

## Agricultural Marketing Service, USDA

§ 1260.113

1260.316 Paperwork Reduction Act assigned number.

### Subpart C [Reserved]

### Subpart D—Beef Promotion and Research: Certification and Nomination Procedures for the Cattlemen's Beef Promotion and Research Board

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AUTHORITY: 7 U.S.C. 2901–2911 and 7 U.S.C. 7401.

### Subpart A—Beef Promotion and Research Order

SOURCE: 51 FR 26138, July 18, 1986, unless otherwise noted.

#### DEFINITIONS

#### § 1260.101 Department.

*Department* means the United States Department of Agriculture.

#### § 1260.102 Secretary.

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

#### § 1260.103 Board.

*Board* means the Cattlemen's Beef Promotion and Research Board established pursuant to the Act and this subpart.

#### § 1260.104 Committee.

*Committee* means the Beef Promotion Operating Committee established pursuant to the Act and this subpart.

#### § 1260.105 Person.

*Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

#### § 1260.106 Collecting person.

*Collecting person* means the person making payment to a producer for cattle, or any other person who is responsible for collecting and remitting an assessment pursuant to the Act, the order and regulations prescribed by the Board and approved by the Secretary.

#### § 1260.107 State.

*State* means each of the 50 States.

#### § 1260.108 United States.

*United States* means the 50 States and the District of Columbia.

#### § 1260.109 Unit.

*Unit* means each State, group of States or class designation which is represented on the Board.

#### § 1260.110 [Reserved]

#### § 1260.111 Fiscal year.

*Fiscal year* means the calendar year or such other annual period as the Board may determine.

#### § 1260.112 Federation.

*Federation* means the Beef Industry Council of the National Live Stock and Meat Board, or any successor organization to the Beef Industry Council, which includes as its State affiliates the qualified State beef councils.

#### § 1260.113 Established national nonprofit industry-governed organizations.

*Established national nonprofit industry-governed organizations* means organizations which:

(a) Are nonprofit organizations pursuant to sections 501(c) (3), (5) or (6) of the Internal Revenue Code (26 U.S.C. 501(c) (3), (5) and (6));

(b) Are governed by a board of directors representing the cattle or beef industry on a national basis; and

(c) Were active and ongoing before the enactment of the Act.

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**§ 1260.114 Eligible organization.**

*Eligible organization* means any organization which has been certified by the Secretary pursuant to the Act and this part as being eligible to submit nominations for membership on the Board.

**§ 1260.115 Qualified State beef council.**

*Qualified State beef council* means a beef promotion entity that is authorized by State statute or a beef promotion entity organized and operating within a State that receives voluntary assessments or contributions; conducts beef promotion, research, and consumer and industry information programs; and that is certified by the Board pursuant to this subpart as the beef promotion entity in such State.

**§ 1260.116 Producer.**

*Producer* means any person who owns or acquires ownership of cattle; provided, however, that a person shall not be considered a producer within the meaning of this subpart if (a) the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee; or (b) the person (1) acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third party, (2) resold such cattle no later than ten (10) days from the date on which the person acquired ownership, and (3) certified, as required by regulations prescribed by the Board and approved by the Secretary, that the requirements of this provision have been satisfied.

**§ 1260.117 Importer.**

*Importer* means any person who imports cattle, beef, or beef products from outside the United States.

**§ 1260.118 Cattle.**

*Cattle* means live domesticated bovine animals regardless of age.

**§ 1260.119 Beef.**

*Beef* means flesh of cattle.

**§ 1260.120 Beef products.**

*Beef products* means edible products produced in whole or in part from beef,

exclusive of milk and products made therefrom.

**§ 1260.121 Imported beef or beef products.**

*Imported beef or beef products* means products which are imported into the United States which the Secretary determines contain a substantial amount of beef including those products which have been assigned one or more of the following numbers in the Tariff Schedule of the United States: 106.1020, 106.1040, 106.1060, 106.1080, 107.2000, 107.2520, 107.4000, 107.4500, 107.4820, 107.4840, 107.5220, 107.5240, 107.5500, 107.6100, 107.6200, 107.6300.

**§ 1260.122 Promotion.**

*Promotion* means any action, including paid advertising, to advance the image and desirability of beef and beef products with the express intent of improving the competitive position and stimulating sales of beef and beef products in the marketplace.

**§ 1260.123 Research.**

*Research* means studies relative to the effectiveness of market development and promotion efforts, studies relating to the nutritional value of beef and beef products, other related food science research, and new product development.

**§ 1260.124 Consumer information.**

*Consumer information* means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of beef and beef products.

**§ 1260.125 Industry information.**

*Industry information* means information and programs that will lead to the development of new markets, marketing strategies, increased efficiency, and activities to enhance the image of the cattle industry.

**§ 1260.126 Plans and projects.**

*Plans and projects* means promotion, research, consumer information and industry information plans, studies or projects conducted pursuant to this subpart.

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**§ 1260.127 Marketing.**

*Marketing* means the sale or other disposition in commerce of cattle, beef or beef products.

**§ 1260.128 Act.**

*Act* means the Beef Promotion and Research Act of 1985, Title XVI, Subtitle A of the Food Security Act of 1985, Pub. L. 99-198 and any amendments thereto.

**§ 1260.129 Customs Service.**

*Customs Service* means the United States Customs Service of the United States Department of the Treasury.

**§ 1260.130 Part and subpart.**

*Part* means the Beef Promotion and Research Order and all rules and regulations issued pursuant to the Act and the order, and the order itself shall be a "subpart" of such Part.

**CATTLEMEN'S BEEF PROMOTION AND RESEARCH BOARD**

**§ 1260.141 Membership of Board.**

(a) Beginning with the 2005, Board nominations and the associated appointments effective early in the year 2006, the United States shall be divided into 39 geographical units and 1 unit representing importers, and the number of Board members from each unit shall be as follows:

**CATTLE AND CALVES <sup>1</sup>**

State/unit	(1,000 head)	Directors
1. Alabama .....	1,390	1
2. Arizona .....	843	1
3. Arkansas .....	1,857	2
4. California .....	5,217	5
5. Colorado .....	2,700	3
6. Florida .....	1,757	2
7. Idaho .....	2,000	2
8. Illinois .....	1,367	1
9. Indiana .....	857	1
10. Iowa .....	3,517	4
11. Kansas .....	6,533	7
12. Kentucky .....	2,350	2
13. Louisiana .....	853	1
14. Michigan .....	1,003	1
15. Minnesota .....	2,467	2
16. Mississippi .....	1,063	1
17. Missouri .....	4,400	4
18. Montana .....	2,433	2
19. Nebraska .....	6,283	6
20. Nevada .....	507	1
21. New Mexico .....	1,547	2
22. New York .....	1,420	1
23. North Carolina .....	910	1
24. North Dakota .....	1,867	2
25. Ohio .....	1,233	1
26. Oklahoma .....	5,233	5
27. Oregon .....	1,400	1
28. Pennsylvania .....	1,637	2
29. South Dakota .....	3,767	4
30. Tennessee .....	2,227	2
31. Texas .....	13,833	14
32. Utah .....	887	1
33. Virginia .....	1,607	2
34. Wisconsin .....	3,333	3
35. Wyoming .....	1,387	1
36. Northwest .....	.....	1
Alaska .....	12	.....
Hawaii .....	153	.....
Washington .....	1,117	.....
Total .....	1,408	.....
37. Northeast .....	.....	1
Connecticut .....	57	.....
Delaware .....	24	.....
Maine .....	94	.....
Massachusetts .....	50	.....

