



## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 63

[Doc. No. AMS-LPS-14-0028]

#### National Sheep Industry Improvement Center

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** As provided under the Agriculture Act of 2014 (2014 Farm Bill), the Agricultural Marketing Service (AMS) is amending the National Sheep Industry Improvement Center (NSIIC) regulations. This interim rule redesignates the statutory authority from section 375 of the Consolidated Farm and Rural Development Act to the Agricultural Marketing Act of 1946, amends the definition of the Act in the regulations consistent with the redesignated statutory authority, and amends the regulations by increasing the administrative cap for the use of the fund from 3 percent to 10 percent.

**DATES:** *Effective Date:* This interim rule is effective June 4, 2014.

*Comment Date:* Written comments on the regulatory provisions of this interim rule must be received by [Insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** Interested persons are invited to submit comments concerning this interim rule. Comments must be posted on <http://www.regulations.gov>; or sent to Kenneth R. Payne, Director, Research and Promotion Division, Livestock, Poultry and Seed Program, AM, USDA, Room 2608-S, STOP 0251, 1400 Independence Avenue, SW., Washington, D.C. 20250-0251; via Fax

to 202/720-1125; or e-mail to [Kenneth.Payne@ams.usda.gov](mailto:Kenneth.Payne@ams.usda.gov).

All comments should reference the document number (AMS-LPS-14-0028) and the volume, date, and page number of this issue of the *Federal Register* and will be made available for public inspection at the aforementioned address during regular business hours or viewed at <http://www.regulations.gov>. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Payne, Director, Research and Promotion Division, Livestock, Poultry and Seed Program; Telephone 202/720-5705; Fax: 202/720-1125; or e-mail [Kenneth.Payne@ams.usda.gov](mailto:Kenneth.Payne@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** As provided under the 2014 Farm Bill, this interim rule redesignates the statutory authority for the program from section 375 (7 U.S.C. 2008j) of the Consolidated Farm and Rural Development Act to section 210 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627). In addition, the definition of “Act” is amended under section 63.1 to be consistent with the redesignated statutory authority, and amends the regulations by increasing the administrative cap for the use of the fund from 3 percent to 10 percent.

### **Executive Order 12866 and Executive Order 13563**

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 action has been designated as a “non-significant regulatory action” under of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

### **Executive Order 13175**

This interim final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this interim final rule would not have substantial and direct effects on Tribal Governments and would not have significant tribal implications.

### **Executive Order 12988**

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

### **Executive Order 13132**

This interim rule has been reviewed under Executive Order 13132, Federalism, and has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule would not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

### **Regulatory Flexibility Act**

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the agency is required to examine the impact of regulatory actions on small entities. The purpose of the

RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

Pursuant to the requirements set forth in the RFA, AMS has considered the economic effect of this action on small entities and has determined that this final rule will not have a significant impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory action to the scale of businesses subject to such action in order that small businesses will not be unduly burdened.

The U.S. Department of Agriculture's (USDA), National Agricultural Statistics Service's February 2013 publication of "Farms, Land in Farms, and Livestock Operations" estimated that in 2012 the number of operations in the United States with sheep and goats totaled approximately 79,500 and 149,500, respectively and would be classified as small entities.

The Small Business Administration defines, in 13 CFR 121, small agricultural producers as those having annual receipts of no more than \$750,000, and small agricultural service firms as those having annual receipts of no more than \$7 million. Under these definitions, the majority of the producers that will be affected by this rule are considered small entities.

The purpose of NSIIC is to: (1) Promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance the production and marketing of sheep or goat products in the United States; (2) Optimize the use of available human capital and resources within the sheep or goat industries; (3) Provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research; (4) Advance activities that empower and build the capacity

of the U.S. sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and (5) Adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

A Board of Directors (Board) manages and is responsible for the general supervision of the structure of the NSIIC, with oversight from USDA. The Board is comprised of seven voting members, of whom four would be active producers of sheep or goats in the United States, two would have expertise in finance and management, and one would have expertise in lamb, wool, goat, or goat product marketing. The Secretary of Agriculture (Secretary) appoints the voting members from nominations submitted by eligible organizations. There are also two non-voting members on the Board, the Under Secretary of Agriculture for Marketing and Regulatory Programs and the Under Secretary of Agriculture for Research, Education, and Economics.

As provided under the 2014 Farm Bill, AMS is amending NSIIC regulations at 7 CFR part 63. This interim rule redesignates (1) the statutory authority from section 375 (7 U.S.C. 2008j) of the Consolidated Farm and Rural Development Act to the Agricultural Marketing Act of 1946 (7 U.S.C 1621-1627), (2) amends the definition of the Act under section 63.1 consistent with the redesignated statutory authority, and (3) amends the regulations by increasing the administrative cap for the use of the fund from 3 percent to 10 percent. Accordingly, AMS has considered the economic impact of this rule on small entities. AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the RFA.

### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35),

the reporting and recordkeeping requirements included in 7 CFR part 63 were previously approved by OMB and were assigned control number 0581-0093. No additions have been made to the PRA.

### **Background Information**

The NSIIC was initially authorized under the Consolidated Farm and Rural Development Act (Act). The Act, as amended, was passed as part of the 1996 Farm Bill (Pub. Law 104-127). The initial legislation included a provision that privatized the NSIIC 10 years after its ratification or once the full appropriation of \$50 million was disbursed. Subsequently, the NSIIC was privatized on September 30, 2006 (72 FR 28945).

