

arbitration for disputes where the parties had not previously agreed to arbitration and would be required to arbitrate. These respondents argued that their constitutional rights would be infringed upon as they would not be free to choose the forum for resolving their disputes, and their property rights could be affected without due process of the law. The respondents' claims as to contra-constitutionality were overstated; however, USDA did believe that they should change this provision to indicate a permissive use of arbitration where the parties so desired. Accordingly, USDA has amended § 735.202 (a) to change "will be" to "may be" to indicate that where the parties are able to arbitrate the issue, they should be allowed to do so, but not required by regulation. In addition, the word "relevant" will be inserted into § 735.201 to clarify that a warehouseman must meet the delivery standard for the week of the shipment in question.

As with the proposed rule, the final rule will define "without unnecessary delay," through the establishment of a uniform cotton delivery standard based upon weekly deliveries of 4.5 percent of a warehouse operator's licensed storage capacity or CCC approved capacity or other capacity in effect for the relevant week in question. However, enforcement of the standard through arbitration is no longer mandatory. The final rule continues to include a provision that requires any party who requests or initiates FSA's involvement in a shipping standard issue to be responsible for any cost incurred by FSA.

USDA believes this final rule provides an identifiable standard for the delivery and shipment of cotton with the option of arbitrating, has minimal FSA oversight, will best meet the trade-industry's aspirations to expedite the delivery and shipment of U.S. cotton into marketing trade channels and enhance prices paid producers while reducing the cost of handling cotton.

The provisions in this final rule are applicable to cotton warehouse operators licensed under the USWA and any warehouse operators who issue electronic warehouse receipts under the USWA.

#### List of Subjects in 7 CFR Part 735

Administrative practice and procedure, Cotton, Delivery, Reporting and record keeping requirements, Shipping, Surety bonds, Warehouses.

Accordingly, the provisions of 7 CFR part 735 are amended as follows:

### PART 735—COTTON WAREHOUSES

1. The authority citation for 7 CFR part 735 continues to read as follows:

**Authority:** 7 U.S.C. 241 *et seq.*

2. Section 735.2 is amended by adding paragraph (jj).

#### § 735.2 Terms defined.

\* \* \* \* \*

(jj) *Force majeure*. Severe weather conditions, fire, explosion, flood, earthquake, insurrection, riot, strike, labor dispute, act of civil or military authority, non-availability of transportation facilities, or any other cause beyond the control of the warehouseman that renders performance impossible.

#### §§ 735.106–735.199 [Reserved]

3. Sections 735.106 through 735.199 are added and reserved.

4. Following § 735.199 an undesignated center heading and §§ 735.200 through 735.202 are added to read as follows:

#### Delivery and Shipping

##### § 735.200 Applicability.

The cotton shipping standard set forth in § 735.201 is applicable to all cotton warehousemen licensed under the Act and to all warehousemen that issue electronic warehouse receipts through an authorized electronic warehouse receipt provider in accordance with part 735 regardless of whether the warehouse is licensed under the Act.

##### § 735.201 Cotton shipping standard.

Unless prevented from doing so by force majeure, a warehouseman identified in § 735.200 shall deliver stored cotton without unnecessary delay. A warehouseman shall be considered to have delivered cotton without unnecessary delay, if for the week in question, the warehouseman has delivered or staged for scheduled delivery at least 4.5 percent of either their licensed storage capacity or Commodity Credit Corporation-approved storage capacity or other storage capacity as determined by the Secretary to be in effect during the relevant week of shipment.

##### § 735.202 Compliance and dispute resolution.

(a) Any claim for noncompliance with the cotton shipping standard may be resolved by the parties involved through established industry, professional, or mutually agreed upon arbitration procedures. The arbitration procedures shall be nondiscriminatory and provide each person equal access and protection relating to the cotton shipping standard.

(b) No arbitration determination or award resulting from noncompliance with the shipping standard shall affect, obligate, or restrict the Service's authority to provide, administer, and regulate the issuance of a license, receipt, contractual agreement, or authorized electronic warehouse receipt provider system in accordance with the Act.

(c) The Service shall not settle unresolved disputes involving the cotton shipping standard or associated damages.

(d) In the event a party requests assistance from or initiates the involvement of the Service in a matter relating to the cotton shipping standard, the initiating party shall be responsible for all costs incurred by the Service. Before any such assistance is provided, the initiating party shall make payment to the Service in an amount equal to the Service's good faith estimate of costs and expenses that will be incurred in fulfilling the request. Costs incurred that exceed the Service's good faith estimate will be the responsibility of the initiating party.

Signed at Washington, D.C., on October 19, 2000.

**Keith Kelly,**

*Administrator, Farm Service Agency.*

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1220

[No. LS-00-04]

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

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

**ACTION:** Final rule.

**SUMMARY:** This final rule adjusts 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 1997. These adjustments are required by the Soybean Promotion and Research Order (Order). The results of the adjustments are an additional member for Kansas and one less member for Maryland. As a result of these changes, the total Board membership will remain at 62 members. These changes to the Board are effective with the Secretary's 2001 appointments. **EFFECTIVE DATE:** November 24, 2000.

**FOR FURTHER INFORMATION CONTACT:**

Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA, Room 2627-S; STOP 0251; 1400 Independence Avenue, SW.; Washington, D.C. 20250-0251; telephone 202/720-1115; fax 202/720-1125; or e-mail to Ralph.Tapp@usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Executive Orders 12866 and 12988, Regulatory Flexibility Act and the Paperwork Reduction Act**

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

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

**Effect on Small Entities**

AMS has determined that this final 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 only adjusts representation on the Board to reflect changes in production levels that have occurred since the Board was reapportioned in 1997. As such, these changes will not impact on 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).

