

§ 1221.115 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 of the United States; general obligations of any State or any political subdivision of a State; interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve system; or obligations that are fully guaranteed as to principal and interest by the United States.

§ 1221.116 Assessments.

(a) The funds to cover the Board's expenses shall be paid from assessments on producers and importers, donations from any person not subject to assessments under this Order, and other funds available to the Board and subject to the limitations contained therein.

(b) First handlers of domestic sorghum shall be responsible for collecting assessments from producers on all domestically handled sorghum. This includes sorghum of the first handler's own production. Grain pledged as collateral for a Commodity Credit Corporation price support loan program shall be considered handled sorghum. A first handler shall not collect an assessment on sorghum from a producer when said producer presents documentation demonstrating that an assessment has previously been collected on said sorghum.

(c) The following assessment rates for sorghum shall apply:

(1) Grain sorghum shall be initially assessed at a rate of 0.6 percent of net market value received by the producer pursuant to paragraph (e) of this section; and

(2) Sorghum forage, sorghum hay, sorghum haylage, sorghum billets, and sorghum silage shall be initially assessed at a rate of 0.35 percent of net market value received by the producer pursuant to paragraph (e) of this section.

(d) Importers of sorghum shall pay an assessment to the Board through Customs on sorghum imported into the United States. The following apply to imported sorghum:

(1) The assessment rates for imported sorghum shall be the same or equivalent

to the rates for sorghum produced in the United States.

(2) The import assessment shall be uniformly applied to imported sorghum that is identified by the numbers 1007.00.0020 and 1007.00.0040 in the Harmonized Tariff Schedule of the United States.

(3) The assessments due on imported sorghum shall be paid when the sorghum enters the United States.

(4) If Customs does not collect an assessment from an importer, the importer is responsible for paying the assessment to the Board.

(e) The Board will review the assessment rates and may make recommendations to modify the assessment rates to the Secretary. Assessment rates may be raised or lowered no more than 0.2 percent of net market value received by producers and importers in any one calendar year. The maximum assessment rate cannot exceed 1 percent of the net market value received by producers and importers.

(f) Each person responsible for collecting assessments under paragraph (b) of this section shall remit the amount due to the Board in such a manner as required by regulations recommended by the Board and prescribed by the Secretary.

(g) Any unpaid assessment due to the Board pursuant to this section shall be increased 2 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 paragraph, shall be increased at the same rate on the corresponding day of each month thereafter until paid. For the purposes of this paragraph, any assessment determined at a later date than the date prescribed by this subpart because of a person's failure to timely submit a report to the Board shall be considered to have been payable by the date it would have been due if the report had been filed timely. The timeliness of a payment to the Board shall be based on the applicable postmark date or the date actually received by the Board.

(h) An additional charge shall be imposed on any person subject to a late payment charge in the form of interest on the outstanding portion of any

amount for which the person is liable. The rate of interest shall be prescribed by the Secretary.

(i) Persons failing to remit total assessments due in a timely manner may also be subject to actions under Federal debt collection procedures.

(j) The Board may authorize other organizations to collect assessments on its behalf with the approval of the Secretary.

(k) The collection of assessments pursuant to this section shall begin with respect to sorghum handled on or after the effective date established by the Secretary and shall continue until terminated or suspended by the Secretary.

(l) 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.

(m) 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 §§1221.124 and 1221.125 shall be mailed to the location designated by the Board.

§ 1221.117 Exemptions.

(a) Any importer of less than and including 1,000 bushels of grain sorghum or 5,000 tons of sorghum forage, sorghum hay, sorghum haylage, sorghum billets, or sorghum silage per calendar year may claim an exemption from the assessment required under §1221.116.

(b) An importer desiring an exemption shall apply to the Board, on a form provided by the Board, for a certificate of exemption. An importer shall certify that the importer will import less than and including 1,000 bushels of grain sorghum or 5,000 tons of sorghum forage, sorghum hay, sorghum haylage, sorghum billets, or sorghum silage.

(c) Upon receipt of an application, the Board shall determine whether an exemption may be granted. The Board then will issue, if deemed appropriate, a certificate of exemption to each person who is eligible to receive one. It is the responsibility of these persons to retain a copy of the certificate of exemption.

(d) Importers who receive a certificate of exemption shall be eligible for reimbursement of assessments collected by Customs. These importers shall apply to the Board for reimbursement of any assessments paid. No interest will be paid on the assessments collected by Customs. Requests for reimbursement shall be submitted to the Board within 90 days of the last day of the calendar year the sorghum was actually imported.

(e) Any person who desires an exemption from assessments for a subsequent calendar year shall reapply to the Board, on a form provided by the Board, for a certificate of exemption.

(f) The Board may require persons receiving an exemption from assessments to provide to the Board reports on the disposition of exempt sorghum and, in the case of importers, proof of payment of assessments.

(g) A producer or importer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan; produces or imports only products that are eligible to be labeled as 100 percent organic under the NOP, except as provided for in paragraph (m) of this section; and is not, or does not import products from, a split operation shall be exempt from the payment of assessments.

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

(i) The request shall include the following: The applicant'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