CATTLE AND CALVES <sup>1</sup>—Continued

State/unit	(1,000 head)	Directors
New Hampshire .....	40	.....
New Jersey .....	45	.....
Rhode Island .....	6	.....
Vermont .....	285	.....
Total .....	600	.....
38. Mid-Atlantic .....	.....	1
District of Columbia .....	0	.....
Maryland .....	240	.....
West Virginia .....	400	.....
Total .....	640	.....
39. Southeast .....	.....	2
Georgia .....	1,260	.....
South Carolina .....	430	.....
Total .....	1,690	.....
40. Importer <sup>2</sup> .....	8,378	8

<sup>1</sup> 2002, 2003, and 2004, average of January 1 cattle inventory data.  
<sup>2</sup> 2001, 2002, and 2003, average of annual import data.

(b) The Board shall be composed of cattle producers and importers appointed by the Secretary from nominations submitted pursuant to the Act and regulations of this Part. A producer may only be nominated to represent the unit in which that producer is a resident.

(c) At least every three (3) years, and not more than every two (2) years, the Board shall review the geographic distribution of cattle inventories throughout the United States and the volume of imported cattle, beef, and beef products and, if warranted, shall reappoint units and/or modify the number of Board members from units in order to best reflect the geographic distribution of cattle production volume in the United States and the volume of imported cattle, beef, or beef products into the United States.

(d) The Board may recommend to the Secretary a modification in the number of cattle per unit necessary for representation on the Board.

(e) The following formula will be used to determine the number of Board members who shall serve on the Board for each unit:

(1) Each geographic unit or State that includes a total cattle inventory equal to or greater than five hundred thousand (500,000) head of cattle shall be entitled to one representative on the Board;

(2) States which do not have total cattle inventories equal to or greater than five hundred thousand (500,000) head of cattle shall be grouped, to the extent practicable, into geographically contiguous units each of which have a combined total inventory of not less than 500,000 head of cattle and such unit(s) shall be entitled to at least one representative on the Board;

(3) Importers shall be represented by a single unit, with the number of Board members representing such unit based upon a conversion of the total volume of imported cattle, beef or beef products into live animal equivalencies;

(4) Each unit shall be entitled to representation by an additional Board member for each one million (1,000,000) head of cattle within the unit which exceeds the initial five hundred thousand (500,000) head of cattle within the unit qualifying such unit for representation.

(f) In determining the volume of cattle within the units, the Board and the Secretary shall utilize the information received by the Board pursuant to §§1260.201 and 1260.202 industry data and data published by the Department.

[51 FR 26138, July 18, 1986, as amended at 55 FR 20445, May 17, 1990; 58 FR 12999, Mar. 9, 1993; 60 FR 62020, Dec. 4, 1995; 64 FR 3815, Jan. 26, 1999; 67 FR 11412, Mar. 14, 2002; 70 FR 7005, Feb. 10, 2005]

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### § 1260.142 Term of office.

(a) The members of the Board shall serve for terms of three (3) years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years. To the extent practicable, the terms of Board members from the same unit shall be staggered for the initial Board.

(b) Each member shall continue to serve until a successor is appointed by the Secretary.

(c) No member shall serve more than two consecutive 3-year terms in such capacity.

### § 1260.143 Nominations.

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

(a) Nominations shall be obtained by the Secretary from eligible organizations. An eligible organization shall only submit nominations for positions on the Board representing units in which such eligible organization can establish that it is certified as an eligible organization to submit nominations for that unit. If the Secretary determines that a unit is not represented by an eligible organization, then the Secretary may solicit nominations from organizations, and producers residing in that unit.

(b) Nominations for representation of the importer unit may be submitted by—

(1) Organizations which represent importers of cattle, beef or beef products, as determined by the Secretary, or

(2) Individual importers of cattle, beef or beef products. Individual importers submitting nominations for representation of the importer unit must establish to the satisfaction of the Secretary that the persons submitting the nominations are importers of cattle, beef or beef products.

(c) After the establishment of the initial Board, the Department shall announce when a vacancy does or will exist. Nominations 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 expira-

tion of a term of office, successor Board members shall be appointed pursuant to §1260.146.

(d) Where there is more than one eligible organization representing producers in a unit, they may caucus and jointly nominate two qualified persons for each position representing that unit on the Board for which a member is to be appointed. 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 two nominees for each appointment to be made to represent that unit.

### § 1260.144 Nominee's agreement to serve.

Any producer or importer 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; and

(b) Disclose any relationship with any beef promotion entity or with any organization that has or is being considered for a contractual relationship with the Board.

### § 1260.145 Appointment.

(a) From the nominations made pursuant to §1260.143, the Secretary shall appoint the members of the Board on the basis of representation provided for in §1260.141.

(b) Producers or importers serving on the Federation Board of Directors shall not be eligible for appointment to serve on the Board for a concurrent term.

### § 1260.146 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall request that nominations for a successor for the vacancy be submitted by the eligible organization(s) representing producers or importers of the unit represented by the vacancy. If no eligible organization(s) represents producers or importers in such unit, then the Secretary shall determine the manner in which nominations for the vacancy are submitted.

**§ 1260.147 Procedure.**

(a) At a properly convened meeting of the Board, a majority of the members shall constitute a quorum, and any action of the Board at such a meeting shall require the concurring votes of at least a majority of those present at such meeting. The Board shall establish rules concerning timely notice of meetings.

(b) When in the opinion of the chairperson of the Board emergency action is considered necessary, and in lieu of a properly convened meeting, the Board may take action upon the concurring votes of a majority of its members by mail, telephone, or telegraph, but any such action by telephone shall be confirmed promptly in writing. In the event that such action is taken, all members must be notified and provided the opportunity to vote. Any action so taken shall have the same force as though such action had been taken at a regular or special meeting of the Board.

**§ 1260.148 Compensation and reimbursement.**

The members of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred by them in the performance of their duties under this subpart.

