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§ 1260.169 Promotion, research, consumer information and industry information.

The Committee shall receive and evaluate, or on its own initiative, develop and submit to the Secretary for approval any plans and projects for promotion, research, consumer information and industry information authorized by this subpart. Such plans and projects shall provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate plans or projects for promotion, research, consumer information and industry information, with respect to beef and beef products designed to strengthen the beef industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products;

(b) The establishment and conduct of research and studies with respect to the sale, distribution, marketing, and utilization of beef and beef products and the creation of new products thereof, to the end that marketing and utilization of beef and beef products may be encouraged, expanded, improved or made more acceptable in the United States and foreign markets;

(c) Each plan or project authorized under paragraph (a) and (b) of this section shall be periodically reviewed or evaluated by the Committee to ensure that each such plan or project contributes to an effective program of promotion, research, consumer information and industry information. If it is found by the Committee that any such plan or project does not further the purposes of the Act, then the Committee shall terminate such plan or project;

(d) In carrying out any plan or project of promotion or advertising implemented by the Committee, no reference to a brand or trade name of any beef product shall be made without the approval of the Board and the Secretary. No such plans or projects shall make use of any unfair or deceptive acts or practices, including unfair or deceptive acts or practices with respect to the quality, value or use of any competing product; and

(e) No funds collected by the Board under this subpart shall in any manner

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be used for the purpose of influencing governmental policy or action, except to recommend to the Secretary amendments to this part.

ASSESSMENTS

§ 1260.172 Assessments.

(a) *Domestic assessments.* (1) Except as prescribed by regulations approved by the Secretary, each person making payment to a producer for cattle purchased from such producer shall be a collecting person and shall collect an assessment from the producer, and each producer shall pay such assessment to the collecting person, at the rate of one dollar (\$1) per head of cattle purchased and such collecting person shall remit the assessment to the Board or to a qualified State beef council pursuant to § 1260.172(a)(5).

(2) Any producer marketing cattle of that producer's own production in the form of beef or beef products to consumers, either directly or through retail or wholesale outlets, or for export purposes, shall remit to a qualified State beef council or to the Board an assessment on such cattle at the rate of one dollar (\$1) per head of cattle or the equivalent thereof.

(3) In determining the assessment due from each producer pursuant to § 1260.172(a), a producer who is contributing to a qualified State beef council(s) shall receive a credit from the Board for contributions to such Council, but not to exceed 50 cents per head of cattle assessed.

(4) In order for a producer described in § 1260.172(a) to receive the credit authorized in § 1260.172(a)(3), the qualified State beef council or the collecting person must establish to the satisfaction of the Board that the producer has contributed to a qualified State beef council.

(5) Each person responsible for the remittance of the assessment pursuant to § 1260.172 (a) (1) and (2) shall remit the assessment to the qualified State beef council in the State from which the cattle originated prior to sale, or if there is no qualified State beef council within such State, the assessment shall be remitted directly to the Board. However, the Board, with the approval of the Secretary, may authorize qualified

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State beef councils to propose modifications to the foregoing “State of origin” rule to ensure effective coordination of assessment collections between qualified State beef councils. Qualified State beef councils and the Board shall coordinate assessment collection procedures to ensure that producers selling or marketing cattle in interstate commerce are required to pay only one assessment per individual sale of cattle. For the purpose of this subpart, “State of origin” rule means the State where the cattle were located at time of sale, or the State in which the cattle were located prior to sale if such cattle were transported interstate for the sole purpose of sale. Assessments shall be remitted not later than the 15th day of the month following the month in which the cattle were purchased or marketed.

(6) If a State law or regulation promulgated pursuant to State law requires the payment and collection of a mandatory, nonrefundable assessment of more fifty (50) cents per head on the sale and purchase of cattle, or the equivalent thereof for beef and beef products as described in §1260.172 (a)(1) and (2) for use by a qualified State beef council to fund activities similar to those described in §1260.169, and such State law or regulation authorizes the issuance of a credit of that amount of the assessment which exceeds fifty (50) cents to producers who waive any right to the refund of the assessment credited by the State due pursuant to this subpart, then any producer subject to such State law or regulation who pays only the amount due pursuant to such State law or regulation and this subpart, including any credits issued, shall thereby waive that producer’s right to receipt from the Board of a refund of such assessment for that portion of such refund for which the producer received credit pursuant to such State law or regulation.

(b) *Importer assessments.* (1) Importers of cattle, beef, and beef products into the United States shall pay an assessment to the Board through the U.S. Customs Service, or in such other manner as may be established by regulations approved by the Secretary.

