Rules and Regulations

Federal Register

Vol. 75, No. 141

Friday, July 23, 2010

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 63

[Doc. No. AMS–LS–08–0064]

National Sheep Industry Improvement Center

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule promulgates rules and regulations establishing a National Sheep Industry Improvement Center (NSIIC) program, consistent with the Food, Conservation, and Energy Act of 2008 (Farm Bill). This rule establishes the NSIIC and a Board of Directors (Board) that will manage and be responsible for the general supervision of the activities of the NSIIC, with oversight from the U.S. Department of Agriculture (USDA). The NSIIC is authorized to use funds to make grants to eligible entities in accordance with a strategic plan. Additionally, this interim rule also announces USDA's Agricultural Marketing Service (AMS) request for approval of a new information collection in accordance with the Paperwork Reduction Act of 1995.

DATES: *Effective Date:* This interim rule is effective September 21, 2010.

Comment Date: Written comments on the regulatory provisions of this interim rule must be received by September 21, 2010. Pursuant to the PRA, comments on the information collection burden must be received by September 21, 2010. Comments will be posted as received, with any personal information provided.

ADDRESSES: Interested persons are invited to submit comments concerning this interim rule. Comments must be posted on *http//www.regulations.gov;* or sent to Kenneth R. Payne, Chief, Marketing Programs Branch, Livestock and Seed Program, AMS, USDA, Room 2628–S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250–0251; via Fax to 202/720–1125; or e-mail to *Kenneth.Payne@ams.usda.gov.*

In addition, comments concerning the information collection and recordkeeping requirement of this rule should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th St., NW., Room 725, Washington, DC 20503. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden on the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, other technological collection techniques or other forms of information technology.

All comments should reference the document number (AMS–LS–08–0064) and the volume, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Payne, Chief, Marketing Programs Branch; Telephone 202/720–1115; Fax: 202/720–1125; or e-mail *Kenneth.Payne@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This interim rule is published pursuant to 7 U.S.C. 2008j as amended by section 11009 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246) and will create a new part 63 in Title 7 of the Code of Federal Regulations for the establishment and function of the NSIIC.

Executive Order 12866

This interim rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore, has not been reviewed by the OMB.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State and local governments and the private sector. Under section 202 of the UMRA, the AMS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State and local governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). When such a statement is needed for a rule, section 205 of the UMRA generally requires Federal agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule (2 U.S.C. 1535). This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State and local governments or the private sector of $100 million or more in any one year. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12988

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have any retroactive effect. There are no administrative proceedings that must be exhausted before parties may file in court.

Executive Order 13132

This interim rule has been reviewed under Executive Order 13132, Federalism, and has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule would not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the agency is required to examine the impact of regulatory actions on small entities. The purpose of the RFA

is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. AMS certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the RFA.

The purpose of the NSIIC is to: (1) Promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance the production and marketing of sheep or goat products in the United States; (2) Optimize the use of available human capital and resources within the sheep or goat industries; (3) Provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research; (4) Advance activities that empower and build the capacity of the U.S. sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and (5) Adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

A Board of Directors will manage and be responsible for the general supervision of the structure of the NSIIC, with oversight from USDA. The Board is comprised of seven voting members, of whom four would be active producers of sheep or goats in the United States, two would have expertise in finance and management, and one would have expertise in lamb, wool, goat, or goat product marketing. The Secretary would appoint the voting members from nominations submitted by eligible organizations. There also would be two non-voting members on the Board, the Under Secretary of Agriculture for Rural Development (RD) and the Under Secretary of Agriculture for Research, Education, and Economics.

This rule provides opportunity for public, private, or cooperative organizations; associations, including corporations not operated for profit; federally recognized Indian Tribes; public or quasi-public agencies to be considered eligible entities to submit grant proposals to the Board. According to various sheep and goat association Web sites, there are approximately 215 regional, State, and national sheep and goat organizations located throughout the United States. In addition, according to the Department of the Interior's August 11, 2009, **Federal Register** (74 FR 40218); there are approximately 564 federally recognized American Indian Tribes in the United States.