**§ 1260.149 Powers of the Board.**

The Board shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive or initiate, investigate, and report to the Secretary complaints of violations of the provisions of this subpart;

(d) To adopt such rules for the conduct of its business as it may deem advisable;

(e) To recommend to the Secretary amendments to this subpart; and

(f) With the approval of the Secretary, to invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under § 1260.172, in, and only in, ob-

ligations 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 bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

**§ 1260.150 Duties of the Board.**

The Board shall have the following duties:

(a) To meet not less than annually, and to organize and select from among its members a chairperson, a vice-chairperson and a treasurer and such other officers as may be necessary;

(b) To elect from its members an Executive Committee of no more than 11 and no less than 9 members, whose membership shall, to the extent practicable, reflect the geographic distribution of cattle numbers or their equivalent. The vice-chairperson of the Board shall serve as chairperson of the Executive Committee and the chairperson and the treasurer of the Board shall serve as members of the Executive Committee;

(c) To delegate to the Executive Committee the authority to administer the terms and provisions of this subpart under the direction of the Board and within the policies determined by the Board;

(d) To elect from its members 10 representatives to the Beef Promotion Operating Committee which shall be composed of 10 members from the Board and 10 members elected by the Federation;

(e) To utilize the resources, personnel, and facilities of established national nonprofit industry-governed organizations;

(f) To review and, if approved, submit to the Secretary for approval, budgets prepared by the Beef Promotion Operating Committee on a fiscal period basis of the Committee's anticipated expenses and disbursements in the administration of the Committee's responsibilities, including probable costs of promotion, research, and consumer information and industry information plans or projects, and also including a

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general description of the proposed promotion, research, consumer information and industry information programs contemplated therein;

(g) To prepare and submit to the Secretary for approval budgets on a fiscal period basis of the Board's overall anticipated expenses and disbursements, including the Committee's anticipated expenses and disbursements, in the administration of this subpart;

(h) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and to prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(i)-(j) [Reserved]

(k) To prepare and make public, at least annually, a report of its activities carried out and an accounting for funds received and expended;

(l) To cause its books to be audited by a certified public accountant at least once each fiscal period and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(m) To give the Secretary the same notice of meetings of the Board as is given to members in order that the Secretary, or his representative may attend such meetings;

(n) To review applications submitted by State beef promotion organizations pursuant to §1260.181 and to make determinations with regard to such applications;

(o) To submit to the Secretary such information pursuant to this subpart as may be requested; and

(p) To encourage the coordination of programs of promotion, research, consumer information and industry information 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.

[51 FR 26138, July 18, 1986, as amended at 60 FR 58502, Nov. 28, 1995]

### § 1260.151 Expenses.

(a) The Board is authorized to incur such expenses (including provision for a reasonable reserve), as the Secretary

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 this subpart. Administrative expenses incurred by the board shall not exceed 5 percent of the projected revenue of that fiscal period. Expenses authorized in this paragraph shall be paid from assessments collected pursuant to §1260.172.

(b) The Board shall reimburse the Secretary, from assessments collected pursuant to §1260.172, for administrative costs incurred by the Department to carry out its responsibilities pursuant to this subpart after the effective date of this subpart.

(c) [Reserved]

(d) Expenditures for the maintenance and expansion of foreign markets for beef and beef products shall be limited to an amount equal to or less than the total amount of assessments paid pursuant to §1260.172(a).

[51 FR 26138, July 18, 1986, as amended at 53 FR 52631, Dec. 29, 1988 and 54 FR 15918, Apr. 20, 1989; 60 FR 58502, Nov. 28, 1995]

## BEEF PROMOTION OPERATING COMMITTEE

### § 1260.161 Establishment and membership.

(a) There is hereby established a Beef Promotion Operating Committee of 20 members. The Committee shall be composed of 10 Board members elected by the Board and 10 producers elected by the Federation.

(b) Board representation on the Committee shall consist of the chairperson, vice-chairperson and treasurer of the Board, and seven representatives of the Board who will be duly elected by the Board to serve on the Committee. The seven representatives to the Committee elected by the Board shall, to the extent practical, reflect the geographic and unit distribution of cattle numbers, or the equivalent thereof.

(c) Federation representation on the Committee shall consist of the Federation chairperson, vice-chairperson, and eight duly elected producer representatives of the Federation Board of Directors who are members or ex officio members of the Board of Directors of a qualified State beef council. The eight representatives of the Federation

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ected to serve on the Committee shall, to the extent practical, reflect the geographic distribution of cattle numbers. The Federation shall submit to the Secretary the names of the representatives elected by the Federation to serve on the Committee and the manner in which such election was held and that such representatives are producers and are members or ex officio members of the Board of Directors of a qualified State beef council on the Federation Board of Directors. The prospective Federation representatives shall file with the Secretary a written agreement to serve on the Committee and to disclose any relationship with any beef promotion entity or with any organization that has or is being considered for a contractual relationship with the Board or the Committee. When the Secretary is satisfied that the above conditions are met, the Secretary shall certify such representatives as eligible to serve on the Committee.

**§ 1260.162 Term of office.**

- (a) The members of the Committee shall serve for a term of 1 year.
- (b) No member shall serve more than six consecutive terms.

**§ 1260.163 Vacancies.**

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Committee, the Board or the Federation, depending upon which organization is represented by the vacancy, shall submit the name of a successor for the position in the manner utilized to elect representatives pursuant to §1260.161 (b) and (c) of this section.

**§ 1260.164 Procedure.**

- (a) Attendance of at least 15 members of the Committee shall constitute a quorum at a properly convened meeting of the Committee. Any action of the Committee shall require the concurring votes of at least two-thirds of the members present. The Committee shall establish rules concerning timely notice of meetings.
- (b) When in the opinion of the chairperson of the Committee emergency action must be taken before a meeting can be called, the Committee may take

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action upon the concurring votes of no less than two-thirds of its members by mail, telephone, or telegraph. Action taken by this emergency procedure is valid only if all members are notified and provided the opportunity to vote and any telephone vote is confirmed promptly in writing. 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 Committee.

**§ 1260.165 Compensation and reimbursement.**

The members of the Committee shall serve without compensation but shall be reimbursed for necessary and reasonable expenses incurred by them in the performance of their duties under this subpart.

**§ 1260.166 Officers of the Committee.**

The following persons shall serve as officers of the Committee:

- (a) The chairperson of the Board shall be chairperson of the Committee.
- (b) The chairperson of the Federation shall be vice-chairperson of the Committee.
- (c) The treasurer of the Board shall be treasurer of the Committee.
- (d) The Committee shall elect or appoint such other officers as it may deem necessary.