In 2008, the NSIIC was re-established under Title XI of the Food, Conservation, and Energy Act of 2008 (Pub. Law 110-246), also known as the 2008 Farm Bill. Section 11009 of the 2008 Farm Bill repealed the requirement in section 375(e)(6) of the Act to privatize the NSIIC. Additionally, the 2008 Farm Bill provided for \$1,000,000 in mandatory funding for fiscal year 2008 from the Commodity Credit Corporation for the NSIIC to remain available until expended, as well as authorization for appropriations in the amount of \$10 million for each of fiscal years 2008 through 2012. In July 2010, USDA promulgated rules and regulations establishing the NSIIC, consistent with the Food, Conservation, and Energy Act of 2008 (75 FR 43031). The rule established the NSIIC and a Board that will manage and be responsible for the general supervision of the activities of the NSIIC, with oversight from the USDA. The NSIIC is authorized to use funds to make grants to eligible entities in accordance with a strategic plan.

The authorizing legislation established in the United States Department of the Treasury (Treasury) the NSIIC Revolving Fund (Fund). The Fund was available to the NSIIC, without

fiscal year limitation, to carry out the authorized programs and activities of the NSIIC. The law provides authority for amounts in the Fund to be used for direct loans, loan guarantees, cooperative agreements, equity interests, investments, repayable grants, and grants to eligible entities, either directly or through an intermediary, in accordance with a strategic plan submitted by the NSIIC to the Secretary. In accordance with the 2014 Farm Bill, AMS is amending the National Sheep Industry Improvement Center regulations at 7 CFR part 63 as provided for herein.

The management of the NSIIC is vested in a Board that is appointed by the Secretary. The Secretary reviews and monitors compliance of the Board as provided under the Act and rules and regulations. The Board is composed of seven voting members, of whom four would be active producers of sheep or goats in the United States, two would have expertise in finance and management, and one would have expertise in lamb, wool, goat, or goat product marketing. The Board also includes two non-voting members, the Under Secretary of Agriculture for Marketing and Regulatory Programs and the Under Secretary of Agriculture for Research, Education, and Economics. The Secretary appoints the voting members from nominations submitted by eligible organizations. A member's term of office shall be 3 years with a maximum of two terms. Board members initially served staggered terms of 1, 2, or 3 years, as determined by the Secretary. Only national organizations that 1) consist primarily of active sheep or goat producers in the United States and 2) have the primary interest of sheep or goat production in the United States can make nominations to the Board.

The Board meets not less than once each fiscal year. Board members do not receive compensation for serving on the Board, but are reimbursed for travel, subsistence, and other

necessary expenses. The Board is responsible for general supervision of the NSIIC; review of any contract and grant to be made or entered into by the NSIIC and any financial assistance provided to the NSIIC; making final decision—by majority vote—on whether or not to provide grants to an eligible entity; and developing and establishing a budget plan and long-term operating plan to carry out the goals of the NSIIC.

The authorizing legislation establishes in the United States Treasury, the NSIIC Fund. The Fund is available to the NSIIC, without fiscal year limitation, to carry out the authorized programs and activities of the NSIIC. The law provides authority for amounts in the Fund to be used to carry out authorized program activities of the NSIIC.

The current program authorizes a grant-only program administered by the NSIIC Board. Based on funding, the Board announces that proposals may be submitted to the Board for consideration from eligible entities. The Board determines how funds are allocated. Proposals submitted to the Board must be consistent with the purpose of the NSIIC.

### **Discussion of Interim Regulatory Text**

As provided under 2014 Farm Bill, the AMS is amending the National Sheep Industry Improvement Center regulations at 7 CFR Part 63. This interim rule redesignates (1) the statutory authority from section 375 (7 U.S.C. 2008j) of the Consolidated Farm and Rural Development Act to the Agricultural Marketing Act of 1946 (7 U.S.C 1621-1627), (2) amends the definition of the Act under section 63.1 consistent with the redesignated statutory authority, and (3) amends the regulations by increasing the administrative cap for the use of the funds from 3 percent to 10 percent.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is



impracticable and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the *Federal Register* because: (1) These changes need to be in effect as soon as possible because the next available funding opportunities are scheduled to begin in July; and (2) the amendments are necessary to implement provision under the 2014 Farm Bill. For these same reasons a 30-day comment period is deemed appropriate.

**List of Subjects in 7 CFR Part 63**

Administrative practice and procedure, Advertising, Lamb and Lamb products, Goat and Goat products, Consumer Information, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Chapter I of Title 7 of the Code of Federal Regulations is amended as follows:

**PART 63—National Sheep Industry Improvement Center**

1. Revise the authority for part 63 to read as follows:

Authority: 7 U.S.C. 1621-1627

2. Revise § 63.1, Act, to read as follows:

**§ 63.1 Act.**

*Act* means the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627)

3. In §63.301 revise paragraph (a)(6) to read as follows:

**§ 63.301 Use of Fund.**

\* \* \* \* \*

(a) \*\*\*

(6) For administration purposes, with a maximum 10 percent of the NSIIC Fund balance at the beginning of each fiscal year for the administration of the NSIIC;

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Dated: May 27, 2014

Rex A. Barnes  
Associate Administrator

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