According to the 2007 Census of Agriculture, there were 83,134 farms with sheep and lamb and 144,466 farms with goats in the United States. Thus, at least approximately 227,600 sheep, lamb and goat producers potentially would be eligible to serve on the four producer positions on the Board of NSIIC. Two positions on the Board are for persons with expertise in finance and management, while one position is for a person with expertise in lamb, wool, goat, or goat product marketing. It is estimated that not more than 10 national organizations would be eligible to nominate the voting members of the Board to the Secretary for appointment.

Most producers would be classified as small businesses under the criteria established by the Small Business Administration (13 CFR 121.201). The members of the national organizations would be expected to reflect this same size. The SBA defines small agricultural service firms as those whose annual receipts are less than $7 million, and small agricultural producers are defined as those having annual receipts of not more than $750,000 annually. With regard to persons who have expertise in finance and management or expertise in lamb, wool, goat, or goat product marketing, and other eligible entities, AMS does not have specific information on the number and size of all such persons or entities and requests comments providing pertinent information or data. Nonetheless, we would estimate that a number of such persons would be considered small entities.

The information collection burden is discussed in the following section.

Paperwork Reduction Act

In accordance with the PRA, this interim rule announces that AMS is requesting review and approval from OMB of a new information collection. AMS has based these estimates on industry research and experience with other boards and advisory committees. The proposed forms are necessary to appoint a Board to effectively carry out the requirements of the enabling legislation—including seating a Board. The nomination process is not expected to have a significant impact on persons affected. The overall impact of the NSIIC program under the Act is expected to be beneficial to sheep and goat industries.

The proposed forms have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements. Such information can be supplied without data processing equipment or outside technical expertise. There are no additional training requirements for individuals filling out reports to the Board. The forms would be simple and easy to understand and place as small a burden as possible on the person required to file the information. In addition, the information to be included on these forms is not available from other sources because such information relates specifically to individual producers or industry members who are nominated to the Board. Therefore, there is no practical method for collecting the required information without the use of these forms.

Title: National Sheep Industry Improvement Center.

OMB Number: 0581–NEW.

Expiration Date of Approval: 3 years from date of OMB approval.

Type of Request: Approval of a new information collection.

Abstract: The primary objective of the NSIIC is to assist U.S. sheep and goat industries by strengthening and enhancing the production and marketing of sheep, goats, and their products in the United States. The information collection requirements in the request are essential to carry out the intent of the enabling legislation.

AMS will accept nominations for membership on the Board from national organizations that (1) consist primarily of active sheep or goat producers in the United States and (2) have the primary interest of sheep or goat production in the United States. A nomination for appointment form would be submitted by such national organizations (who may submit more than one nominee) while a background information form and nominee's agreement to serve form would be submitted by each producer or industry member nominated to serve on the Board.

Estimate of Burden: The public reporting and recordkeeping burden for this collection of information is estimated to total 40 hours the first year and 16 hours each year after. We will submit a justification for change to report new burden hours added to form AD–755.

(1) Nominations for Appointments Form

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hour per response.

Respondents: National organizations submitting nominations to the Board who (1) consist primarily of active sheep or goat producers in the United States and (2) have the primary interest of sheep or goat production in the United States.

Estimated number of Respondents: 10.

Estimated number of Responses per Respondent: 1 per year.

Estimated Total Annual Burden: 5 hours.

(2) Background Information Form (OMB Form No. 0505–0001)

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hour per response for each producer or industry member nominated to serve on the Board.

Respondents: Sheep or goat producers; Persons with expertise in finance and management; and Persons with expertise in lamb, wool, goat, or goat marketing.

Estimated number of Respondents: (56 for initial nominations to the NSIIC Board, about 18 in the second year, about 18 in the third year).

Estimated number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 28 hours for the initial nominations to the NSIIC Board and approximately 9 hours annually thereafter.

(3) Nominee's Agreement To Serve

Estimate of Burden: Public reporting for this collection of information is estimated to average .125 hours per response for each producer or industry member nominated to serve on the Board.

Respondents: Sheep or goat producers; Persons with expertise in finance and management; and Persons with expertise in lamb, wool, goat, or goat marketing.

Estimated Number of Respondents: (56 for initial nominations to the NSIIC Board, about 18 in the second year, about 18 in the third year).