**§ 1260.167 Powers of the Committee.**

The Committee shall have the following powers:

- (a) To receive and evaluate, or on its own initiative, develop and budget for plans or projects to promote the use of beef and beef products as well as projects for research, consumer information and industry information and to make recommendations to the Secretary regarding such proposals;
- (b) To select committees and subcommittees of Committee members, and to adopt such rules for the conduct of its business as it may deem advisable;
- (c) To establish committees of persons other than Committee members to advise the Committee and pay the necessary and reasonable expenses and fees of the members of such committees.

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### § 1260.168 Duties of the Committee.

The Committee shall have the following duties:

- (a) To meet and to organize;
- (b) To contract with established national nonprofit industry-governed organizations to implement programs of promotion, research, consumer information and industry information;
- (c) To disseminate information to Board members;
- (d) To prepare and submit to the Board for approval budgets on a fiscal-period basis of its anticipated expenses and disbursements in the administration of its responsibilities, including probable costs of promotion, research, consumer information and industry information plans or projects, and also including a general description of the proposed promotion, research, consumer information and industry information programs contemplated therein;
- (e) To develop and submit to the Secretary for approval promotion, research, consumer information and industry information plans or projects;
- (f) With the approval of the Secretary to enter into contracts or agreements with established national nonprofit industry-governed organizations for the implementation and conduct of activities authorized under §§ 1260.167 and 1260.169 and for the payment of the cost of such activities with funds collected through assessments pursuant to § 1260.172. Any such contract or agreement shall provide that:
  - (1) The contractors shall develop and submit to the Committee a budget or budgets which shall show the estimated cost to be incurred for such activity or project;
  - (2) Any such plan or project shall become effective upon approval of the Secretary; and
  - (3) The contracting party shall keep accurate records of all of its transactions and make periodic reports to the Committee or Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary, the Committee or the Board may require. The Secretary or agents of the Committee or the Board may audit periodically the records of the contracting party;

(g) To prepare and make public, at least annually, a report of its activities carried out and an accounting for funds received and expended;

(h) To give the Secretary the same notice of meetings of the Committee and its subcommittees and advisory committees in order that the Secretary, or his representative, may attend such meetings;

(i) To submit to the Board and to the Secretary such information pursuant to this subpart as may be requested; and

(j) To encourage the coordination of programs of promotion, research, consumer information and industry information designed to strengthen the cattle industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products.

### § 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

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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 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 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 than 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)

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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:

IMPORTED LIVE CATTLE	
HTS No.	Assessment rate (head)
0102.10.0010 .....	\$1.00
0102.10.0020 .....	1.00
0102.10.0030 .....	1.00
0102.10.0050 .....	1.00
0102.90.2011 .....	1.00
0102.90.2012 .....	1.00
0102.90.4024 .....	1.00
0102.90.4028 .....	1.00
0102.90.4034 .....	1.00
0102.90.4038 .....	1.00
0102.90.4054 .....	1.00
0102.90.4058 .....	1.00
0102.90.4062 .....	1.00
0102.90.4064 .....	1.00
0102.90.4066 .....	1.00
0102.90.4068 .....	1.00
0102.90.4072 .....	1.00
0102.90.4074 .....	1.00
0102.90.4082 .....	1.00
0102.90.4084 .....	1.00

IMPORTED BEEF AND BEEF PRODUCTS	
HTS No.	Assessment rate per kg
0201.10.0510 .....	.01459542
0201.10.0590 .....	.00379102
0201.10.1010 .....	.01459542
0201.10.1090 .....	.00379102
0201.10.5010 .....	.01459542
0201.10.5090 .....	.00511787
0201.20.0200 .....	.00530743
0201.20.0400 .....	.00511787
0201.20.0600 .....	.00379102
0201.20.1000 .....	.00530743
0201.20.3000 .....	.00511787
0201.20.5000 .....	.00379102

**IMPORTED BEEF AND BEEF PRODUCTS—  
Continued**

HTS No.	Assessment rate per kg
0201.20.8090 .....	.00379102
0201.30.0200 .....	.00530743
0201.30.0400 .....	.00511787
0201.30.0600 .....	.00379102
0201.30.1000 .....	.00530743
0201.30.3000 .....	.00511787
0201.30.5000 .....	.00511787
0201.30.8090 .....	.00511787
0202.10.0510 .....	.01459542
0202.10.0590 .....	.00379102
0202.10.1010 .....	.01459542
0202.10.1090 .....	.00370102
0202.10.5010 .....	.01459542
0202.10.5090 .....	.00379102
0202.20.0200 .....	.00530743
0202.20.0400 .....	.00511787
0202.20.0600 .....	.00379102
0202.20.1000 .....	.00530743
0202.20.3000 .....	.00511787
0202.20.5000 .....	.00379102
0202.20.8000 .....	.00379102
0202.30.0200 .....	.00530743
0202.30.0400 .....	.00511787
0202.30.0600 .....	.00527837
0202.30.1000 .....	.00530743
0202.30.3000 .....	.00511787
0202.30.5000 .....	.00511787
0202.30.8000 .....	.00379102
0206.10.0000 .....	.00379102
0206.21.0000 .....	.00379102
0206.22.0000 .....	.00379102
0206.29.0000 .....	.00379102
0210.20.0000 .....	.00615701
1601.00.4010 .....	.00473877
1601.00.4090 .....	.00473877
1601.00.6020 .....	.00473877
1602.50.0900 .....	.00663428
1602.50.1020 .....	.00663428
1602.50.1040 .....	.00663428
1602.50.2020 .....	.00701388
1602.50.2040 .....	.00701388
1602.50.6000 .....	.00720293

(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 with respect to cattle purchased or cattle, beef, and beef products imported on

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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; 71 FR 47076, Aug. 16, 2006]

**§ 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 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 council pursuant to this subpart and

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any other reports and information the Board or Secretary may request; and

(7) Not use council funds collected pursuant to this subpart for the purpose of influencing governmental policy or action, or to fund plans or projects which 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.

[51 FR 26138, July 18, 1986, as amended at 60 FR 58502, Nov. 28, 1995]

### REPORTS, BOOKS AND RECORDS

#### § 1260.201 Reports.

Each importer, person marketing cattle, beef or beef products of that person's own production directly to consumers, and each collecting person making payment to producers and responsible for the collection of the assessment under § 1260.172 shall report to the Board periodically information required by regulations prescribed by the Board and approved by the Secretary. Such information may include but is not limited to the following:

(a) The number of cattle purchased, initially transferred or which, in any other manner, is subject to the collection of assessment, and the dates of such transaction;

(b) The number of cattle imported; or the equivalent thereof of beef or beef products;

(c) The amount of assessment remitted;

(d) The basis, if necessary, to show why the remittance is less than the number of head of cattle multiplied by one dollar; and,

(e) The date any assessment was paid.

EFFECTIVE DATE NOTE: § 1260.201 contains information collection and recordkeeping requirements and will not become effective until approval is given by the Office of Management and Budget.

