

meetings, the February 28, 2006, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

An interim final rule regarding this action was published in the **Federal Register** on April 10, 2006. Committee staff ensured that copies of the rule were made available to Committee members and Washington sweet cherry industry members. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. The interim final rule provided for a 60-day comment period that ended June 9, 2006. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalization of the interim final rule, without change, as published in the **Federal Register** (71 FR 17982, April 10, 2006) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ Accordingly, the interim final rule amending 7 CFR part 923 which was published at 71 FR 17982 on April 10, 2006, is adopted as a final rule without change.

Dated: July 18, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6-11736 Filed 7-21-06; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1250

[Docket No. PY-06-001]

#### Amendment to Egg Research and Promotion Rules and Regulations

**AGENCY:** Agricultural Marketing Service.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This action will amend the Egg Research and Promotion Rules and Regulations by changing the State composition of the six geographic areas on the American Egg Board. The Board approved this change and requested that the Secretary amend the Rules and Regulations accordingly. This adjustment is based on changing geographic trends in egg production and would become effective beginning with the 2007-08 membership term.

**DATES:** Effective July 25, 2006. Comments must be received by August 23, 2006.

**ADDRESSES:** Written comments are to be mailed to Angela C. Snyder, Chief, Research and Promotion, Poultry Programs, AMS, USDA, Stop 0256, 1400 Independence Avenue, SW., Washington, DC 20090-6456; or by fax to (202) 720-5631. Alternatively, comments may be submitted electronically to:

[angie.snyder@usda.gov](mailto:angie.snyder@usda.gov). Comments may also be submitted electronically to: [AMSPYDockets@usda.gov](mailto:AMSPYDockets@usda.gov) or <http://www.regulations.gov>. State that your comments refer to Docket No. PY-06-001. Comments should be submitted in duplicate. Comments received may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments received also will be made available over the Internet in the rulemaking section of the AMS Web site <http://www.ams.usda.gov/rulemaking>. A copy of this interim final rule may be found at: <http://www.ams.usda.gov/poultry/regulations/rulemaking/index.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Angela C. Snyder, (202) 720-5131.

**SUPPLEMENTARY INFORMATION:** The Egg Research and Promotion Order (Order) is issued under the Egg Research and Consumer Information Act (Act), as amended [7 U.S.C. 2701 *et seq.*].

#### Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule 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 administrative proceedings must be exhausted before

parties may file suit in court. Under section 14 of the Act, a person subject to an order may file provisions of such Order or any obligations imposed in connection with such Order are not in accordance with law; and requesting a modification of the Order or an exemption there from. Such person 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 such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint is filed within 20 days after date of the entry of the ruling.

#### Regulatory Flexibility Act

The Agricultural Marketing Service has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule imposes no new burden on the industry but merely adjusts area distribution to reflect geographic shifts in production since the last review. In accordance with the provisions of the Act and section 1250.328 of the Order, the area grouping of the 48 contiguous States are to be reviewed by the Board at least every 5 years. Based on the latest review, the Board has recommended adjustment of area distribution to reflect sustained geographic shifts in egg production. Total United States table egg production was 76.98 billion in 2005, representing a 9% increase in exports and continued increases in domestic per capita consumption.

There are approximately 260 egg producers required to pay assessments to the Board under the Act. The Act exempts producers owning less than 75,000 laying hens from paying assessments; therefore, the nation's smallest producers are exempt from the program. The Small Business Administration (SBA) [13 CFR 121.201] defines small agricultural producers as those having receipts of \$750,000 or less annually and small agricultural service firms as those having receipts of \$6.5 million or less annually. None of the 260 producers subject to the Act are believed to be categorized by the SBA as small agricultural producers.

#### Paperwork Reduction Act

Information collection requirements and recordkeeping provisions contained in 7 CFR part 1250 have been previously approved by the Office of Management and Budget and assigned OMB Control

No. 0581-0093 under the Paperwork Reduction Act of 1980.

**Background and Proposed Change**

The Egg Research and Promotion Order (7 CFR 1250.301-1250.363) established pursuant to the Egg Research and Consumer Information Act, as amended (7 U.S.C. 2701 *et seq.*), provides in section 1250.328(d) that any changes in representation on the American Egg Board be determined by the percentage of total U.S. egg production in each of the six geographic areas. The Board has 18 members, and representation in each of the 6 areas is based on egg production in the area. The Order further provides in section 1250.328(e) that the Board or designated

person or agency shall conduct periodic reviews of production by geographic area at any time, not to exceed 5 years. This ensures that representation on the Board, insofar as is practicable, is fair and equal.

During the development process of the Order in 1975, the 48 contiguous States of the United States and the District of Columbia were divided into 6 geographic areas for purposes of determining proportionate representation on the Board. The areas corresponded with those used by the National Agriculture Statistics Service, USDA.

The Order provides in section 1250.328(d) that Board membership in each area be determined by calculating

the percentage of U.S. egg production in the area, multiplying that total by 18 (total Board membership), and rounding to the nearest whole number.

For the 2003 review, the American Egg Board 2002 production data were reconciled with the 2002 data from USDA to verify the shifts in production trends. The review showed the South Atlantic, East North Central, West North Central, South Central, and Western areas are no longer equitably represented on the Board.