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 7 hours for the initial nominations to the NSIIC Board and approximately 2.25 (rounded down to 2) hours annually thereafter.

Comments are invited on: (1) Whether the new collection of information is necessary for the proper performance of the functions of the NSIIC, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the new collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Background Information

The NSIIC was initially authorized under the Consolidated Farm and Rural Development Act (Act). The Act, as amended, was passed as part of the 1996 Farm Bill (Pub. L. 104–127). The initial legislation included a provision that privatized the NSIIC 10 years after its ratification or once the full appropriation of $50 million was disbursed. Subsequently, the NSIIC was privatized on September 30, 2006 (72 FR 28945).

In 2008, the NSIIC was re-established under Title XI of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246), also known as the 2008 Farm Bill. Section 11009 of the 2008 Farm Bill repealed the requirement in section 375(e)(6) of the Act to privatize the NSIIC. Additionally, the 2008 Farm Bill provided for $1,000,000 in mandatory funding for fiscal year 2008 from the Commodity Credit Corporation for the NSIIC to remain available until expended, as well as authorization for appropriations in the amount of $10 million for each of fiscal years 2008 through 2012.

The authorizing legislation established in the United States Department of the Treasury (Treasury) the NIISC Revolving Fund (Fund). The Fund is to be available to the NSIIC, without fiscal year limitation, to carry out the authorized programs and activities of the NSIIC. The law provides authority for amounts in the Fund to be used for direct loans, loan guarantees, cooperative agreements, equity interests, investments, repayable grants, and grants to eligible entities, either directly or through an intermediary, in accordance with a strategic plan submitted by the NSIIC to the Secretary. This rulemaking will establish the NSIIC and use of the Fund for making only grants to eligible entities.

The purpose of the NSIIC is to: (1) Promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States; (2) Optimize the use of available human capital and resources within the sheep or goat industries; (3) Provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research; (4) Advance activities that empower and build the capacity of the U.S. sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and (5) Adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

The management of the NSIIC is vested in a Board that is appointed by the Secretary. The Secretary reviews and monitors compliance of the Board as provided under the Act and rules and regulations. The Board is composed of seven voting members, of whom four would be active producers of sheep or goats in the United States, two would have expertise in finance and management, and one would have expertise in lamb, wool, goat, or goat product marketing. The Board would also include two non-voting members, the Under Secretary of Agriculture for Rural Development (RD) and the Under Secretary of Agriculture for Research, Education, and Economics. The Secretary would appoint the voting members from nominations submitted by eligible organizations. A member's term of office shall be 3 years with a maximum of two terms. Board members shall initially serve staggered terms of 1, 2, or 3 years, as determined by the Secretary. Only national organizations that (1) consist primarily of active sheep or goat producers in the United States and (2) have the primary interest of sheep or goat production in the United States can make nominations to the Board. USDA will announce in a nationwide press release that USDA is accepting nominations from the aforementioned national organizations.

The Board will meet not less than once each fiscal year. Board members will not receive compensation for serving on the Board, but will be reimbursed for travel, subsistence, and other necessary expenses. The Board shall be responsible for general supervision of the NSIIC; review of any contract and grant to be made or entered into by the NSIIC and any financial assistance provided to the NSIIC; making final decision—by majority vote—on whether or not to provide grants to an eligible entity; and developing and establishing a budget plan and long-term operating plan to carry out the goals of the NSIIC.

The authorizing legislation establishes in the Treasury, the NSIIC Fund. The Fund is to be available to the NSIIC, without fiscal year limitation, to carry out the authorized programs and activities of the NSIIC. The law provides authority for amounts in the Fund to be

used to carry out authorized program activities of the NSIIC.

This interim rule authorizes a grant only program to be administered by the NSIIC Board. Based on funding, the Board will periodically announce that proposals may be submitted to the Board for consideration from eligible entities. The Board would determine how funds would be allocated. Proposals submitted to the Board must be consistent with the purpose of the NSIIC, which are to: (1) Promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance the production and marketing of sheep or goat products in the United States; (2) Optimize the use of available human capital and resources within the sheep or goat industries; (3) Provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research; (4) Advance activities that empower and build the capacity of the U.S. sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and (5) Adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

Discussion of Interim Regulatory Text

Sections 63.1 through 63.13 define certain terms pertinent to nomination processes for establishment of a NSIIC Board.