#### § 1260.202 Books and records.

Each person subject to this subpart shall maintain and make available for inspection by the Secretary the records required by regulations prescribed by the Board and approved by the Secretary that are necessary to carry out the provisions of this subpart, includ-

ing records necessary to verify any required reports. Such records shall be maintained for the period of time prescribed by the regulations issued hereunder.

[51 FR 26138, July 18, 1986; 51 FR 26686, July 25, 1986]

EFFECTIVE DATE NOTE: § 1260.202 contains information collection and recordkeeping requirements and will not become effective until approval is given by the Office of Management and Budget.

#### § 1260.203 Confidential treatment.

All information obtained from such books, records or reports required under the Act and this subpart shall be kept confidential by all persons, including employees and agents and former employees and agents of the Board, all officers and employees and all former officers and employees of the Department, and by all officers and employees and all former officers and employees of contracting organizations having access to such information, and shall not be available to Board members or any other producers or importers. Only those persons having a specific need for such information in order to effectively administer the provisions of this subpart shall have access to this information. In addition, only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of the subpart violated by such person.

[51 FR 26138, July 18, 1986; 51 FR 26686, July 25, 1986]

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MISCELLANEOUS

**§ 1260.211 Proceedings after termination.**

(a) Upon the termination of this subpart the Board shall recommend not more than 11 of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property owned, in the possession of or under the control of the Board, including unpaid claims or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contract or agreements entered into by it pursuant to §§ 1260.150 and 1260.168.

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligation imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the promotion, research, consumer information or industry information plans or projects authorized pursuant to this subpart.

[51 FR 26138, July 18, 1986; 51 FR 26686, July 25, 1986]

**§ 1260.212 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of

this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may hereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or,

(c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any person, with respect to any such violation.

**§ 1260.213 Removal.**

If 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 Board or Committee may recommend to the Secretary that that person be removed from office. If the Secretary finds that the recommendation demonstrates adequate cause, the Secretary shall remove the person from office. A person appointed or certified under this part or any employee of the Board or Committee 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.

**§ 1260.214 Personal liability.**

No member, employee or agent of the Board or the Committee, including employees or agents of a qualified State beef council acting on behalf 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 of either commission or omission, or such member or employee, except for acts of dishonesty or willful misconduct.

**§ 1260.215 Patents, copyrights, inventions and publications.**

(a) Any patents, copyrights, inventions or publications 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, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, ensure to the benefit of the Board. Upon termination of this subpart, § 1260.211 shall apply to determine disposition of all such property.

(b) Should patents, copyrights, inventions or publications be developed through the use of funds collected by the Board under this subpart and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, inventions or publications shall be determined by agreement between the Board and the party contributing funds towards the development of such patent, copyright, invention or publication in a manner consistent with paragraph (a) of this section.

#### § 1260.216 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board, or by any organization or association certified pursuant to the Act and this part, or by any interested person affected by the provisions of the Act, including the Secretary.

#### § 1260.217 Separability.

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

### Subpart B—Rules and Regulations

SOURCE: 53 FR 5754, Feb. 26, 1988, unless otherwise noted.

#### § 1260.301 Terms defined.

As used throughout this subpart, unless the context otherwise requires, terms shall have the same meaning as the definition of such terms as appears in Subpart A of this part.

#### § 1260.302 Organic exemption.

(a) A producer who operates under an approved National Organic Program

(NOP) (7 CFR part 205) system plan; only produces products that re eligible to be labeled as 100 percent organic under the NOP, except as provided for in paragraph (i) of this section; and is not a split operation shall be exempt from the payment of assessments.

(b) To apply for an exemption under this section, the producer shall submit the request to the Board or QSBC—on a form provided by the Board or QSBC—at any time initially and annually thereafter on or before January 1 as long as the producer continues to be eligible for the exemption.

(c) The request shall include the following: the producer's name and address, a copy of the organic farm or organic handling operation certificate provided by a USDA-accredited certifying agent as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502), a signed certification that the applicant meets all of the requirements specified for an assessment exemption, and such other information as may be required by the Board and with the approval of the Secretary.

(d) If the producer complies with the requirements of this section, the Board or QSBC will grant the exemption and issue a Certificate of Exemption to the producer. For exemption requests received on or before August 15, 2005, the Board or QSBC will have 60 days to approve the exemption request; after August 15, 2005, the Board or QSBC will have 30 days to approve the exemption request. If the application is disapproved, the Board will notify the applicant of the reason(s) for disapproval within the same timeframe.

(e) The producer shall provide a copy of the Certificate of Exemption to each person responsible for collecting and remitting the assessment.

(f) The person responsible for collecting and remitting the assessment shall maintain records showing the exempt producer's name and address and the exemption number assigned by the Board or QSBC.

(g) An importer who imports only products that are eligible to be labeled as 100 percent organic under the NOP (7 CFR part 205) and who is not a split operation shall be exempt from the payment of assessments. That importer

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may submit documentation to the Board and request an exemption from assessment on 100 percent organic cattle or beef and beef products—on a form provided by the Board—at any time initially and annually thereafter on or before January 1 as long as the importer continues to be eligible for the exemption. This documentation shall include the same information required of producers in paragraph (c) of this section. If the importer complies with the requirements of this section, the Board will grant the exemption and issue a Certificate of Exemption to the importer. The Board will also issue the importer a 9-digit alphanumeric Harmonized Tariff Schedule (HTS) classification valid for 1 year from the date of issue. This HTS classification should be entered by the importer on the Customs entry documentation. Any line item entry of 100 percent organic cattle or beef and beef products bearing this HTS classification assigned by the Board will not be subject to assessments.

(h) The exemption will apply immediately following the issuance of the Certificate of Exemption.

(i) Agricultural commodities produced and marketed under an organic system plan, as described in 7 CFR 205.201, but not sold, labeled, or represented as organic, shall not disqualify a producer from exemption under this section, except that producers who produce both organic and non-organic agricultural commodities as a result of split operations shall not qualify for exemption. Reasons for conventional sales include lack of demand for organic products, isolated use of antibiotics for humane purposes, chemical or pesticide use as the result of State or emergency spray programs, and crops from a buffer area as described in 7 CFR part 205, provided all other criteria are met.

[70 FR 2762, Jan. 14, 2005]

**§ 1260.310 Domestic assessments.**

(a) A \$1.00 per head assessment on cattle sold shall be paid by the producer of the cattle in the manner designated in § 1260.311.

(b) If more than one producer shares the proceeds received for the cattle sold, each such producer is obligated to

pay that portion of the assessments which are equivalent to the producer's proportionate share of the proceeds.

(c) Failure of the collecting person to collect the assessment on each head of cattle sold as designated in § 1260.311 shall not relieve the producer of his obligation to pay the assessment to the appropriate qualified State beef council or the Cattlemen's Board as required in § 1260.312.

