



## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 1260**

**Doc. # AMS-LPS-16-0071**

### **Beef Promotion and Research; Reapportionment**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule adjusts 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 domestic cattle inventories and changes in levels of imported cattle, beef, and beef products that have occurred since the Agricultural Marketing Service (AMS) last reapportioned the Board in July 2014. These adjustments are required by the Beef Promotion and Research Order (Order) and will result in a decrease in Board membership from 100 to 99, effective with the U.S. Department of Agriculture's (USDA) appointments for terms beginning early in the year 2018.

**DATES:** Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mike Dinkel, Agricultural Marketing Specialist; Research and Promotion Division; Livestock, Poultry, and Seed Program, AMS, USDA; Room 2610-S, STOP 0249, 1400 Independence Avenue, SW; Washington, D.C. 20250-0249; via telephone at (301) 352-7497; or by e-mail at

Michael.Dinkel@ams.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Executive Orders 12866 and 13771, and Regulatory Flexibility Act**

This rule does not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866 and is not subject to review by the Office of Management and Budget (OMB). Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB’s Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017). Under the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect.

The Act prohibits states or political subdivisions of a state to impose any requirement that is in addition to, or inconsistent with, any requirement of the Act. There are no civil justice implications associated with this final rule.

## **Paperwork Reduction Act**

In the February 2013 publication of “Farms, Land in Farms, and Livestock Operations,” USDA’s National Agricultural Statistics Service estimated that the number of operations in the U.S. with cattle totaled approximately 915,000 in 2012, down from 950,000 in 2009. There are approximately 270 importers who import beef or edible beef products into the United States and 198 importers who import live cattle into the United States. It is estimated that the majority of those operations subject to the Order are considered small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA generally defines small agricultural service firms as those having annual receipts of \$7.5 million or less, and small agricultural producers are generally defined as those having annual receipts of less than \$750,000.

The final rule imposes no new burden on the industry; it only adjusts representation on the Board to reflect changes in domestic cattle inventory, as well as in cattle and beef imports. The adjustments are required by the Order and will result in a decrease in Board membership from 100 to 99.

AMS is committed to complying with the E-Government Act of 2002 to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

## **Background**

The Act established a national beef research and promotion program—administered by the Board—that is financed through industry assessments and subject to oversight by USDA’s AMS. This program of promotion and research is designed to strengthen the position of beef and beef products in the marketplace and to establish, maintain, and expand markets for beef and beef products both domestically and internationally. Domestic representation on the Board is based on cattle inventory numbers, while importer representation is based on the conversion of the volume of imported cattle, beef, and beef products into live animal equivalencies.

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 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 Secretary of Agriculture modifications to the number of cattle per unit necessary for representation on the Board.

Section 1260.141(e)(1) of the Order 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 has 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 is entitled to an additional Board member for each additional 1 million head of cattle within the unit, as provided in § 1260.141(e)(4). Further, as provided in § 1260.141(e)(3), importers shall be represented by a single unit, with the number of Board members representing such unit based on a conversion of the total volume of imported cattle, beef, or beef products into live animal equivalencies.

Representation of states and units affected by this final rule is as follows:

State/unit	Current Representation	Revised Representation
Virginia	2	1
Texas	13	12
Importers	6	7

The Board reapportionment will take effect with appointments to fill positions early in the year 2018.

### **Summary of Comments**

AMS published the notice of proposed rulemaking in the Federal Register on January 13, 2017. The comment period closed on April 13, 2017. AMS received four timely comments. Three of the four comments were outside the scope of the rule. One commenter suggested that the latest statistical survey of cattle in Virginia released in February 2017 verifies that Virginia does in fact retain the prerequisite greater than 1.5

million head of cattle to justify two seats on the Board. For the purpose of this final rule, domestic cattle numbers are determined by using an average of 3 years to better reflect the geographic distribution of cattle production volume in the United States.

Accordingly, this comment was not adopted.

**List of Subjects in 7 CFR Part 1260**

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

For the reasons set forth in the preamble, 7 CFR part 1260 is 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. 2901-2911 and 7 U.S.C. 7401.

2. In § 1260.141, revise paragraph (a) to read as follows:

**§ 1260.141 Membership of Board.**

(a) Beginning with the 2017 Board nominations and the associated appointments effective early in the year 2018, the United States shall be divided into 37 geographical units and 1 unit representing importers, for a total of 38 units. The number of Board members from each unit shall be as follows:

**CATTLE AND CALVES <sup>1</sup>**

STATE/UNIT	(1,000 HEAD)	DIRECTORS
1. Arizona	900	1
2. Arkansas	1,660	2
3. Colorado	2,600	3

4. Florida	1,680	2
5. Idaho	2,307	2
6. Illinois	1,143	1
7. Indiana	873	1
8. Iowa	3,867	4
9. Kansas	5,983	6
10. Kentucky	2,110	2
11. Louisiana	787	1
12. Michigan	1,133	1
13. Minnesota	2,347	2
14. Mississippi	923	1
15. Missouri	3,983	4
16. Montana	2,567	3
17. Nebraska	6,317	6
18. New Mexico	1,340	1
19. New York	1,450	1
20. North Carolina	803	1
21. North Dakota	1,697	2
22. Ohio	1,243	1
23. Oklahoma	4,567	5
24. Oregon	1,300	1
25. Pennsylvania	1,580	2
26. South Dakota	3,783	4
27. Tennessee	1,770	2
28. Texas	11,500	12
29. Utah	807	1
30. Virginia	1,487	1

31. Wisconsin	3,467	3
32. Wyoming	1,293	1
33. Northwest		1
Alaska	10	
Hawaii	135	
Washington	1,137	
Total	1,282	
34. Northeast		1
Connecticut	48	
Delaware	16	
Maine	84	
Massachusetts	38	
New Hampshire	32	
New Jersey	28	
Rhode Island	5	
Vermont	260	
Total	<b>511</b>	
35. Mid-Atlantic		1
Maryland	186	
West Virginia	382	
Total	<b>567</b>	
36. Southeast		3
Alabama	1,240	
Georgia	1,057	
South Carolina	337	
Total	<b>2,633</b>	
37. Southwest		6

California	5,183	
Nevada	442	
Total	<b>5,625</b>	
38. Importers <sup>2/</sup>	6,949	7

<sup>1</sup> 2014, 2015, and 2016 average of January 1 cattle inventory data.

<sup>2</sup> 2013, 2014, and 2015 average of annual import data.

\* \* \* \* \*

**Dated:** June 13, 2017

Bruce Summers  
Acting Administrator  
Agricultural Marketing Service

BILLING CODE 3410-02 P

[FR Doc. 2017-12528 Filed: 6/15/2017 8:45 am; Publication Date: 6/16/2017]