

# 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](mailto: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](mailto: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

additional reporting or collecting requirements. No relevant Federal rules have been identified that duplicate, overlap, or conflict with the proposed rule.

#### Statement of Consideration

The proposed rule, if adopted, 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 reflects milk produced within each of the 13 geographic 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 in § 1150.131 that the Dairy Board shall review the geographic distribution of milk production volume 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 best reflect the geographic distribution of milk production in the United States. The Dairy Board is required to conduct the review at least every five years and not more than every three years.

The Order specifies the formula to be used to determine the number of Dairy

Board seats in each of the 13 geographic regions designated in the Order. Under the formula, total milk production for the contiguous 48 States for the previous calendar year is divided by 36 to determine a factor of pounds of milk represented by each Dairy Board member. The resulting factor is then divided into the pounds of milk produced in each region to determine the number of Board members for each region. Accordingly, the following table summarizes by region the volume of milk production distribution for 2002, the percentage of total milk production, the current number of Dairy Board seats per region, and the proposed number of Dairy Board seats for each region.

| Region and States                                                                 | Milk production (mil lbs)* | Percentage of total milk production | Current number of board seats | Proposed number of board seats |
|-----------------------------------------------------------------------------------|----------------------------|-------------------------------------|-------------------------------|--------------------------------|
| 1: Oregon, Washington .....                                                       | 7,713                      | 4.5                                 | 1                             | 2                              |
| 2: California .....                                                               | 34,884                     | 20.6                                | 6                             | 7                              |
| 3: Arizona, Colorado, Idaho, Montana, Nevada, Utah, Wyoming .....                 | 16,291                     | 9.6                                 | 3                             | 3                              |
| 4: Arkansas, Kansas, New Mexico, Oklahoma, Texas .....                            | 15,313                     | 9.0                                 | 3                             | 3                              |
| 5: Minnesota, North Dakota, South Dakota .....                                    | 10,447                     | 6.2                                 | 3                             | 2                              |
| 6: Wisconsin .....                                                                | 22,074                     | 13.0                                | 5                             | 5                              |
| 7: Illinois, Iowa, Missouri, Nebraska .....                                       | 8,971                      | 5.3                                 | 2                             | 2                              |
| 8: Alabama, Kentucky, Louisiana, Mississippi, Tennessee .....                     | 4,265                      | 2.5                                 | 1                             | 1                              |
| 9: Indiana, Michigan, Ohio, West Virginia .....                                   | 13,264                     | 7.8                                 | 3                             | 3                              |
| 10: Florida, Georgia, North Carolina, South Carolina, Virginia .....              | 7,194                      | 4.2                                 | 2                             | 1                              |
| 11: Delaware, Maryland, New Jersey, Pennsylvania .....                            | 12,492                     | 7.4                                 | 3                             | 3                              |
| 12: New York .....                                                                | 12,217                     | 7.2                                 | 3                             | 3                              |
| 13: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont ..... | 4,518                      | 2.7                                 | 1                             | 1                              |
| Total: 48 Contiguous States .....                                                 | 169,643                    | 100                                 | 36                            | 36                             |

\*Based upon preliminary 2002 data that was released in Milk Production, Distribution & Income, NASS, USDA, April 2003. This data will later be updated, revised, and finalized.

Upon the basis of its review of geographic milk production volume, the Dairy Board has proposed that the number of members in four of the 13 geographic regions be changed. The Dairy Board was last modified in 1998 based on 1997 milk production data. The current review conducted by the Dairy Board is based on 2002 data. In 2002, total milk production was 169,643 million pounds which indicates that each of the Dairy Board members would represent 4,712 million pounds of milk. For 1997, total milk production was 156,464 which indicated that each of the Board members would represent 4,346 milk pounds of milk.

Based on the 2002 milk production data, the Dairy Board proposes that member representation in Region 1 (Oregon and Washington) and Region 2 (California) each be increased by one member, and member representation in Region 5 (Minnesota, North Dakota, and South Dakota) and Region 10 (Florida, Georgia, North Carolina, South Carolina, and Virginia) each be decreased by one member. Milk production in Region 1

increased to 7,713 million pounds in 2002 up from 6,915 million pounds in 1997, indicating two Dairy Board members ( $7,713 \div 4,712 = 2$ ) compared to one Dairy Board member based on 1997 milk production data. Milk production in Region 2 increased in 2002 to 34,884 million pounds up from 27,628 million pounds in 1997, indicating seven Dairy Board members for the region ( $34,884 \div 4,712 = 7$ ) compared to 6 Dairy Board members based on the 1997. Also, in Region 5, milk production decreased to 10,447 million pounds in 2002 down from 11,307 million pounds in 1997, indicating two Dairy Board members ( $10,447 \div 4,712 = 2$ ) compared to three Board members based on 1997 milk production data. Additionally, milk production in Region 10 decreased to 7,194 million pounds in 2002 down from 7,523 million pounds in 1997, indicating one Dairy Board member for the region ( $7,194 \div 4,712 = 1$ ) compared to two members based on 1997 data.

Accordingly, it is proposed that member representation in Region 1 be increased from one member to two members, Region 2 representation be increased from six members to seven members, Region 5 representation be decreased from three members to two members, and Region 10 representation be decreased from two members to one member to reflect the geographic distribution of milk production within the contiguous 48 States.

