

Agricultural Marketing Service, USDA

§ 1280.215

finds are reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board.

(d) With approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed by the Board shall be expended only for start-up costs and capital outlays and are limited to the first year of operation of the Board.

(e) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use.

(f) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, and supervision of the Order, including all referendum costs in connection with the Order.

(g) The Board may not expend for administration, maintenance, and functioning of the Board in any fiscal year an amount that exceeds 10 percent of the assessments and other income received by the Board for that fiscal year, except for the initial fiscal year. Reimbursements to the Secretary required under paragraph (f) of this section are excluded from this limitation on spending.

§ 1280.213 Investment of funds.

The Board may invest, pending disbursement, funds it receives under this subpart, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a financial institution that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Income from any such investment may be used for any pur-

pose for which the invested funds may be used.

§ 1280.214 Refund escrow accounts.

(a) The Board shall establish an interest bearing escrow account with a financial institution which is a member of the Federal Reserve System and will deposit into such account an amount equal to the product obtained by multiplying:

(1) The total amount of assessments collected by the Board during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum; by

(2) Ten percent (10 percent)

(b) The Board shall pay refunds of assessments to eligible persons requesting refunds during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum in the manner specified in paragraph (c) of this section.

(c) If the amount deposited in the escrow account is less than the amount of refunds requested, the Board shall prorate the amount deposited in such account among all eligible persons who request a refund of assessments paid no later than the date the required referendum results are announced by the Secretary.

§ 1280.215 Refunds.

Any producer, seedstock producer, feeder, first handler, or exporter from whom an assessment is collected and remitted to the Board, or who pays an assessment directly to the Board, under authority of the Act and this subpart through the announcement of the results of the required referendum, and who is not in favor of supporting the promotion and research program as provided for in this subpart, shall have the right to receive from the Board a refund of such assessment, or a pro rata share thereof, upon submission of proof satisfactory to the Board that the producer, seedstock producer, feeder, first handler, or exporter paid the assessment for which refund is sought. Any such demand shall be made by such producer, seedstock producer, feeder, first handler, or exporter in accordance with the provisions of this

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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