

**§ 1280.216**

**7 CFR Ch. XI (1-1-05 Edition)**

subpart and in a manner consistent with regulations recommended by the Board and prescribed by the Secretary.

**§ 1280.216 Procedure for obtaining a refund.**

Each producer, seedstock producer, feeder, first handler, or exporter who pays an assessment pursuant to the Act and this subpart during the period beginning on the effective date of the Order and ending on the date the required referendum results are announced may obtain a refund of such assessment only by following the procedures prescribed in this section and any regulations recommended by the Board and prescribed by the Secretary.

(a) *Application form.* A producer, seedstock producer feeder, first handler, or exporter shall obtain a Board-approved refund application form from the Board. Such form may be obtained by written request to the Board and the request shall bear the producer's, seedstock producer's, feeder's, first handler's, or exporter's signature or properly witnessed mark.

(b) *Submission of refund application to Board.* Any producer, seedstock producer, feeder, first handler, or exporter requesting a refund shall submit an application on the prescribed form to the Board within 60 days from the date the assessments were paid by such producer, seedstock producer, feeder, first handler, or exporter but no later than the date the results of the required referendum are announced by the Secretary. The refund application shall show:

- (1) The producer's, seedstock producer's, feeder's, first handler's, or exporter's name and address;
- (2) Name and address of the person who collected applicant's assessment;
- (3) Number of head of lambs, weight of lambs, or its equivalent, on which a refund is requested;
- (4) Total amount of refund requested;
- (5) Date or inclusive dates on which assessments were paid;
- (6) Certification that the producer, seedstock producer, feeder, first handler, or exporter did not collect the assessment from another producer, seedstock producer, feeder, first handler; or exporter or documentation of assessments collected from others; and

(7) The producer's, seedstock producer's, feeder's, first handler's, or exporter's signature or properly witnessed mark.

(c) *Proof of payment of assessments.* The documentation provided pursuant to §1280.225(b) to the producer, seedstock producer, feeder, first handler, or exporter by the person responsible for collecting an assessment pursuant to this subpart, or a copy thereof, or such other evidence deemed satisfactory to the Board, shall accompany the producer's, seedstock producer's, feeder's, first handler's, or exporter's refund application.

(d) *Payment of refunds.* The Board shall initiate payment of refund requests, or pay a pro rata share thereof, within 90 days of the date the results of the required referendum are released by the Secretary. Refunds shall be paid in a manner consistent with §1280.214.

ASSESSMENTS

**§ 1280.217 Lamb purchases.**

(a) Except as prescribed by regulations approved by the Secretary, each first handler, or exporter making payment to a producer, seedstock producer, or feeder for lambs purchased from such producer, seedstock producer, or feeder shall collect an assessment from the producer, seedstock producer, or feeder. Each producer, seedstock producer, or feeder shall pay such assessment to the first handler or exporter, at the rate of one-half cent (\$.005) per pound of live lambs sold.

(b) Except as otherwise specified in this subpart, a person shall not be considered a producer, seedstock producer, or feeder within the meaning of this subpart if;

- (1) The person's only share in the proceeds of a sale of lambs is a sales commission, handling fee, or other service fee; or
- (2) The person:
  - (i) Acquired ownership of the lambs to facilitate the transfer of ownership of such lambs from the seller to a third party,
  - (ii) Resold such lambs no later than 10 days from the date on which the person acquired ownership, and
  - (iii) Certified, as required by regulations recommended by the Board and

prescribed by the Secretary, that the requirements of this provision have been satisfied.

(c) Each person processing or causing to be processed lambs or lamb products of that person's own production and marketing such lambs or lamb products, shall pay an assessment on such lambs or lamb products on the live weight of the lamb at the time of slaughter at the rate established in paragraph (e) of this section. In addition, pursuant to §1280.108, such individual would be considered a first handler and would be required by §1280.219 to pay an additional assessment of \$.30 per head. As the first handler, the individual must remit the total amount of assessment to the Board.

(d) A person who is a market agency; i.e. commission merchant, auction market, or livestock market in the business of receiving lambs for sale or commission for or on behalf of a producer, seedstock producer, or feeder shall collect an assessment from the producer, seedstock producer, or feeder and shall pass the collected assessments on to the subsequent purchaser pursuant to this subpart and regulations recommended by the Board and prescribed by the Secretary.

(e) *Rate.* Except as otherwise provided, the rate of assessment shall be one-half of a cent (\$.005 per pound) per pound on all live lambs sold. The rate of assessment may be raised or lowered no more than twenty-hundredths of a cent (\$.002) in any one year. The Board may recommend any change to the Department. Prior to a change in the assessment rate, the Department will provide notice by publishing in the FEDERAL REGISTER any proposed changes with interested parties allowed to provide comment.

(f) The collection of assessments pursuant to §1280.217, §1280.218, and §1280.219 shall begin with respect to lambs purchased, or lambs or lamb products marketed on or after the effective date established by the Secretary and shall continue until terminated or suspended by the Secretary.

(g) If the Board is not in place by the date the first assessments are to be collected, the Secretary shall have the authority to receive assessments and invest them on behalf of the Board, and

shall pay such assessments and any interest earned to the Board when it is formed. The Secretary shall have the authority to promulgate rules and regulations concerning assessments and the collection of assessments, if the Board is not in place or is otherwise unable to develop such rules and regulations.

(h) Payment remitted pursuant to this subpart shall be in the form of a negotiable instrument made payable to the Board. Such remittances and the reports specified in §1280.223 and §1280.225 shall be mailed to the location designated by the Board.

**§ 1280.218 Exporter.**

Each person exporting live lambs shall remit to the Board an assessment on such lambs at the time of export at the rate established in §1280.217(e). An exporter directly exporting his or her own lambs shall remit an assessment to the Board at the rate established in §1280.217(e).

**§ 1280.219 First handlers.**

Each first handler, in addition to remitting the assessment collected pursuant to §1280.217, shall pay an assessment equal to thirty cents (\$.30) per head of lambs purchased by the first handler for slaughter or slaughtered by such first handler pursuant to a custom slaughter arrangement. The rates of assessment for first handlers shall be increased or decreased proportionately if the assessment paid by producers, seedstock producers, and feeders is increased or decreased. Such assessment shall be remitted with the assessments collected pursuant to §1280.217.

**§ 1280.220 Collections.**

(a) Each first handler and each exporter responsible for the collection of assessments under this subpart shall remit assessments to the Board by the 15th day of the month following the month in which the lambs were purchased for slaughter or export, as required by regulations recommended by the Board and prescribed by the Secretary, has provided otherwise; or

(b) If a first handler marketed lambs or lamb products directly to consumers, assessments shall be remitted to the Board by the 15th day of the