

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 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