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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1160

[DA-96-07]

Fluid Milk Promotion Order; Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Fluid Milk Promotion Order to modify the term of the chairperson of the National Fluid Milk Processor Promotion Board, effective July 1, 1996. The proposal was submitted by the National Fluid Milk Processor Promotion Board which contends the action is necessary to enable it to operate more effectively.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Eugene E. Krueger, Head, Promotion and Research Staff, USDA/AMS/Dairy Division, Room 2734, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-6909.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Invitation to Submit Comments on Proposed Amendment to the Order: Issued May 2, 1996; published May 8, 1996 (61 FR 20759).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. The amendment modifies the term of the chairperson of the National Fluid Milk Processor Promotion Board and will not have an economic effect on any entity engaged in the dairy industry.

The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Fluid Milk Promotion Act of 1990, as amended, authorizes the Fluid Milk Promotion Order. The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1999K of the Act, any person subject to a Fluid Milk Promotion 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 request 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 of the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

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 Fluid Milk Promotion Order have been approved by the Office of Management and Budget (OMB) and were assigned OMB No. 0581-0093, except for Board members' nominee information sheets that were assigned OMB No. 0505-0001.

Statement of Consideration

Section 1160.209(a) of the Fluid Milk Promotion Order currently provides that the National Fluid Milk Processor Promotion Board meet at least once a year and elect from among its members a chairperson to serve a term of one year and not more than two consecutive terms. The proposed amendment would modify, from one year to a fiscal period, the term of the chairperson and provide that such chairperson may serve not

more than two consecutive fiscal periods.

Currently, a term of office for the chairperson of the National Fluid Milk Processor Promotion Board is based on an annual period, which expires on July 27, 1996, rather than a fiscal period. The Board contends that the proposed amendment will provide continuity between fiscal periods and the terms of office of the chairperson. The Board indicates that this will allow the Board to operate more effectively.

Interested parties were provided an opportunity to submit comments on the proposed amendment, published in the Federal Register at 61 FR 20759 on May 8, 1996; no comments were received.

Issuance of this final rule is necessary to provide continuity between fiscal periods and the terms of office of the chairperson, and to allow the Board to operate more effectively. Accordingly, the proposed amendment to the order is made final in this action.

List of Subjects in 7 CFR Part 1160

Milk, Fluid milk products, Promotion.

For the reasons set forth in the preamble, the following provision in Title 7, Part 1160, is amended as follows:

PART 1160—FLUID MILK PROMOTION ORDER

1. The authority citation for 7 CFR Part 1160 continues to read as follows:

Authority: 7 U.S.C. 6401-6417.

2. Section 1160.209(a) is revised to read as follows:

§ 1160.209 Duties of the Board.

* * * * *

(a) To meet not less than annually, and to organize and select from among its members a chairperson, who may serve for a term of a fiscal period pursuant to § 1160.113, and not more than two consecutive terms, and to select such other officers as may be necessary;

* * * * *

Dated: May 24, 1996.

Shirley R. Watkins,
Deputy Assistant Secretary, Marketing and Regulatory Programs.
[FR Doc. 96-13614 Filed 5-29-96; 8:45 am]
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