Sections 63.100 through 63.112 include provisions relating to the Board. These provisions cover establishment and membership, certification of organizations, the nomination process, powers and duties of the Board and other pertinent information related to Board function and operation.

Section 63.200 details the establishment and purpose of the NSIIC.

Sections 63.300 through 63.301 detail the establishment and use of the Fund. Specifically, these sections detail the purposes for which the Board shall expend funds and how the Fund shall be managed. This interim rule permits the making of contracts and grants only.

Sections 63.400 through 63.402 pertain to the books and records of the Board and the NSIIC, which the Secretary has access to and outlines the responsibilities for confidentiality.

Sections 63.500 through 63.505 contain miscellaneous provisions necessary for the function of the NSIIC and the oversight of USDA.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable and contrary to the public interest to give preliminary notice prior to putting this rule into effect in order to establish the Board and the NSIIC program at the earliest possible date consistent with the 2008 Farm Bill.

List of Subjects in 7 CFR Part 63

Administrative practice and procedure, Advertising, Consumer Information, Goat and goat products, Lamb and lamb products, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, chapter I of Title 7 is amended by adding part 63 to read as follows:

PART 63—NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER

Subpart A–General Provisions

Definitions

Sec.
63.1 Act.
63.2 Board.
63.3 Department or USDA.
63.4 Eligible entity.
63.5 Eligible organization.
63.6 Fiscal year.
63.7 Fund.
63.8 NSIIC.
63.9 Part.
63.10 Secretary.
63.11 Under Secretary for Rural Development.
63.12 Under Secretary for Research, Education, and Economics.
63.13 United States.

Board of Directors

63.100 Establishment and membership.
63.101 Nominations.
63.102 Nominee's agreement to serve.
63.103 Appointment.
63.104 Vacancies.
63.105 Nominating organizations.
63.106 Term of office.
63.107 Compensation.
63.108 Removal.
63.109 Procedure.
63.110 Powers and duties of the Board.
63.111 Prohibited activities.
63.112 Conflict of interest.

National Sheep Industry Improvement Center

63.200 NSIIC Establishment and purpose.

Revolving Fund

63.300 Establishment.
63.301 Use of fund.

Reports, Books, and Records

63.400 Books and records.
63.401 Use of information.
63.402 Confidentiality.

Miscellaneous

63.500 Compliance.
63.501 Patents, copyrights, inventions, trademarks, information, publications, and product formulations.
63.502 Personal liability.
63.503 Separability.
63.504 Amendments.
63.505 OMB control number.

Subpart B [Reserved]

Authority: 7 U.S.C. 2008j.

Subpart A–General Provisions

Definitions

§ 63.1 Act.

Act means section 375 of the Consolidated Farm and Rural Development Act, 7 U.S.C. 2008j, as amended by section 11009 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246).

§ 63.2 Board.

Board means National Sheep Industry Improvement Center Board of Directors established under § 63.100.

§ 63.3 Department or USDA.

Department or *USDA* means the United States Department of Agriculture.

§ 63.4 Eligible entity.

Eligible entity means an entity that promotes the betterment of the United States sheep or goat industries and that is a public, private, or cooperative organization; an association, including a corporation not operated for profit; a federally recognized Indian Tribe; or a public or quasi-public agency.

§ 63.5 Eligible organization.

Eligible organization means any national organization that meets the criteria provided for in § 63.105 as being eligible to submit nominations for membership on the Board.

§ 63.6 Fiscal year.

Fiscal year means a calendar year or any other 12 month period as determined by the Board.

§ 63.7 Fund.

Fund means the NSIIC Revolving Fund established in the United States Department of the Treasury that is available to the NSIIC without fiscal year limitation, to carry out the programs and activities authorized under the Act.

§ 63.8 NSIIC.

NSIIC or *Center* means the National Sheep Industry Improvement Center established under § 63.200.

§ 63.9 Part.

Part means the rules and regulations issued pursuant to the Act that appear

in part 63 of Title 7 of the Code of Federal Regulations.

