

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 1260

[Docket No. LS-04-09]

Beef Promotion and Research; Reapportionment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adjust 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 cattle inventories and cattle and beef imports that have occurred since the most recent Board reapportionment rule became effective in 2002. These adjustments are required by the Beef Promotion and Research Order (Order) and would result in a decrease in Board membership from 108 to 104, effective with the Department of Agriculture's (Department) appointments for terms beginning early in the year 2006.

DATES: Written comments must be received by December 13, 2004.

ADDRESSES: Send any written comments to Kenneth R. Payne, Chief, Marketing Programs Branch, Room 2638-S, Livestock and Seed Program, Agricultural Marketing Service (AMS), USDA, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250-0251.

Comments may be sent by facsimile to (202) 720-1125 and by electronic mail to BeefComments@usda.gov or <http://www.regulations.gov>. Comments received may be inspected between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, at the above office. State that your comments refer to Docket No. LS-04-09. Additionally, the comments and the proposed rule may be found at <http://www.ams.usda.gov/lsg/mpb/rp-beef.htm>.

FOR FURTHER INFORMATION CONTACT:

Kenneth R. Payne, Chief, Marketing Programs Branch on (202) 720-1115, fax (202) 720-1125, or by e-mail at Kenenth.Payne@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. It is not intended to have retroactive effect.

Section 11 of the Act 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 United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

The Regulatory Flexibility Act and the Paperwork Reduction Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 United States Code (U.S.C.) 601 *et seq.*). The Administrator of AMS has considered the economic effect of this action on small entities and has determined that this proposed 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.

In the January 30, 2004, issue of "Cattle," the Department's National Agricultural Statistics Service (NASS) estimates that in 2004 the number of cattle operations in the United States totaled about 1.1 million. The majority of these operations subject to the Order, 7 CFR 1260.101 *et seq.*, are considered small businesses under the criteria established by the Small Business Administration.

The proposed rule imposes no new burden on the industry. It only adjusts representation on the Board to reflect changes in domestic cattle inventory and cattle and beef imports. This action would adjust representation on the Board, established under the Act. The

adjustments are required by the Order and would result in a decrease in Board membership from 108 to 104.

Background and Proposed Action

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

Section 1260.141(b) of the Order provides that the Board shall be composed of cattle producers and importers appointed by the Department from nominations submitted by certified producer organizations. A producer may only be nominated to represent the unit in which that producer is a resident.

Section 1260.141(c) of the Order provides that at least every 3 years and 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 Department modifications in 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 have 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 that has an additional one million head of cattle within a unit qualifies for additional representation on the Board as provided in § 1260.141(e)(4). 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 initial Board appointed in 1986 was composed of 113 members. Reapportionment based on a 3-year average of cattle inventory numbers and import data, reduced the Board to 111 members in 1990 and 107 members in 1993 before the Board was increased to 111 members in 1996. The Board was decreased to 110 members in 1999, 108 members in 2001, and will be decreased to 104 members with appointments for terms effective early in 2006.

The current Board representation by States or units has been based on an average of the January 1, 1999, 2000, and 2001 inventory of cattle in the various States as reported by NASS of the Department. Current importer representation has been based on a combined total average of the 1998, 1999, and 2000 live cattle imports as published by the Foreign Agricultural Service of the Department and the average of the 1998, 1999, and 2000 live animal equivalents for imported beef products.

Recommendations concerning Board reapportionment were approved by the Board at its June 24, 2004, meeting. In considering reapportionment, the Board reviewed cattle inventories as well as cattle, beef, and beef product import data for the period January 1, 2002, to January 1, 2004. The Board recommended that a 3-year average of cattle inventories and import numbers should be continued. The Board determined that an average of the January 1, 2002, 2003, and 2004 Department cattle inventory numbers

would best reflect the number of cattle in each State or unit since publication of the 2001 reapportionment rule.

The Board reviewed the February 24, 2004, Department's Economic Research Service circular, "Livestock, Dairy, and Poultry Outlook," to determine proper importer representation. The Board recommended the use of a combined total of the average of the 2001, 2002, and 2003 cattle import data and the average of the 2001, 2002, and 2003 live animal equivalents for imported beef products. The method used to calculate the total number of live cattle equivalents was the same as that used in the previous reapportionment of the Board. The recommendation for importer representation is based on the most recent 3-year average of data available to the Board at its June 24, 2004, meeting to be consistent with the procedures used for domestic representation.