**§ 1260.311 Collecting persons for purposes of collection of assessments.**

Collecting persons for purposes of collecting and remitting the \$1.00 per head assessment shall be:

(a) Except as provided in paragraphs (b), (c), and (f) of this section, each person making payment to a producer for cattle purchased in the United States shall collect from the producer an assessment at the rate of \$1-per-head of cattle purchased and shall be responsible for remitting assessments to the QSBC or the Board as provided in § 1260.312. The collecting person shall collect the assessment at the time the collecting person makes payment or any credit to the producer's account for the cattle purchased. The person paying the producer shall give the producer a receipt indicating payment of the assessment.

(b) 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, shall be responsible for remitting to the qualified State beef council or the Cattlemen's Board pursuant to § 1260.312, an assessment on such cattle at the rate of \$1.00 per head of cattle or the equivalent thereof. The obligation to remit the assessment shall attach upon slaughter of the cattle, and the producer responsible for remitting the assessment shall remit the assessment in the manner provided in § 1260.312. For the purposes of this subpart, a producer marketing cattle of the producer's own production in the form of beef or beef products shall be considered a collecting person.

(c) In the States listed in the following chart there exists a requirement that cattle be brand inspected by State authorized inspectors prior to sale. In addition, when cattle are sold

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in the sales transactions listed below in those States, these State authorized inspectors are authorized to, and shall, except as provided for in paragraph (f) of this section, collect assessments due as a result of the sale of cattle. In those transactions in which inspectors

are responsible for collecting assessments, the person paying the producer shall not be responsible for the collection and remittance of such assessments. The following chart identifies the party responsible for collecting and remitting assessments in these States:

State	Sales through auction market	Sales to a slaughter/packer	Sales to a feedlot	Sales to an order buyer/dealer	Country sales <sup>1</sup>
Arizona .....	CP	CP	CP	B	B
California .....	CP	CP	B	B-CP	B
Colorado .....	CP	B	B	B	B
Idaho .....	B	B	B	B	B
Montana .....	CP	B	B	B	B
Nebraska .....	CP	CP	B-CP	B-CP	B-CP
Nevada .....	B	B	B	B	B
Oregon .....	CP	B-CP	B	B	B
New Mexico .....	CP	B-CP	B-CP	B-CP	B-CP
Utah .....	CP	B-CP	B	B	B
Washington .....	CP	CP	B	B-CP	B
Wyoming .....	CP	B	B	B	B

**Key:**  
 B—Brand inspector has responsibility to collect and remit assessments due.  
 CP—The person paying the producer shall be the collecting person and has responsibility to collect and remit the assessments due.  
 B-CP—Brand inspector has responsibility to collect; however, when there has not been a physical brand inspection the person paying the producer shall be the collecting person and has the responsibility to collect and remit assessments due.  
<sup>1</sup>For the purpose of this subpart, the term "country sales" shall include any sales not conducted at an auction or livestock market and which is not a sale to a slaughter/packer, feedlot, or order buyer or dealer.

(d) For cattle delivered on futures contracts, the commission firm or the market agency representing the seller in the delivery of cattle shall be the collecting person.

(e) In a case where a producer sells cattle as part of a custom slaughter operation, the producer shall be the collecting person in the same manner as if the cattle were slaughtered for sale.

(f)(1) In lieu of each person making a payment to a producer for cattle purchased in the United States, producers are provided the option in accordance with this paragraph (f) to remit the assessment to the QSBC in the State in which the producer resides. A producer who transports, prior to sale, cattle of that producer's own production to another State, may elect to make a directed payment of the \$1-per-head assessment in advance to the QSBC in the State in which the producer resides, provided that the producer fulfills the following requirements:

(i) Transports the cattle under retained ownership to a feedlot or similar location, and the cattle remain at such location, prior to sale, for a period not less than 30 days; and

(ii) The producer, either before or at the time of transport, signs a Certification of Producer Directed Payment of Cattle Assessments form indicating that the assessment has been paid in advance, and remits the assessment to the appropriate QSBC. A copy of the certification form indicating the payment of the assessment shall be sent by the producer with the assessment when remitted to the QSBC. The producer also shall send a copy of the certification form to the feedlot operator at the time the cattle are delivered. A copy of the certification form also shall be given to the purchaser of the cattle by the feedlot operator at the time of sale.

(2) The certification form will include the following information:

- (i) Producer's Name.
- (ii) Producer's social security number or Tax I.D. number.
- (iii) Producer's address (street address or P.O. Box, city, State, and zip code).
- (iv) Signature of Producer.
- (v) Producer's State of residence.

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(vi) Number of cattle shipped to out of State feedyard under retained ownership.

(vii) Date cattle shipped.

(viii) State where cattle will be on feed.

(ix) Name of feedyard.

(x) Address of feedyard.

(3) Cattle of a producer's own production shall be those cattle which meet all of the following requirements:

(i) The cattle shall be offspring of a producer's own cow herd;

(ii) The cattle shall have been continuously and exclusively under the producer's ownership; and

(iii) The cattle are transported to a feedlot with such producer continuously owning the cattle through the entire feeding phase.

(4) For those cattle for which the assessment has been producer directed and paid in advance pursuant to paragraph (f)(1) of this section, the purchaser of the cattle shall not be required to collect and remit the assessment, but shall maintain on file a copy of the Certification of Producer Directed Payment of Cattle Assessments form completed and signed by the producer who originally transported the cattle under retained ownership.

(5) For those cattle for which the assessment has been producer directed and paid in advance pursuant to paragraph (f)(1) of this section, copies of the completed Certification of Producer Directed Payment of Cattle Assessments form shall be maintained on file by the producer, the QSBC or the Board, the feedlot operator, and the purchaser of the cattle for 3 years.

(6) Producers shall not receive credit of the assessment required to be paid pursuant to paragraph (f)(1) of this section for those cattle lost because of death.

[53 FR 5754, Feb. 26, 1988, as amended at 67 FR 61766, Oct. 2, 2002]

**§ 1260.312 Remittance to the Cattlemen's Board or Qualified State Beef Council.**

Each person responsible for the collection and remittance of assessments shall transmit assessments and a report of assessments to the qualified State beef council of the State in which such person resides or if there is

no qualified State beef council in such State, then to the Cattlemen's Board as follows:

(a) *Reports.* Each collecting person shall make reports on forms made available or approved by the Cattlemen's Board. Each collecting person shall prepare a separate report for each reporting period. Each report shall be mailed to the qualified State beef council of the State in which the collecting person resides, or its designee, or if there exists no qualified State beef council in such State, to the Cattlemen's Board. Each report shall contain the following information:

(1) The number of cattle purchased, initially transferred or which, in any other manner, is subject to the collection of assessment, and the dates of such transactions;

(2) The amount of assessment remitted;

(3) The basis, if necessary, to show why the remittance is less than the number of head of cattle multiplied by one dollar; and

(4) The date any assessment was paid.