§ 63.10 Secretary.

Secretary means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 63.11 Under Secretary for Rural Development.

Under Secretary for Rural Development means the Under Secretary for Rural Development of the U.S. Department of Agriculture, or any other officer or employee of the Department designated by the Under Secretary to act in the Under Secretary's stead.

§ 63.12 Under Secretary for Research, Education, and Economics.

Under Secretary for Research, Education, and Economics means the Under Secretary for Research, Education, and Economics of the U.S. Department of Agriculture, or any other officer or employee of the Department designated by the Under Secretary to act in the Under Secretary's stead.

§ 63.13 United States.

United States means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Board of Directors

§ 63.100 Establishment and membership.

There is hereby established a National Sheep Industry Improvement Center Board. The Board is composed of seven voting members and two non-voting members. Voting members of the Board shall be appointed by the Secretary from nominations submitted in accordance with this part. The Board shall consist of the following:

(a) Voting Members.

(1) Four members shall be active producers of sheep or goats in the United States;

(2) Two members shall have expertise in finance and management; and

(3) One member shall have expertise in lamb, wool, goat, or goat product marketing.

(b) Non-Voting Members.

(1) One member shall be the Under Secretary of Agriculture for Rural Development, USDA; and

(2) One member shall be the Under Secretary for Research, Education, and Economics, USDA.

§ 63.101 Nominations.

All nominations authorized under this section shall be made in the following manner:

(a) Nominations shall be obtained by the Secretary from national organizations eligible under § 63.105. An eligible organization shall submit to the Secretary for consideration at least two nominations for one or more voting member seats on the Board. If two nominations for each voting member seat are not submitted by such organization(s), then the Secretary may solicit nominations from other sources.

(b) After the establishment of the initial Board, USDA shall announce when a vacancy does or will exist. Nomination for subsequent Board members shall be submitted to the Secretary not less than sixty (60) days prior to the expiration of the terms of the members whose terms are expiring, in the manner as described in this section. In the case of vacancies due to reasons other than the expiration of a term of office, successor Board members shall be appointed pursuant to § 63.104.

(c) If more than one eligible organization exists, they may caucus and jointly nominate at least two qualified persons for each position. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization may submit to the Secretary at least two nominees for each appointment to be made.

§ 63.102 Nominee's agreement to serve.

Any person nominated to serve on the Board shall file with the Secretary at the time of the nomination a written agreement to:

(a) Serve on the Board if appointed;

(b) Disclose any relationship that may create a conflict of interest under § 63.112; and

(c) Withdraw from participation in deliberations, decision-making, or voting on matters which concern any relationship disclosed under paragraph (b) of this section.

§ 63.103 Appointment.

From the nominations made pursuant to § 63.101, the Secretary shall appoint the members of the Board.

§ 63.104 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall appoint a successor from the most recent list of nominations for the position or the Secretary shall request nominations for a successor pursuant to § 63.101 and such successor shall be appointed pursuant to § 63.103.

§ 63.105 Nominating organizations.

(a) *In general.* Nominations for voting members of the Board may be submitted by any national organization that the Secretary determines meets the eligibility criteria established under paragraph (b) of this section.

(b) *Basis for eligibility.* A national organization is eligible to submit nominations for voting members on the Board if:

(1) The membership of the organization consists primarily of active sheep or goat producers in the United States; and

(2) The primary interest of the organization is the production of sheep or goats in the United States.

§ 63.106 Term of office.

(a) The voting members of the Board shall serve for a term of three years; except that persons (other than the chairperson) appointed to the initial Board shall serve staggered terms of one, two, and three years, as determined by the Secretary.

(b) No member may serve more than two consecutive full terms.

§ 63.107 Compensation.

Board members shall serve without compensation, but shall be reimbursed for their reasonable travel, subsistence, and other necessary expenses incurred in performing their duties as members of the Board.

§ 63.108 Removal.

If the Secretary determines that any person appointed under this part fails or refuses to perform his or her duties properly or engages in acts of dishonesty or willful misconduct, the Secretary shall remove the person from office. A person appointed under this part or any employee of the Board may be removed by the Secretary if the Secretary determines that the person's continued service would be detrimental to the purposes of the Act.