The Board's recommended reapportionment plan would decrease the number of representatives on the Board from 108 to 104. Four States—Minnesota, Montana, Nebraska, and Wyoming—lose one member each. The States and units affected by the reapportionment plan and the current and proposed member representation per unit are as follows: (Units are listed with the State makeup recommended by the Board.)

States	Current representation	Proposed representation
1. Minnesota	3	2
2. Montana	3	2
3. Nebraska	7	6
4. Wyoming	2	1

CATTLE AND CALVES ¹

State/unit	(1,000 Head)	Directors
1. Alabama	1,390	1
2. Arizona	843	1
3. Arkansas	1,857	2
4. California	5,217	5
5. Colorado	2,700	3
6. Florida	1,757	2
7. Idaho	2,000	2
8. Illinois	1,367	1
9. Indiana	857	1
10. Iowa	3,517	4
11. Kansas	6,533	7
12. Kentucky	2,350	2
13. Louisiana	853	1
14. Michigan	1,003	1
15. Minnesota	2,467	2
16. Mississippi	1,063	1
17. Missouri	4,400	4
18. Montana	2,433	2
19. Nebraska	6,283	6
20. Nevada	507	1
21. New Mexico	1,547	2

The 2004 nomination and appointment process was in progress while the Board was developing its recommendations. Thus, the Board reapportionment as proposed by this rulemaking would be effective, if adopted, with 2005 nominations and appointments that will be effective early in the year 2006.

List of Subjects in 7 CFR Part 1260

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

For reasons set forth in the preamble, it is proposed that 7 CFR part 1260 be 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 *et seq.*

2. In § 1260.141, paragraph (a) and the table immediately following it, are revised to read as follows:

§ 1260.141 Membership of Board.

(a) Beginning with the 2005 Board nominations and the associated appointments effective early in the year 2006, the United States shall be divided into 39 geographical units and 1 unit representing importers, and the number of Board members from each unit shall be as follows:

CATTLE AND CALVES ¹—Continued

State/unit	(1,000 Head)	Directors
22. New York	1,420	1
23. North Carolina	910	1
24. North Dakota	1,867	2
25. Ohio	1,233	1
26. Oklahoma	5,233	5
27. Oregon	1,400	1
28. Pennsylvania	1,637	2
29. South Dakota	3,767	4
30. Tennessee	2,227	2
31. Texas	13,833	14
32. Utah	887	1
33. Virginia	1,607	2
34. Wisconsin	3,333	3
35. Wyoming	1,387	1
36. Northwest .....	.....	1
Alaska	12	.....
Hawaii	153	.....
Washington	1,117	.....
Total	1,408	.....
37. Northeast .....	.....	1
Connecticut	57	.....
Delaware	24	.....
Maine	94	.....
Massachusetts	50	.....
New Hampshire	40	.....
New Jersey	45	.....
Rhode Island	6	.....
Vermont	285	.....
Total	600	.....
38. Mid-Atlantic .....	.....	1
District of Columbia	0	.....
Maryland	240	.....
West Virginia	400	.....
Total	640	.....
39. Southeast .....	.....	2
Georgia	1,260	.....
South Carolina	430	.....
Total	1,690	.....
40. Importer ²	8,378	8

¹ 2002, 2003, and 2004 average of January 1 cattle inventory data.

² 2001, 2002, and 2003 average of annual import data.

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Dated: November 5, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04-25198 Filed 11-10-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2004-19443; Directorate Identifier 2004-CE-32-AD]

RIN 2120-AA64

Airworthiness Directives; EXTRA Flugzeugbau GmbH Model EA-300 and EA-300/S Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 98-03-14, which applies to certain EXTRA Flugzeugbau GmbH (EXTRA)

Model EA-300 and EA-300/S airplanes. AD 98-03-14 currently requires you to inspect the upper longeron cutout-bridge for cracks, repairing any cracks found, and modifying this area. This proposed AD would retain the actions of AD 98-03-14 and incorporate new service information. For owner/operators of the affected airplanes that were able to do the modification required in AD 98-03-14, no further action would be required. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. We are issuing this proposed AD to detect and correct cracks in the upper longeron cutout-bridge, which could cause the upper longeron cutout-bridge to fail resulting in structural damage to the fuselage.