Therefore, the Board submitted a recommendation to the Secretary in accordance with section 1250.328(e) of the Order to redistrict the six areas. The following changes will be made accordingly:

**STATE COMPOSITION**

Current	Revisions
<b>I—North Atlantic</b>	
Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, District of Columbia.	None.
<b>II—South Atlantic</b>	
Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee.	Add Arkansas, Louisiana, Mississippi, Oklahoma; Remove Kentucky, Tennessee.
<b>III—East North Central</b>	
Indiana, Michigan, Ohio .....	Add Kentucky, Missouri, Tennessee; Remove Indiana.
<b>IV—West North Central</b>	
Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin.	Add Colorado, Idaho, Indiana, Montana, Wyoming; Remove Iowa, Nebraska.
<b>V—South Central</b>	
Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Texas.	Add Iowa, Nebraska; Remove Arkansas, Colorado, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Texas.
<b>VI—Western</b>	
Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming.	Add New Mexico, Texas; Remove Idaho, Montana, Wyoming.

The change is based on production in the redistricted areas and application of the formula in section 1250.328(d) of the Order that states that changes to the

Board shall be accomplished by determining the percentage of United States egg production in each area times 18 (total Board membership) and

rounding to the nearest whole number, as follows:

Redistricted area	Reported cases	% of total production	% of total production times 18	Board membership <sup>1</sup>
I—North Atlantic .....	41,440,000	15.26	2.75	3
II—South Atlantic .....	39,900,000	14.70	2.65	3
III—East North Central .....	43,980,000	16.20	2.92	3
IV—West North Central .....	47,670,000	17.56	3.16	3
V—South Central .....	50,100,000	18.45	3.32	3
VI—Western .....	48,400,000	17.83	3.21	3
Total U.S. Production .....	271,490,000	100	18.01	18

<sup>1</sup> Based on rounding to the nearest whole number [§ 1250.328(d)].

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, 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 the Board adjustment provided for in this interim final rule needs to be effective as soon as possible in order to complete 2007–2008 Board appointments.

#### List of Subjects in 7 CFR Part 1250

Administrative practice and procedure, Advertising, Agricultural research, Eggs and egg products, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, Title 7, CFR part 1250 is amended as follows:

#### PART 1250—EGG RESEARCH AND PROMOTION

■ 1. The authority citation for part 1250 continues to read as follows:

**Authority:** 7 U.S.C. 2701–2718 and 7 U.S.C. 7401.

■ 2. Section 1250.510 is revised to read as follows:

#### § 1250.510 Determination of Board Membership.

(a) Pursuant to § 1250.328 (d) and (e) of the Order, the 48 contiguous States of the United States shall be grouped into 6 geographic areas, as follows: Area 1 (North Atlantic States)—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; Area 2 (South Atlantic States)—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina; Area 3 (East North Central States)—Kentucky, Michigan, Missouri, Ohio, Tennessee; Area 4 (West North Central States)—Colorado, Idaho, Illinois, Indiana, Minnesota, Montana, North Dakota, South Dakota, Wisconsin, Wyoming; Area 5 (South Central States)—Iowa, Kansas, Nebraska; Area 6 (Western States)—Arizona, California, Nevada, New Mexico, Oregon, Texas, Utah, and Washington.

(b) Board representation among the 6 geographic areas is apportioned to reflect the percentages of United States egg production in each area times 18 (total Board membership). The distribution of members of the Board is:

Area 1–3, Area 2–3, Area 3–3, Area 4–3, Area 5–3, and Area 6–3. Each member will have an alternate appointed from the same area.

Dated: July 18, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E6–11738 Filed 7–21–06; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2005–23157; Airspace Docket No. 05–ANM–15]

#### Amendment to Class E Airspace; Kalispell, MT

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revises the Class E airspace at Kalispell, MT. Additional controlled airspace is necessary for the safety of Instrument Flight Rules (IFR) aircraft executing the published Instrument Landing System (ILS) approach procedures to the newly extended runway at Kalispell/Glacier Park International Airport, Kalispell, MT.

**DATES:** *Effective Date:* 0901 UTC, September 28, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ed Haeseker, Federal Aviation Administration, Western En Route and Oceanic Area Office, Airspace Branch, 1601 Lind Avenue SW., Renton, WA, 98055–4056; telephone (425) 227–2527.

#### SUPPLEMENTARY INFORMATION:

#### History

On December 28, 2005, the FAA published in the **Federal Register** a notice of proposed rulemaking to revise Class E airspace at Kalispell, MT (71 FR 16250). This action would provide additional controlled airspace for the safety of IFR aircraft executing the published ILS approach procedures to the newly extended runway at Kalispell/Glacier Park International Airport, Kalispell, MT. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002 of FAA Order 7400.90, effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E

airspace designations listed in this document will be published subsequently in that Order.

#### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Kalispell, MT. Additional controlled airspace is necessary for the safety of IFR aircraft executing the published ILS approach procedures to the newly extended runway at Kalispell/Glacier Park International Airport, Kalispell, MT.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.90, Airspace Designations and Reporting Points, updated yearly, effective September 15, 2006, is amended as follows:

*Paragraph 6002—Class E Airspace Designated As a Surface Area.*

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