominated to represent the State or unit in which that producer is a resident.

Section 1260.141(c) of the Order provides that at least every 3 years, but 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 to 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 has 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 is entitled to an additional Board member for each additional 1 million head of cattle within the unit, as provided in § 1260.141(e)(4). Further, 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 producer representation is based on an average of the inventory of cattle in the various States on January 1 in 2017, 2018, and 2019 as reported by U.S. Department of Agriculture's (USDA) National Agricultural Statistics Service (NASS). The importer representation is based on a combined total average of the 2016, 2017, and 2018 live cattle imports as published by USDA's Economic Research Service (ERS) and the average of the 2016, 2017, and 2018 live animal equivalents for imported beef and beef products.

In considering reapportionment, the Board reviewed cattle inventories as of January 1 in 2017, 2018, and 2019, as well as cattle, beef, and beef product import data for the period of January 1, 2016, to December 31, 2018. The Board determined that an average of the inventory of cattle on January 1 in 2017, 2018, and 2019 best reflect the number of cattle in each State or unit since publication of the last reapportionment rule in 2017 (82 FR 27611). The Board reviewed data published by ERS to determine proper importer representation. The Board recommended the use of the average of a combined total of the 2016, 2017, and 2018 cattle import data and the average of the 2016, 2017, and 2018 live animal equivalents for imported beef products. The method used to calculate the total number of live animal equivalents was the same as that used in the previous reapportionment of the Board. The live animal equivalent weight was changed in 2006 from 509 pounds to 592 pounds (71 FR 47074).

The Board's reapportionment plan increases the number of representatives on the Board from 99 to 101. From the Board's analysis of USDA cattle inventories and import equivalencies, Nebraska gains one Board seat, Texas gains one Board seat, and Wisconsin gains one Board seat. Geographic changes shall include dissolving the Southeast Unit so that Alabama and Georgia shall be stand-alone States that have enough inventory to each qualify for a position on the Board. South Carolina will be added to the Mid-Atlantic Unit. Maryland will move from the Mid-Atlantic Unit to the Northeast Unit, leaving South Carolina and West Virginia to make up the new Mid-Atlantic Unit, which will qualify for one member. The new Northeast Unit will qualify for one member and be composed of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont. Importer representation will remain at seven.

Representation of States and units affected by this final rule is as follows:

State/unit	Increase/decrease	Current representation	Revised representation
Alabama	+1 (moved from Southeast Unit)	0	1
Georgia	+1 (moved from Southeast Unit)	0	1
Nebraska	+1	6	7
Texas	+1	12	13
Wisconsin	+1	3	4
Mid-Atlantic Unit	No change	1	1
Northeast Unit	No change	1	1
Southeast Unit	−3	3	0
Net Change	+2		

Note: The Southeast Unit shall dissolve. Alabama and Georgia, formerly of SE Unit will each have one member on the Board. South Carolina, formerly of SE Unit, moves to Mid-Atlantic Unit. Maryland moves from the Mid-Atlantic Unit and to the Northeast Unit leaving South Carolina and West Virginia to make up the new Mid-Atlantic Unit and qualify for one member. The new Northeast Unit continues to qualify for one member. In summary, the Board will be composed of 101 members (99 − 3 + 5 = 101).

The Board reapportionment by this rulemaking will take effect with the Secretary's appointments to fill positions early in the year 2021.

Summary of Comments

AMS published the notice of proposed rulemaking in the **Federal Register** on December 30, 2019 (84 FR 71829). The comment period closed on February 28, 2020. AMS received three timely comments. Two of the three comments were outside the scope of the rule. One commenter supported the 12 to 13 representative increase in Texas.

Final Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS considered the economic effect of this action on small entities and determined that this final 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.

Effective August 19, 2019, the Small Business Administration (SBA) published an interim final rule (84 FR 64013) that adjusts the monetary-based size standards for inflation. As a result of this rule, the size classification for small beef, veal, and cattle importing firms changed from sales of $750,000 or less to sales of $1,000,000 or less.

According to the NASS 2017 Census of Agriculture, the number of operations in the United States with cattle totaled 882,692.[1] The most recent (2017) Census of Agriculture data show that roughly 4 percent of producers with cattle, or 31,601 operations, have annual receipts of $1,000,000 or more.[2] Therefore, the vast majority of cattle producers, 96 percent, would be considered small businesses with the new SBA guidance. It should be noted that producers are only indirectly impacted by the final rule.

Cattle, beef, and veal importers are directly impacted by the final rule. The original number of importing firms was determined in consultation with the Meat Import Council of America. AMS estimates that approximately 270 firms import beef or beef products, and veal and veal products into the United States, and about 198 firms import live cattle into the United States. The 2012 Economic Census, produced by the U.S. Commerce Department, and accessible through the American Fact Finder website, provides the most recent data on firm size by sales revenue.[3] However, data on the firm size of beef, veal, and cattle importers are not available in this or other economic databases, as there is no NAICS code specific enough for this industry segment.