(b) *Reporting periods.* Each calendar month shall be a reporting period and the period shall end at the close of business on the last business day of the month.

(c) *Remittances.* The remitting person shall remit all assessments to the qualified State beef council or its designee, or, if there is no qualified State beef council, to the Cattlemen's Board at P.O. Box 27-275; Kansas City, Missouri 64180-0001, with the report required in paragraph (a) of this section not later than the 15th day of the following month. All remittances sent to a qualified State beef council or the Cattlemen's Board by the remitting persons shall be by check or money order payable to the order of the qualified State beef council or the Cattlemen's Board. All remittances shall be received subject to collection and payment at par.

**§ 1260.313 Document evidencing payment of assessments.**

Each collecting person responsible for remitting an assessment to a qualified State beef council or the Board, other than a producer slaughtering cattle of the producer's own production

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for sale, is required to give the producer from whom the collecting person collected an assessment written evidence of payment of the Beef Promotion and Research Assessments. Such written evidence serving as a receipt shall contain the following information:

- (a) Name and address of the collecting person.
- (b) Name of producer who paid assessment.
- (c) Number of head of cattle sold.
- (d) Total assessments paid by the producer.
- (e) Date.

### § 1260.314 Certification of non-producer status for certain transactions.

(a) The assessment levied on each head of cattle sold shall not apply to cattle owned by a person:

(1) If the person certifies that the person's only share in the proceeds of a sale of cattle, beef, or beef products is a sales commission, handling fee or other service fee; or

(2) If the person:

(i) Certifies that the person acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third party,

(ii) Establishes that such cattle were resold not later than 10 days from the date on which the person acquired ownership; and

(iii) Certifies that the assessment levied upon the person from whom the person purchased the cattle, if an assessment was due, has been collected and has been remitted, or will be remitted in a timely fashion.

(b) Each person seeking non-producer status pursuant to § 1260.116 shall provide the collecting person, on a form approved by the Board and the Secretary, with a Statement of Certification of Non-Producer Status at the time the collecting person makes payment to the seller of cattle, in lieu of the assessment that would otherwise be due, except as provided for in paragraphs (c) and (d) of this section.

(c) When the seller of cattle is not physically present during a sales transaction in which the seller claims non-producer status, such seller shall deliver to the collecting person an origi-

nal Statement of Certification of Non-Producer Status within 10 business days of the date the collecting person makes payment to the seller of the cattle.

(d) If the collecting person is a brand inspector, as provided for in § 1260.311, the seller of cattle claiming non-producer status shall provide to the brand inspector at the time the physical brand inspection is completed, in lieu of the assessment that would otherwise be due, either: a Statement of Certification of Non-Producer Status or a valid brand inspection certificate which shows collection of the assessment by a brand inspector in a transaction which took place not more than 10 days prior to the sale of the cattle.

(e) A copy of the Statement of Certification of Non-Producer Status shall be forwarded, upon request, by the collecting person to the qualified State beef council or the Cattlemen's Board.

[53 FR 5754, Feb. 26, 1988, as amended at 66 FR 26784, May 15, 2001]

### § 1260.315 Qualified State Beef Councils.

The following State beef promotion entities have been certified by the Board as qualified State beef councils:

Alabama Cattlemen's Association  
Arizona Beef Council  
Arkansas Beef Council  
California Beef Council  
Colorado Beef Council  
Florida Beef Council, Inc.  
Georgia Beef Board, Inc.  
Idaho Beef Council  
Illinois Beef Council  
Indiana Beef Council  
Iowa Beef Cattle Producers Association  
Kansas Beef Council  
Kentucky Beef Cattle Association  
Louisiana Beef Industry Council  
Maryland Beef Council  
Michigan Beef Industry Commission  
Minnesota Beef Council  
Mississippi Cattle Industry Board  
Missouri Beef Industry Council  
Montana Beef Council  
Nebraska Beef Industry Development Board  
Nevada Beef Council  
New Mexico Beef Council  
New York Beef Industry Council  
North Carolina Cattlemen's Association  
North Dakota Beef Commission  
Ohio Beef Council  
Oklahoma Beef Commission  
Oregon Beef Council  
Pennsylvania Beef Council, Inc.

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South Carolina Cattle and Beef Board  
South Dakota Beef Industry Council  
Tennessee Beef Industry Council  
Texas Beef Industry Council  
Utah Beef Council  
Vermont Beef Council  
Virginia Cattle Industry Board  
Washington State Beef Commission  
West Virginia Beef Industry  
Wisconsin Beef Council  
Wyoming Beef Council

*Act* means the Beef Promotion and Research Act of 1985 (7 U.S.C. 2901-2918).

*Beef* means the flesh of cattle.

*Beef products* means edible products produced in whole or in part from beef, exclusive of milk and milk products produced therefrom.

*Board* means the Cattlemen's Beef Promotion and Research Board established under section 5(1) of the Act.

*Cattle* means live, domesticated bovine animals regardless of age.

*Department* means the United States Department of Agriculture.

*Importer* means a person who imports cattle, beef, or beef products from outside the United States.

*Livestock and Seed Division* means the Livestock and Seed Division of the Department's Agricultural Marketing Service.

*Producer* means a person who owns or acquires ownership of cattle, except that a person shall not be considered to be a producer if the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

*Secretary* means the Secretary of Agriculture of the United States, or any 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.

*State* means each of the 50 States.

*Unit* means a State or combination of States which has a total inventory of not less than 500,000 head of cattle; or importers.

**§ 1260.316 Paperwork Reduction Act assigned number.**

The information collection and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0851-0152.

**Subpart C [Reserved]**

**Subpart D—Beef Promotion and Research: Certification and Nomination Procedures for the Cattlemen's Beef Promotion and Research Board**

SOURCE: 51 FR 11559, Apr. 4, 1986, unless otherwise noted. Redesignated at 51 FR 26138, July 18, 1986, and further redesignated at 51 FR 35197, Oct. 1, 1986. Redesignated also at 53 FR 9858, Mar. 28, 1988.

**§ 1260.500 General.**

State organizations or associations shall be certified by the Secretary as provided for in the Beef Promotion and Research Act of 1985 to be eligible to make nominations of cattle producers to the Board. Additionally, where there is no eligible organization or association in a State, the Secretary may provide for nominations in the manner prescribed in this subpart. Organizations or associations determined by the Secretary to represent importers of cattle, beef, and beef products may submit nominations for membership on the Board in a manner prescribed by the Secretary in this subpart. The number of nominees required for each allotted position will be determined by the Secretary.

**§ 1260.510 Definitions.**

As used in this subpart:

**§ 1260.520 Responsibility for administration of regulations.**

The Livestock and Seed Division shall have the responsibility for administering the provisions of this subpart.