(2) The assessment rates for imported cattle, beef, and beef products are as follows:

| Live Cattle | Assessment |
|---------------------|------------|
| 0102.10.00103 | \$1.00/hd |
| 0102.10.00201 | \$1.00/hd |
| 0102.10.00309 | \$1.00/hd |
| 0102.10.00504 | \$1.00/hd |
| 0102.90.20004 | \$1.00/hd |
| 0102.90.40206 | \$1.00/hd |
| 0102.90.40402 | \$1.00/hd |
| 0102.90.40607 | \$1.00/hd |

| Beef and Beef Products | Assessment | |
|------------------------|------------|----------|
| | cents/lb | cents/kg |
| 0201.10.00103 | .77 | 1.697542 |
| 0201.10.00906 | .20 | 0.440920 |
| 0201.20.20009 | .28 | 0.617288 |
| 0201.20.40005 | .27 | 0.595242 |
| 0201.20.60000 | .20 | 0.440920 |
| 0201.30.20007 | .28 | 0.617288 |
| 0201.30.40003 | .27 | 0.595242 |
| 0201.30.60008 | .27 | 0.595242 |
| 0202.10.00102 | .77 | 1.697542 |
| 0202.10.00905 | .20 | 0.440920 |
| 0202.20.20008 | .28 | 0.617288 |
| 0202.20.40004 | .27 | 0.595242 |
| 0202.20.60009 | .20 | 0.440920 |
| 0202.30.20006 | .28 | 0.617288 |
| 0202.30.40002 | .27 | 0.595242 |
| 0202.30.60007 | .27 | 0.595242 |
| 0206.10.00000 | .20 | 0.440920 |
| 0206.21.00007 | .20 | 0.440920 |
| 0206.22.00006 | .20 | 0.440920 |
| 0206.29.00009 | .20 | 0.440920 |
| 0210.20.00002 | .35 | 0.771610 |
| 1601.00.40003 | .25 | 0.551150 |
| 1601.00.60204 | .25 | 0.551150 |
| 1602.50.05004 | .35 | 0.771610 |
| 1602.50.09000 | .35 | 0.771610 |
| 1602.50.10203 | .35 | 0.771610 |
| 1602.50.10409 | .35 | 0.771610 |
| 1602.50.20201 | .37 | 0.815702 |
| 1602.50.20407 | .37 | 0.815702 |
| 1602.50.60006 | .38 | 0.837748 |

(3) The Board may prescribe by regulation, with the approval of the Secretary, an increase or decrease in the level of assessments for imported beef and beef products based upon revised determinations of live animal equivalencies.

(4) The assessments due upon imported cattle, beef and beef products shall be remitted to the Customs Service upon importation of the cattle, beef or beef products into the United States, or in such other manner as may be provided by regulations prescribed by the Board and approved by the Secretary.

(c) The collection of assessments pursuant to §1260.172 (a) and (b) shall begin

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with respect to cattle purchased or cattle, beef, and beef products imported on and after the effective date of this section and shall continue until terminated by the Secretary.

(d) Money remitted pursuant to this subpart shall be in the form of a negotiable instrument made payable as appropriate to the qualified State beef council or the “Cattlemen’s Beef Promotion and Research Board.” Such remittances and the reports specified in § 1260.201 shall be mailed to the location designated by the Board.

[51 FR 26138, July 18, 1986, as amended at 53 FR 52631, Dec. 29, 1988 and 54 FR 15918, Apr. 20, 1989; 54 FR 28019, July 5, 1989]

§ 1260.173–1260.174 [Reserved]

§ 1260.175 Late-payment charge.

Any unpaid assessments due to the Board pursuant to § 1260.172 shall be increased 2.0 percent each month beginning with the day following the date such assessments were due. Any remaining amount due, which shall include any unpaid charges previously made pursuant to this section, shall be increased at the same rate on the corresponding day of each month thereafter until paid. For the purposes of this section, any assessment that was determined at a date later than prescribed by this subpart because of a person’s failure to submit a report to the Board when due shall be considered to have been payable by the date it would have been due if the report had been filed when due. The timeliness of a payment to the Board shall be based on the applicable postmark date or the date actually received by the qualified State beef council or Board, whichever is earlier.

§ 1260.176 Adjustment of accounts.

Whenever the Board or the Department determines that money is due the Board or that money is due any person from the Board, such person shall be notified of the amount due. The person shall then remit any amount due the Board by the next date for remitting assessments as provided in § 1260.172. Overpayments shall be credited to the account of the person remitting the overpayment and shall be applied against amounts due in succeeding

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months except that the Board shall make prompt payment when an overpayment cannot be adjusted by a credit.

§ 1260.181 Qualified State beef councils.

(a) Any beef promotion entity that is authorized by State statute or is organized and operating within a State, that receives assessments or contributions from producers and conducts beef promotion, research, consumer information and/or industry information programs may apply for certification of qualification so that producers may receive credit pursuant to § 1260.172(a)(3) for contributions to such organization. The Board shall review such applications for certification and shall make a determination as to certification of such applicant.

(b) In order for the State beef council to be certified by the Board as a qualified State beef council, the council must:

(1) Conduct activities as defined in § 1260.169 that are intended to strengthen the beef industry’s position in the marketplace;

(2) Submit to the Board a report describing the manner in which assessments are collected and the procedure utilized to ensure that assessments due are paid;

(3) Certify to the Board that such council will collect assessments paid on cattle originating from the State or unit within which the council operates and shall establish procedures for ensuring compliance with this subpart with regard to the payment of such assessments;

(4) Certify to the Board that such organization shall remit to the Board assessments paid and remitted to the council, minus authorized credits issued to producers pursuant to § 1260.172(a)(3), by the last day of the month in which the assessment was remitted to the qualified State beef council unless the Board determines a different date for remittance of assessments.

(5) [Reserved]

(6) Certify to the Board that the council will furnish the Board with an annual report by a certified public accountant of all funds remitted to such