[1] *https://www.nass.usda.gov/AgCensus/index.php.*

[2] *https://quickstats.nass.usda.gov/results/EC7DF8E2-6791-347F-BC4F-3F81988D7DDB.*

[3] *https://factfinder.census.gov.*

The 2012 Economic Census does have information on the broader marketing chain, specifically the size distribution of meat and meat product wholesalers (NAICS 42447).[4] These data show that 18 percent of firms in the industry classification of meat and meat product wholesalers are considered small businesses.

Recent import trade data was also considered for understanding the overall dynamics of this industry segment. USDA's Foreign Agricultural Service reports monthly trade data for traded agricultural products by product type. An analysis of these data over a 5-year period show only minor changes in the annual import values for both beef and veal importers and cattle importers, suggesting little change in the sector overall.

The final rule imposes no new burden on the industry, as it only adjusts representation on the Board to reflect changes in domestic cattle inventory, as well as in cattle and beef imports. The adjustments are required by the Order and will result in an increase in Board membership from 99 to 101.

AMS is committed to complying with the E-Government Act of 2002 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.

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

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Imports, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1260 is 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. 2901–2911 and 7 U.S.C. 7401.

■ 2. Amend § 1260.141 by revising paragraph (a) to read as follows:

§ 1260.141 Membership of Board.

(a) Beginning with the 2020 Board nominations and the associated appointments effective early in the year 2021, the United States shall be divided into 38 geographical units and 1 unit representing importers, for a total of 39 units. The number of Board members from each unit shall be as follows:

TABLE 1 TO PARAGRAPH (a)—CATTLE AND CALVES [1]

State/unit	(1,000 Head)	Directors
1. Alabama	1,313	1
2. Arizona	1,003	1
3. Arkansas	1,763	2
4. Colorado	2,850	3
5. Florida	1,670	2
6. Georgia	1,080	1
7. Idaho	2,430	2
8. Illinois	1,190	1
9. Indiana	877	1
10. Iowa	3,950	4
11. Kansas	6,350	6
12. Kentucky	2,153	2
13. Louisiana	800	1
14. Michigan	1,163	1
15. Minnesota	2,360	2
16. Mississippi	907	1
17. Missouri	4,317	4
18. Montana	2,567	3
19. Nebraska	6,683	7
20. New Mexico	1,473	1
21. New York	1,477	1
22. North Carolina	810	1
23. North Dakota	1,837	2
24. Ohio	1,303	1
25. Oklahoma	5,133	5
26. Oregon	1,303	1
27. Pennsylvania	1,613	2
28. South Dakota	3,967	4
29. Tennessee	1,820	2
30. Texas	12,600	13
31. Utah	807	1
32. Virginia	1,480	1
33. Wisconsin	3,500	4
34. Wyoming	1,317	1
35. Northwest Unit:		
• Alaska	15	
• Hawaii	143	
• Washington	1,163	
Total	1,321	1
36. Northeast Unit:		
• Connecticut	48	

[4] *Source:* U.S. Census Bureau, 2012 Economic Census, Search code EC1242SSSZ1_with_ann.

TABLE 1 TO PARAGRAPH (a)—CATTLE AND CALVES [1]—Continued

State/unit	(1,000 Head)	Directors
• Delaware	16	
• Maine	81	
• Maryland	192	
• Massachusetts	38	
• New Hampshire	35	
• New Jersey	29	
• Rhode Island	5	
• Vermont	260	
Total	702	1
37. Mid-Atlantic Unit:		
• South Carolina	342	
• West Virginia	397	
Total	738	1
38. Southwest Unit:		
• California	5,167	
• Nevada	460	
Total	5,627	6
39. Importers Unit [2]	6,874	7

[1] 2017, 2018, and 2019 average of January 1 cattle inventory data.
[2] 2016, 2017, and 2018 average of annual import data.

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Bruce Summers,

Administrator, Agricultural Marketing Service.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 45

[Docket No. OCC–2020–0027]

RIN 1557–AE98

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Part 237

[Docket No. R–1721]

RIN 7100–AF92

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 349

RIN 3064–AF55

FARM CREDIT ADMINISTRATION

12 CFR Part 624

RIN 3052–AD34

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1221

RIN 2590–AB03

Margin and Capital Requirements for Covered Swap Entities

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Farm Credit Administration (FCA); and the Federal Housing Finance Agency (FHFA).

ACTION: Interim final rule and request for comment.

SUMMARY: The OCC, Board, FDIC, FCA, and FHFA (each an Agency and, collectively, the Agencies) are adopting and inviting comment on an interim final rule amending the Agencies' regulations that require swap dealers, security-based swap dealers, major swap participants, and major security-based swap participants under the Agencies' respective jurisdictions to exchange margin with their counterparties for swaps that are not centrally cleared (non-cleared swaps) (Swap Margin Rule). Under the Swap Margin Rule, as amended, initial margin requirements will take effect under a phased compliance schedule spanning from 2016 through 2020, and in a final rule published elsewhere in today's issue of the **Federal Register**, the Agencies have extended the phase-in period to 2021. Due to the COVID–19 pandemic, the Agencies are extending by one year the phases 5 and 6 implementation deadlines for initial margin requirements from September 1, 2020, to September 1, 2021 (for phase 5) and from September 1, 2021, to September 1, 2022 (for phase 6). The Agencies' objective is to give covered swap entities additional time to meet their initial margin requirements under the rule so as not to hamper any efforts