§ 63.109 Procedure.

(a) At a Board meeting, it will be considered a quorum when a simple majority of the voting representatives are present.

(b) A decision of the Board shall be made by a majority of the voting members of the board.

(c) The Board shall meet not less than once each fiscal year at the call of the chairperson or at the request of the executive director.

(d) The location of the meeting shall be established by the Board.

(e) A chairperson shall be selected from among the voting members of the Board and all serve a term of office of two years.

(f) All Board members and the Secretary will be notified at least 30 days in advance of all Board meetings, unless an emergency meeting is declared.

(g) In lieu of voting at a properly convened meeting and, when in the opinion of the chairperson of the Board such action is necessary, the Board may take action if supported by a simple majority of the Board representatives by mail, telephone, electronic mail, facsimile, or any other means of communication. In that event, all representatives must be notified and provided the opportunity to vote. Any action so taken shall have the same force and effect as though such action had been taken at a properly convened meeting of the Board. All telephone votes shall be confirmed promptly in writing. All votes shall be recorded in Board minutes.

(h) There shall be no voting by proxy.

(i) The organization of the Board and the procedures for conducting meetings of the Board shall be in accordance with its bylaws, which shall be established by the Board and approved by the Secretary.

§ 63.110 Powers and duties of the Board.

The management of the NSIIC shall be vested in the Board of Directors. The Board shall have the following powers and duties:

(a) Be responsible for the general supervision of the NSIIC;

(b) Review any grant or contract agreement to be made or entered into by the NSIIC and any financial assistance provided to the NSIIC;

(c) Make the final decision, by majority vote, on whether or not to provide grants to an eligible entity in accordance with the strategic plan;

(d) Develop and establish a budget plan and long-term operating plan to carry out the goals of the NSIIC;

(e) Adopt, and amend as appropriate, bylaws as necessary for the proper management and functioning of the NSIIC;

(f) Provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the NSIIC;

(g) Appoint and establish compensation for an executive director, who will serve at the pleasure of the Board, to be the chief executive officer of the NSIIC;

(h) Appoint other officers, attorneys, employees, and agents as necessary and set forth their respective duties and powers;

(i) Delegate, by resolution, to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board—other than voting on a grant, contract, agreement, budget, or annual strategic plan; and

(j) Consult with the following entities to carry out this part:

(1) State departments of agriculture;

(2) Federal departments and agencies;

(3) Nonprofit development corporations;

(4) Colleges and universities;

(5) Banking and other credit-related agencies;

(6) Agriculture and agribusiness organizations, and

(7) Regional planning and development organizations.

§ 63.111 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

(a) Any action that is a conflict of interest under § 63.112;

(b) Using funds to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, State, national, and foreign governments, other than recommending to the Secretary amendments to the Order; and

(c) Any activity that is false, misleading, or disparaging to another agricultural commodity.

§ 63.112 Conflict of interest.

(a) *In general.* Members of the Board shall not vote on any particular matter pending before the Board in which, to the knowledge of the member, an interest is held by the member, any spouse of the member, any child of the member, any partner of the member, any organization in which the member is serving as an officer, director, trustee, partner, or employee; or any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest, except as provided in paragraph (c) of this section.

(b) *Validity of action.* An action by a member of the Board that violates § 63.112 (a) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

(c) *Disclosure.* If a member of the Board makes full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in paragraph (d) of this section. A member that discloses an interest under section § 63.112(a) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

(d) *Remands.* The Secretary may vacate and remand to the Board for reconsideration any decision made if the Secretary determines that there has been a violation of this section or any conflict of interest provision of the bylaws of the Board with respect to the decision.

(1) In the case of any violation and remand of a funding decision to the Board, the Secretary shall inform the Board of the reasons for the remand.

(2) If a decision with respect to the matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

National Sheep Industry Improvement Center

§ 63.200 NSIIC Establishment and purpose.

(a) There is hereby established a National Sheep Industry Improvement Center. The purpose of the Center shall be to:

(1) Promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

(2) Optimize the use of available human capital and resources within the sheep or goat industries;

(3) Provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

(4) Advance activities that empower and build the capacity of the U.S. sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

(5) Adopt flexible and innovative approaches to solving the long-term needs of the United States sheep and goat industry.