**§ 1260.530 Certification of eligibility.**

(a) *State organizations or associations: Requirements for certification.* (1) To be eligible for certification to nominate producer members to the Board, State organizations or associations must meet all of the following criteria:

(i) Total paid membership must be comprised of at least a majority of cattle producers or represent at least a

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majority of cattle producers in a State or unit.

(ii) Membership must represent a substantial number of producers who produce a substantial number of cattle in such State or unit.

(iii) There must be a history of stability and permanency.

(iv) There must be a primary or overriding purpose of promoting the economic welfare of cattle producers.

(2) Written evidence of compliance with the certification criteria shall be contained in a factual report submitted to the Secretary by all applicant State organizations or associations.

(3) The primary consideration in determining the eligibility of a State organization or association shall be based on the criteria set forth in this section. However, the Secretary may consider any additional information that the Secretary deems relevant and appropriate.

(4) The Secretary shall certify any State organization or association which he determines complies with the criteria in this section, and his eligibility determination shall be final.

(b) *Organizations or associations representing importers.* The determination by the Secretary as to the eligibility of importer organizations or associations to nominate members to the Board shall be based on applications containing the following information:

(1) The number and type of members represented (i.e., beef, or cattle importers, etc.).

(2) Annual import volume in pounds of beef and beef products and/or the number of head of cattle.

(3) The stability and permanency of the importer organization or association.

(4) The number of years in existence.

(5) The names of the countries of origin for cattle, beef, or beef products imported.

The Secretary may also consider additional information that the Secretary deems relevant and appropriate. The Secretary's determination as to eligibility shall be final.

### § 1260.540 Application for certification.

(a) *State organizations or associations.* Any State organization or association which meets the eligibility criteria

specified in §1260.530(a) for certification is entitled to apply to the Secretary for such certification of eligibility to nominate producers for appointment to the Board. To apply, such organization or association must submit a completed "Application for Certification of Organization or Association," Form LS-25, contained in §1260.640. It may be reproduced or additional copies may be obtained from the Livestock and Seed Division; Agricultural Marketing Service, USDA; 14th and Independence Avenue, SW., Room 2610-S; Washington, DC 20250. (Telephone: 202/447-2650.)

(b) *Importer organizations or associations.* Any organization or association whose members import cattle, beef, or beef products into the United States may apply to the Secretary for determination of eligibility to nominate importers under the Act. Applications shall be in writing and shall contain the information required by §1260.530. Interested organizations or associations may contact the Livestock and Seed Division; Agricultural Marketing Service, USDA; 14th and Independence Avenue, SW., Room 2610-S; Washington, DC 20250; (Telephone: 202/447-2650) for information concerning application procedures.

### § 1260.550 Verification of information.

The Secretary may require verification of the information to determine eligibility for certification to make nominations under the Act.

### § 1260.560 Review of certification.

The Secretary may terminate or suspend certification or eligibility of any organization or association if it ceases to comply with the certification or eligibility criteria set forth in this subpart. The Secretary may require any information deemed necessary to ascertain whether the organization or association may remain certified or eligible to make nominations.

### § 1260.570 Notification of certification and the listing of certified organizations.

Organizations and associations shall be notified in writing as to whether they are eligible to nominate producer members to the Board. A copy of the

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certification or eligibility determination shall be furnished to certified or eligible organizations and associations. Copies shall also be maintained on file in the Livestock and Seed Division office, where they will be available for inspection.

**§§ 1260.580–1260.600 [Reserved]**

**§ 1260.610 Acceptance of appointment.**

Producers and importers nominated to the Board must signify in writing their intent to serve if appointed.

**§ 1260.620 Confidential treatment of information.**

All documents and information submitted to or obtained by the Depart-

ment shall be kept confidential by all employees of the Department, except that the Secretary may issue general statements based upon the information collected from a number of different sources. These general statements will not identify any information as having been furnished by any one source.

**§ 1260.630 Paperwork Reduction Act assigned number.**

The OMB has approved the information collection request contained in this subpart under the provisions of 44 U.S.C. Chapter 35, and OMB Control Number 0581–152 has been assigned.

**§ 1260.640 Application for Certification Form.**

The following official form, “Application for Certification of Association or Organization,” must be completed and submitted to the Department by eligible State organizations or associations seeking certification by the Secretary. This form may be reproduced.

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Information is collected in order to determine eligibility of organizations or associations to nominate cattle producers to serve as members of the Board. Application is voluntary and information is held confidential (Beef Promotion and Research Act of 1985).

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE <b>APPLICATION FOR CERTIFICATION OF ORGANIZATION OR ASSOCIATION</b>	Form Approved OMB NO. 0581-0152 Expires 12-31-88
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Organizations or associations must apply for certification by the Secretary to be eligible to participate in the making of nominations of cattle producers to serve as members of the Cattlemen's Beef Promotion and Research Board as provided in the Beef Promotion and Research Act of 1985. Information submitted in response to all items must be complete. Please type or print clearly. Send original only to: *Marketing Programs and Procurement Branch, Livestock and Seed Division, AMS, U. S. Department of Agriculture, Room 2610-S, Washington, DC 20250*

1. NAME AND ADDRESS OF ORGANIZATION (Street address or P.O. Box No., City, State, ZIP)		2. TYPE OF ORGANIZATION (Check one) <input type="checkbox"/> Cattle Assoc. <input type="checkbox"/> General Farm Organization <input type="checkbox"/> Other (Specify) .....	
3. STATE		TEL. (AC.....) .....	
4. TOTAL PAID MEMBERSHIP (Most RECENT FULL calendar year) IN 198__ NO. _____	5. NUMBER OF PAID MEMBERS ENGAGED IN CATTLE PRODUCTION (Most RECENT FULL calendar year) IN 198__ NO. _____	6. TOTAL ESTIMATED INVENTORY OF CATTLE OWNED BY PAID MEMBERS (Most RECENT FULL calendar year) AS OF JAN. 1, 198__ NO. _____	
7. AS EVIDENCE OF THE STABILITY AND PERMANENCY OF THE ORGANIZATION, GIVE:			
A. No. of Years in Existence		B. No. of Paid Members during each of the last four calendar years:	
No. →		198__	198__
C. Other Evidence (Explain)		198__	198__

I hereby certify that: (1) a primary or overriding purpose of this organization or association is to promote the economic welfare of cattle producers, and (2) the information provided in response to the above items is true, complete, and correct to the best of my knowledge. The Secretary of Agriculture may examine our books, documents, papers, records, files, and facilities to verify any of the information submitted and may procure such other information as may be required to determine this organization's or association's eligibility for certification.

8. NAME AND TITLE OF PERSON COMPLETING THIS APPLICATION (Type or print)	9. DATE	10. SIGNATURE
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