

§ 1240.113

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honey as an ingredient in the manufacture of formulated products, the producer is a producer-packer.

(f) When a producer uses honey from his or her own production in the manufacture of formulated products for his or her own account and for the account of others, the producer is the producer-packer.

(g) When a producer delivers a lot of honey to a processor who processes and packages a portion of such lot of honey for his or her own account and sells the balance of the lot, with or without further processing, to another processor or commercial user, the first processor is the first handler for all the honey.

(h) When a producer supplies honey to a cooperative marketing organization which sells or markets the honey, with or without further processing and packaging, the cooperative marketing organization becomes the first handler upon physical delivery to such cooperative.

(i) When a producer uses honey from his or her own production for feeding his or her own bees, such honey is not handled at that time. Honey in any form sold and shipped to any persons for the purpose of feeding bees is handled and is subject to assessment. The buyer of the honey for feeding bees is the first handler.

§ 1240.113 Importer.

Each lot of honey and honey products imported into the United States is subject to assessment under this part. Such assessment shall be paid by the importer of such honey and honey products at the time of entry or withdrawal for consumption into the United States. Any person who imports honey or honey products into the United States as principal, agent, broker, or consignee for honey produced outside the United States and imported into the United States shall be the importer.

§ 1240.114 Exemption procedures.

(a) Producers who produce, producer-packers who produce and handle, and importers who import honey and who wish to claim an exemption from assessments pursuant to §§1240.42 (a) and (b) should submit an application to the Board for a certificate of exemption.

(b) Upon receipt of the claim for exemption, the Board shall investigate, to the extent practicable, the request for exemption. The Board will then issue, if deemed appropriate, an exemption certificate to each person who is eligible to receive one.

(c) The Secretary, upon recommendation by the Board, may exempt that portion of assessments collected under a qualified State plan; *Provided*, That the State plan meets all of the requirements in §1240.42(d) of the Order.

(1) First handlers collecting assessments from producers for the State plan and the Board shall forward that portion of assessments collected under the order in excess of the State assessment to the Board.

(2) Upon request of the Board, producers having an exemption from a portion of the assessments under this Order due to payment of assessments under a State plan, shall be required to furnish evidence to the Board that the assessments to the State have been paid.

[52 FR 3103, Feb. 2, 1987, as amended at 56 FR 37458, Aug. 7, 1991; 59 FR 22493, May 2, 1994]

§ 1240.115 Levy of assessments.

(a) *Time of payment.* The assessment shall become due at the time assessable honey is first handled or entered or withdrawn for consumption into the United States pursuant to this part.

(b) An assessment of one cent per pound is levied on honey produced in the United States, on imported honey entered or withdrawn for consumption into the United States, and on honey used in imported honey products entered or withdrawn for consumption into the United States except that assessments shall not be levied on the following:

(1) Any persons other than importers holding a valid exemption certificate during the twelve month period ending on December 31;

(2) That portion of honey which does not enter the current of commerce which is utilized solely to sustain a producers or producer-packer's own colonies of bees;

(3) That portion of otherwise assessable honey which is contained in imported products wherein honey is not a

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principal ingredient. Honey subject to assessment shall be assessed only once.

(c) The assessment on each lot of honey handled in the United States shall be paid by the first handler who handles, or by the producer-packer who produces and handles such honey.

(1) The first handler shall collect and pay assessments to the Board unless such handler has received documentation acceptable to the Board that the assessment has been previously paid.

(2) A producer-packer shall pay, or collect and pay, assessments to the Board unless—

(i) Such producer-packer has obtained an exemption from the Board applicable to the honey which that producer-packer produced or produced and handled; or

(ii) Has received documentation acceptable to the Board that the assessment has been previously paid.

(d) Assessments shall be levied with respect to honey pledged as collateral for a loan or loan deficiency payment under the Commodity Credit Corporation (CCC) Honey Price Support Program in accordance with an agreement entered into between the Honey Board and the CCC. The assessment will be deducted from the proceeds of the loan or loan deficiency payment by the CCC and forwarded to the Board, except that the assessment shall not be deducted in the case of a honey marketing cooperative that has already deducted the assessment or that portion of the assessment paid to a qualified State plan exempted by the Board. The Secretary, through the CCC, shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds or loan deficiency payment promptly after each occasion when an assessment is deducted from any such loan funds or payment under this subsection.

(e) The U.S. Customs Service (USCS) will collect assessments on all honey or honey products where honey is the principal ingredient imported under its tariff schedule (HTS heading numbers 0409.00.00 and 2106.90.9988) at the time of entry or withdrawal for consumption and forward such assessment as per the agreement between the USCS and USDA. Any importer or agent who is exempt from payment of assessments

pursuant to §1240.42 (a) and (b) of the Order may apply to the Board for reimbursement of such assessment paid.

(f) A late payment charge shall be imposed on any handler, producer-packer, or importer except as otherwise authorized by the Board, who fails to pay to the Board within the time prescribed in this subpart the total amount of assessment due for which any such handler, importer, or producer-packer is liable. Fifteen days after the assessment becomes due a one-time late payment charge of 10 percent will be added to any outstanding funds due the Board.

(g) In addition to the late payment charge, one and one-half percent per month interest on the outstanding balance except as otherwise authorized by the Board, will be added to any accounts delinquent over 30 days and will continue monthly until the outstanding balance is paid to the Board.

[52 FR 3103, Feb. 2, 1987, as amended at 53 FR 37731, Sept. 28, 1988; 56 FR 37458, Aug. 7, 1991; 61 FR 29462, June 11, 1996; 61 FR 38356, July 24, 1996]

§ 1240.116 Payment of assessments.

(a) Responsibility for payment. Unless otherwise authorized by the Board under the Act and Order, the first handler or producer-packer shall collect the assessment from the producer, or deduct such assessment from the proceeds paid to the producer on whose honey the assessment is made, and remit the assessments to the Board. The first handler or producer-packer shall furnish the producer with evidence of such payment. Any such collection or deduction of assessment shall be made not later than the time when the assessment becomes payable to the Board. Failure of the handler or producer-packer to collect or deduct such assessment does not relieve the handler or producer-packer of his or her obligation to remit the assessment to the Board. However, should a first handler or the Secretary fail to collect an assessment from a producer, the producer shall be responsible for the payment of the assessment to the Board. Assessments on imported honey and honey products shall be collected as specified in §1240.115(e); *Provided*, That importers shall be responsible for