A 14-day comment period is provided for interested persons to comment on this proposed rule. Twelve terms of existing Dairy Board members will expire on October 31, 2003. Thus, a 14-day comment period is provided to allow for a timely appointment of new Dairy Board members based on the current geographic distribution of milk production in the contiguous 48 States.

#### List of Subjects in 7 CFR Part 1150

Dairy Products, Milk, Promotion, Research.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1150 be amended as follows:

#### **PART 1150—DAIRY PROMOTION PROGRAM**

1. The authority citation for 7 CFR part 1150 continues to read as follows:

**Authority:** 7 U.S.C. 4501–4513.

2. In § 1150.131, paragraphs (a)(1), (a)(2), (a)(5), and (a)(10) are revised to read as follows:

##### **§ 1150.131 Establishment and membership.**

(a) \* \* \*

(1) Two members from region number one comprised of the following States: Washington and Oregon.

(2) Seven members from region number two comprised of the following State: California.

\* \* \* \* \*

(5) Two members from region number five comprised of the following States: Minnesota, North Dakota and South Dakota.

\* \* \* \* \*

(10) One member from region number ten comprised of the following States: Florida, Georgia, North Carolina, South Carolina and Virginia.

\* \* \* \* \*

Dated: June 27, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 03–16827 Filed 7–2–03; 8:45 am]

**BILLING CODE 3410–02–P**

#### **NATIONAL CREDIT UNION ADMINISTRATION**

##### **12 CFR Chapter VII**

##### **Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996**

**AGENCY:** National Credit Union Administration.

**ACTION:** Notice of regulatory review; request for comments.

**SUMMARY:** The NCUA Board is beginning a review of its regulations to reduce burden imposed on federally-insured credit unions, as required by section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. As required by section 2222, NCUA has categorized its regulations for the purpose of the review and proposes to publish categories of regulations for review between now and 2006.

The categories, and the regulations that NCUA considers to be part of those categories, are detailed below. This review presents a significant opportunity to consider the possibilities for burden reduction among groups of similar regulations. NCUA welcomes comment on the categories, the order of review and all other aspects of the project in order to maximize its effectiveness.

Today, NCUA is publishing its first in a series of public notices, comprising two of the categories—“Applications and Reporting,” and “Powers and Activities”—for public comment to identify outdated, unnecessary, or burdensome regulatory requirements imposed on federally-insured credit unions. Since NCUA will publish a series of requests for comment on the remaining categories, it is not recommended that burden reduction comments be submitted now for any regulations in other categories.

**DATES:** Comment must be received on or before October 1, 2003.

**ADDRESSES:** Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Please send comments by one method only. Because of the number of regulatory matters for which NCUA may be receiving comments during the time this comment period is open, we suggest commenters identify comments in response to this notice by including “EGRPRA” in a subject or reference line in their comments.

##### **FOR FURTHER INFORMATION CONTACT:**

Mary F. Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

##### **SUPPLEMENTARY INFORMATION:**

##### **I. Introduction**

Congress enacted section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) (Pub. L. 104–208) as part of an effort to minimize unnecessary government regulation consistent with safety and soundness, consumer protection, and other public policy goals. Under section 2222 (12 U.S.C. 3311), NCUA and the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision (Agencies) must review their regulations to reduce burden on insured depository institutions. We are

required, jointly or individually, to categorize regulations by type, such as “consumer regulations” or “safety and soundness” regulations. Once we establish the categories, we must provide notice and ask for public comment on one or more of these regulatory categories. In drafting this notice, the NCUA participated as part of the EGRPRA planning process with the other Agencies. Because of the unique circumstances of federally-insured credit unions and their members, NCUA is issuing a separate notice from the Agencies. NCUA’s notice is consistent and comparable with the Agency’s notice, except on issues that are unique to credit unions. Section 2222 requires that NCUA ask the public to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome. NCUA must issue these publications for comment at regular intervals such that all of its regulations are published within a 10-year cycle. The first publication cycle will end in September 2006. The EGRPRA review supplements and complements the reviews of regulations that NCUA conducts under other laws and its internal policies.

Section 2222 requires a two-part regulatory response. First, NCUA must publish in the **Federal Register** a summary of the comments received, identifying the significant issues raised and discussing those issues. Second, NCUA must “eliminate unnecessary regulations to the extent that such action is appropriate.” NCUA and the Agencies may prepare the regulatory response individually or jointly.

Section 2222 further requires the FFIEC to submit a report to the Congress within 30 days after NCUA and the Agencies publish the comment summary and discussion in the **Federal Register**. This report must summarize any significant issues raised by the public comments and the relative merits of those issues. The report also must analyze whether the appropriate federal financial regulator involved is able to address the regulatory burdens associated with the issues by regulation, or whether the burdens must be addressed by legislation.

##### **II. The EGRPRA Review’s Special Focus**

The regulatory review required by section 2222 provides a significant opportunity for the public and NCUA to step back and look at groups of related regulations and identify possibilities for streamlining. The EGRPRA review’s overall focus on the “forest” of regulations will offer a new perspective in identifying opportunities to reduce