**Background and 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 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 2000 meeting the Board voted to recommend to the Secretary that no modification be made.

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.

A proposed rule was published in the **Federal Register** (65 FR 30922), on May 15, 2000, with a 60-day comment period. One comment was received from the Chairman of the United Soybean Board. The comment states that "the reapportionment appears to be appropriate under the formula mandated by the Soybean Promotion, Research, and Consumer Information Act."

Based on the comment received and the requirements of the Act and the Order, AMS is adjusting the representation on the Board as proposed; one additional member for Kansas and one less member for Maryland.

Board membership remains at 62 and is 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 the National Agricultural Statistics Service. Board member adjustments are effective with the 2001 nominations and appointments.

The number of geographical units remains at 30.

**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, Title 7, part 1220 is 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 immediately following paragraph (a) is revised to read as follows:

**§ 1220.201 Membership of board.**

\* \* \* \* \*

Unit	Number of members
Illinois .....	4
Iowa .....	4
Minnesota .....	4
Indiana .....	4
Missouri .....	3
Ohio .....	3
Arkansas .....	3
Nebraska .....	3
South Dakota .....	3
Kansas .....	3

Unit	Number of members
Mississippi .....	2
Louisiana .....	2
Tennessee .....	2
North Carolina .....	2
Kentucky .....	2
Michigan .....	2
North Dakota .....	2
Wisconsin .....	2
Maryland .....	1
Virginia .....	1
Georgia .....	1
South Carolina .....	1
Alabama .....	1
Delaware .....	1
Texas .....	1
Pennsylvania .....	1
Oklahoma .....	1
New Jersey .....	1
Eastern Region (New York, Massachusetts, Connecticut, Florida, Rhode Island, Vermont, New Hampshire, Maine, West Virginia, District of Columbia, and Puerto Rico)	1
Western Region (Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California, Hawaii, and Alaska)	1

\* \* \* \* \*  
 Dated: October 19, 2000.

**Barry L. Carpenter,**  
*Deputy Administrator, Livestock and Seed Program.*  
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**NUCLEAR REGULATORY COMMISSION**

**10 CFR Parts 50 and 72**

**RIN 3150-AF98**

**Reporting Requirements for Nuclear Power Reactors and Independent Spent Fuel Storage Installations at Power Reactor Sites**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending the event reporting requirements for nuclear power reactors to reduce or eliminate the unnecessary reporting burden associated with events of little or no safety significance. This final rule continues to provide the Commission with reporting of significant events where Commission action may be needed to maintain or improve reactor safety or to respond to heightened public concern. This final rule also

better aligns event reporting requirements with the type of information NRC needs to carry out its safety mission, including revising reporting requirements based on importance to risk and extending the required reporting times consistent with the time that information is needed for prompt NRC action. Also, NUREG-1022, Revision 2, "Event Reporting Guidelines, 10 CFR 50.72 and 50.73," is being made available concurrently with the amendments.

**DATES:** The final rule is effective January 23, 2001.

**ADDRESSES:** Documents related to this action may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For further information contact the PDR Reference staff at 1-800-397-4209, 301-415-4737 or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Dennis P. Allison, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001, telephone (301) 415-1178, e-mail [dpa@nrc.gov](mailto:dpa@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

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**I. Background**

The reporting requirements in Sections 50.72 and 50.73 have been in

effect, with minor modifications, since 1983. Experience has shown a need for change in several areas. On July 23, 1998 (63 FR 39522), the NRC published in the **Federal Register** an advance notice of proposed rulemaking (ANPR) to announce a contemplated rulemaking that would modify reporting requirements for nuclear power reactors. Among other things, the ANPR requested public comments on several concrete proposals for modification of the event reporting rules. Public meetings were held to discuss the ANPR at NRC Headquarters on August 21, 1998, in Rosemont, Illinois on September 1, 1998, and at NRC Headquarters on November 13, 1998.

A proposed rule was published in the **Federal Register** on July 6, 1999 (64 FR 36291), including a conforming change to Section 72.216. Concurrently, a draft revision to the associated event reporting guidelines was made available for public comment (NUREG-1022, Draft Revision 2). A public meeting was held at NRC Headquarters on August 3, 1999, to discuss the proposed rule and draft guidelines. Public comments were due on September 20, 1999. Additional public meetings were held on February 25, and March 22, 2000, to discuss public comments.

**II. Analysis of Comments**

The comment period for the proposed rule expired September 20, 1999. Twenty-seven comment letters were received, representing comments from 24 nuclear power plant licensees (utilities), two organizations of utilities, and one State agency.

In addition to the written comments received, the proposed rule was the subject of a public meeting on August 3, 1999, as discussed above under the heading "Background," and comments made at that meeting have also been considered.

Most commenters expressed support for amending the rules in accordance with the objectives discussed in the proposed rule. However, they objected to some of the specific provisions. Many comments also provided specific recommendations for changes to the proposed rules. The resolution of comments is summarized below. This summary addresses the principal comments (*i.e.*, comments other than those that are: minor or editorial in nature; supportive of the approach described in the proposed rules; or applicable to another area or activity outside the scope of sections 50.72 and 50.73).

*Comment A (Do not require reporting of degraded components):* The proposed rule included a new component