DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[No. LS-94-015]

Sheep and Wool Promotion, Research, Education, and Information Order

AGENCY: Agricultural Marketing Service,

USDA.

ACTION: Proposed rule.

SUMMARY: The Sheep Promotion, Research, and Information Act of 1994 (Act), authorized the establishment of a national, industry-funded and -operated sheep and wool promotion, research, education, and information program. On January 4, 1995, the Agricultural Marketing Service (AMS) published in the Federal Register an invitation to submit proposals for a sheep and wool promotion, research, education, and information order (Order). AMS received an entire industry proposal as well as four other partial proposals, all of which were published for public comment in the June 2, 1995, issue of the Federal Register. A public meeting was held on June 26, 1995, at the Department of Agriculture (Department) to discuss the proposed Order and to solicit comments on the proposal. After evaluating the written comments submitted, the transcript from the public meeting, and other available material, an Order is issued pursuant to the provisions of the Act and will be subject to a referendum.

Before the Order is made effective, a referendum must be conducted among sheep producers, sheep feeders, and importers of sheep and sheep products, except importers of raw wool. A final referendum rule will be published separately in the Federal Register. If sheep producers, feeders, and importers voting in the referendum approve the proposed Order, all producers, feeders, and importers would be required to pay assessments, which would be used in a national program of sheep and wool promotion, research, education, consumer, industry, and producer information.

information

The certification and nomination procedures for the establishment of the National Sheep Promotion, Research, and Information Board (Board) as well as other implementing regulations will be published separately in the Federal Register.

ADDRESSES: Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2606–S; Livestock and Seed Division, AMS–USDA; P.O. Box 96456; Washington, D.C. 20090–6456. FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION: Prior documents: Notice-Invitation to submit proposals published January 4, 1995 (60 FR 381); Proposed Rule-Sheep and Wool Promotion, Research, Education, and Information Order published June 2, 1995 (60 FR 28747); Proposed Rule: Procedures for Conduct of Referendum published August 8, 1995 (60 FR 40313); Notice-Certification of Organization for Eligibility to Make Nominations to the Proposed Board published August 8, 1995 (60 FR 40343); Proposed Rule-Rules and Regulations published October 3, 1995 (60 FR 51737).

Regulatory Impact Analysis

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule was reviewed under Executive Order 12778, 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 Act provides that any person subject to the 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 an exemption from certain provisions or obligations of the Order. The petitioner would have the opportunity for a hearing on the petition. Thereafter the Secretary would issue a decision on the petition. The Act provides that the district court of the United States in the district in which the petitioner resides or carries on business has jurisdiction to review the Secretary's decision, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the decision. The petitioner must exhaust his or her administrative remedies before filing such a complaint in the district court.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), the Administrator of AMS has considered the economic impact of this proposed action on small entities. The purpose of RFA is to fit regulatory actions to the scale of the businesses that are subject to such actions so that small businesses would not be unduly or disproportionately burdened.

According to the January 27, 1995, issue of "Sheep and Goats," published by the Department's National Agricultural Statistics Service, there are approximately 87,350 sheep operations in the United States, nearly all of which would be classified as small businesses under the criteria established by the Small Business Administration (13 CFR 121.601). Additionally, there are approximately 9,000 importers of sheep and sheep products, nearly all of which would be classified as small businesses.

This proposed Order would require each person who makes payment to a sheep producer, feeder, or handler of sheep or sheep products to be a collecting person, and to collect an assessment from that sheep producer, feeder, or handler of sheep or sheep products. Any person who buys domestic live sheep or greasy wool for processing must also collect the assessment and remit it to the Board. Each person who processes or causes to be processed sheep or sheep products of that person's own production and who markets the processed products would pay an assessment and remit the assessment to the Board. Any person who exports live sheep or greasy wool would be required to remit an assessment to the Board. Finally, each person who imports into the United States sheep, sheep products, wool, or wool products, other than raw wool, would pay an assessment. The U.S. Customs Service (Customs) would collect the assessments on imported sheep and sheep products (except raw wool) and forward them to AMS for disbursement to the Board.

The rate of assessment on domestic sheep producers, feeders, and exporters of live sheep and greasy wool would be 1-cent-per-pound on live sheep sold and 2-cents-per-pound on greasy wool sold. Importers would be assessed 1-cent-perpound on live sheep and the equivalent of 1-cent-per-pound of live sheep for sheep products and 2-cents-per-pound of degreased wool or the equivalent of degreased wool for wool and wool products. Imported raw wool would be exempt from assessments. Each person who processes or causes to be processed sheep or sheep products of that person's own production and markets the processed products would be assessed the equivalent of 1-cent-per-pound of live sheep sold and 2-cents-per-pound of greasy wool sold. All assessment rates