(b) The NSIIC shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the NSIIC. A strategic plan shall identify:

(1) Goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the NSIIC;

(2) The amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

(3) Funding priorities;
(4) Selection criteria for funding; and
(5) A method of distributing funding.

Revolving Fund

§ 63.300 Establishment.

The NSIIC Revolving Fund established in the Treasury shall be available to the NSIIC, without fiscal year limitation, to carry out the authorized programs and activities of the NSIIC under this part. There shall be deposited in the Fund:

(a) Such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the NSIIC;

(b) Payments received from any source for products, services, or property furnished in connection with the activities of the NSIIC;

(c) Fees and royalties collected by the NSIIC from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants or contracts executed by the NSIIC;

(d) Donations or contributions accepted by the NSIIC to support authorized programs and activities. Such contributions shall be free from any encumbrance by the donor and the NSIIC shall retain complete control of their use; and

(e) Any other funds acquired by the NSIIC.

§ 63.301 Use of fund.

The NSIIC shall use the Fund to:

(a) Make grants to eligible entities in accordance with a strategic plan submitted under § 63.310 of this part. Specifically, amounts in the Fund may be used to:

(1) Participate with Federal and State agencies in financing activities that are in accordance with the strategic plan, including participation with several States in a regional effort;

(2) Participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

(3) Accrue interest;

(4) Serve broad geographic areas and regions of diverse production, to the maximum extent practicable;

(5) Only to supplement and not supplant Federal, State, and private funds expended for rural development;

(6) For administration purposes, with a maximum 3 percent of the NSIIC Fund balance at the beginning of each fiscal year for the administration of the NSIIC; and

(b) Provide funds to eligible entities contingent upon that entity agreeing to account for the amounts using generally accepted accounting principles and to provide access to the Secretary for inspection and audit of such records.

Reports, Books, and Records

§ 63.400 Books and records.

The Board and NSIIC shall:

(a) Maintain such books and records, which shall be made available to the Secretary for inspection and audit as is appropriate for the administration or enforcement of the Act or rules and regulations issued thereunder;

(b) Prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(c) Account for the receipt and disbursement of all funds entrusted to it. The NSIIC shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

§ 63.401 Use of information.

Information from records or reports required pursuant to this part shall be made available to the Secretary as is appropriate for the administration or enforcement of the Act or rules and regulation issued thereunder.

§ 63.402 Confidentiality.

All information obtained from books, records, reports, or any other material obtained under the Act and this part, shall be kept confidential by all persons, including employees and former employees of the NSIIC. Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports or the statistical data, which statements do not identify the information furnished by any entity.

Miscellaneous

§ 63.500 Compliance.

The Secretary shall review and monitor compliance by the Board and the NSIIC with the Act and this part.

§ 63.501 Patents, copyrights, inventions, trademarks, information, publications, and product formulations.

Any patents, copyrights, inventions, trademarks, information, publications, or product formulations developed through the use of funds collected by the Board under the provisions of this subpart shall be the property of the U.S. Government, as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, inventions, trademarks, information, publications, or product formulations, inure to the benefit of the Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval by the Secretary. Should patents, copyrights, inventions, trademarks, information, publications, or product formulations be developed through the use of funds collected by the Board under this part and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, inventions, trademarks, information, publications, or product formulations shall be determined by agreement between the Board and the party contributing funds towards the development of such patents, copyrights, inventions, trademarks, information, publications, or product formulations in a manner consistent with this paragraph.

§ 63.502 Personal liability.

No member or employee of the Board shall be held personally responsible, either individually or jointly, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 63.503 Separability.

If any provision of the part is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart, or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 63.504 Amendments.

Amendments to this part may be proposed, from time to time, by the Board or by any interested persons affected by the provisions of the Act, including the Secretary.

§ 63.505 OMB control number.

The control number assigned to the information collection requirements of this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, is OMB control number 0505–new.

Subpart B [Reserved]

Dated: July 19, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–18096 Filed 7–22–10; 8:45 am]

BILLING CODE 3410–02–P