

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 1150

[Docket No. DA-03-06]

National Dairy Promotion and Research Program; Invitation To Submit Comments on Proposed Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document invites comments on a proposed amendment to the Dairy Promotion and Research Order (Order). The proposal would modify the composition of the National Dairy Promotion and Research Board (Dairy Board) by changing the number of member seats in four geographic regions. The proposed amendment was requested by the Dairy Board, which administers the Order, to better reflect the geographic distribution of milk production in the contiguous 48 States.

DATES: Comments must be submitted on or before July 17, 2003.

ADDRESSES: Comments should be filed with USDA/AMS/Dairy Programs, Promotion and Research Branch, Stop 0233—Room 2958—S, 1400 Independence Avenue, SW., Washington, DC 20250-0233. Comments may be faxed to (202) 720-0285 or e-mailed to

David.Jamison2@usda.gov. Comments, which should reference the title of the action and the docket number, will be made available for public inspection at the above address during regular business hours. Comments also will be posted at: <http://www.ams.usda.gov/dairy/index.htm>.

FOR FURTHER INFORMATION CONTACT: David R. Jamison, USDA, AMS, Dairy Programs, Promotion and Research Branch, Stop 0233—Room 2958—S, 1400 Independence Avenue, SW., Washington, DC 20250-0233, (202) 720-6961, David.Jamison2@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule is issued pursuant to the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501, *et seq.*), Public Law 98-108, enacted November 29, 1983.

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

This proposed rule has been determined not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Dairy Production Stabilization Act of 1983 (Act) (7 U.S.C. 4501, *et seq.*) authorizes the National Dairy Promotion and Research Program. The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 4509 of the Act, any person subject to the Dairy Promotion and Research Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with the law and requesting a modification of the Order or to be exempted from the Order. A person subject to an Order is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) is required to examine the impact of this proposed rule on small entities. The purpose of the Regulatory Flexibility Act is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. For the purpose of the Regulatory Flexibility Act, small businesses in the dairy industry have been defined as those employing less than 500 employees. For

the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than \$750,000. There are approximately 70,000 dairy farms subject to the provisions of this Order. Most of the parties subject to the Order are considered small entities.

The proposed rule would amend the Dairy Promotion and Research Order by modifying the number of member seats on the National Dairy Promotion and Research Board in four of the 13 geographic regions. The proposed amendment is being made to better reflect the geographic distribution of milk produced within each of the 13 regions of the contiguous 48 States.

The Order currently is administered by a 36-member Dairy Board representing 13 geographic regions within the contiguous 48 States. The Order provides that the Dairy Board shall review the geographic distribution of milk production throughout the United States and, if warranted, shall recommend to the Secretary a reapportionment of the regions and/or modification of the number of members from regions in order to better reflect the geographic distribution of milk production volume in the United States.

Based on a review of the 2002 geographic distribution of milk production, the Dairy Board has concluded that the number of Dairy Board members for four of the 13 geographical regions should be changed. The Dairy Board was last modified in 1998 based on 1997 milk production.

Accordingly, the proposed amendment should not have a significant economic impact on persons subject to the Order. The proposed changes merely would allow representation on the Dairy Board to better reflect geographic milk production in the contiguous 48 States.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35), the forms and reporting and recordkeeping requirements that are included in the Order have been approved previously by the Office of Management and Budget (OMB).

This proposed amendment to the Order will not add any burden to persons subject to the Order because they relate to provisions concerning membership of the Dairy Board. The proposed change would not impose