

Texas market will continue to have their milk priced under the Texas order. In addition they maintain that the suspension would continue to provide handlers the flexibility needed to move milk supplies in the most efficient manner and to eliminate costly and inefficient movements of milk that would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

#### List of Subjects in 7 CFR Part 1126

Milk marketing orders.

The authority citation for 7 CFR Part 1126 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

Dated: May 26, 1995.

**Lon Hatamiya,**

*Administrator.*

[FR Doc. 95-13510 Filed 6-1-95; 8:45 am]

BILLING CODE 3410-02-P

#### 7 CFR Part 1280

[No. LS-94-015]

#### Sheep and Wool Promotion, Research, Education, and Information Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Sheep Promotion, Research, and Information Act of 1994 (Act), authorized the establishment of a national, industry-funded and -operated sheep and wool promotion, research, education, and information program. In response to an invitation published in the **Federal Register** to submit proposals for a sheep and wool promotion, research, education, and information order (Order), the Agricultural Marketing Service (AMS) received an entire industry proposal as well as five other partial proposals. With minor modifications, the full industry proposal and four of the partial proposals are set forth below for public comment. All comments will be considered before we issue a final rule establishing an Order.

Before an Order can become operational, a referendum must be conducted among sheep producers, sheep feeders, and importers of sheep and sheep products, except importers of raw wool. If sheep producers, feeders, and importers voting in the referendum approve the final Order, producers, feeders, and importers will be required to pay assessments, which would be used in a national program of sheep and wool promotion, research, consumer information, education, industry information, and producer information.

This rule also contains the certification and nomination procedures for the establishment of the National Sheep Promotion, Research, and Information Board (Board).

Additionally, please take notice that a public meeting will be held during the comment period to foster a better understanding of the intent and application of the proposed Order. The Secretary of Agriculture (Secretary) will consider the record of that meeting in the development of a final Order. All interested persons are invited to attend.

**DATES:** Written comments must be received by July 17, 1995. The meeting will convene at 9:00 a.m., eastern daylight time, on June 26, 1995.

**ADDRESSES:** Location of meeting: Room 3501, USDA South Building, 14th and Independence Avenue, SW., Washington, D.C.

**COMMENTS:** Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2606-S; Livestock and Seed Division, AMS-USDA; P.O. Box 96456; Washington, D.C. 20090-6456. Comments will be available for public inspection during regular business hours in Room 2606, South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250. All comments should reference the docket number and the date and page number of the issue of the **Federal Register**. Comments concerning the information collection requirements contained in this proposal should also be sent to the Office of Information and Regulatory Affairs; Office of Management and Budget (OMB); Washington, D.C. 20503. Attention: Desk Officer for Agricultural Marketing Service, USDA.

**FOR FURTHER INFORMATION CONTACT:** Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720-1115.

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding: Invitation to submit proposals—60 FR 381 (January 4, 1995).

#### Regulatory Impact Analysis

##### *Executive Orders 12866 and 12778 and the Regulatory Flexibility Act*

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that any person subject to the Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with the law, and requesting a modification of the Order or an exemption from certain provisions or obligations of the Order. The petitioner will have the opportunity for a hearing on the petition. Thereafter the Secretary will issue a decision on the petition. The Act provides that the district courts of the United States in any district in which the petitioner resides or carries on business has jurisdiction to review a ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's decision. The petitioner must exhaust his administrative remedies before he can initiate any such proceeding in the district court.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Administrator of AMS has considered the economic impact of this proposed action on small entities.

The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

According to the January 27, 1995, issue of "Sheep and Goats," published by the U.S. Department of Agriculture's (Department) National Agricultural Statistics Service, there are approximately 87,350 operations with sheep in the United States, nearly all of which would be classified as small businesses under the criteria established by the Small Business Administration (13 CFR 121.601).

The proposed Order would require each person who makes payment to a sheep producer, feeder, or handler of sheep or sheep products to be a collecting person, and thus to collect the assessment from the sheep producer, feeder, or handler of sheep or sheep products. Any person who buys domestic live sheep or greasy wool for processing must collect and remit the assessment to the Board. Each person who processes or causes to be processed sheep or sheep products of that person's own production and markets the processed products will pay an assessment and remit the assessment to the Board. Any person who exports live sheep or greasy wool will be required to remit an assessment to the Board. Finally, each person who imports into the United States sheep, sheep products, wool, or products containing wool,

other than raw wool, will pay an assessment. The U.S. Customs Service (Customs Service) will collect the assessments on imported sheep and sheep products (except raw wool) and forward them to AMS for disbursement to the Board.

The rate of assessment on domestic sheep producers, feeders, and exporters of live sheep and greasy wool will be 1-cent-per-pound on live sheep sold and 2-cents-per-pound on greasy wool sold. Importers will be assessed 1-cent-per-pound on live sheep and the equivalent of 1-cent-per-pound of live sheep for sheep products as well as 2-cents-per-pound of degreased wool or the equivalent of degreased wool for wool and wool products. Imported raw wool will be exempt from assessments. Each person who processes or causes to be processed sheep or sheep products of that person's own production and markets the processed products will be assessed the equivalent of 1-cent-per-pound of live sheep sold or 2-cents-per-pound of greasy wool sold. All assessment rates may be adjusted in accordance with the applicable provisions of the Act.

Although the assessments are expected to total about \$14 million dollars annually, the economic impact of assessments collected from sheep producers, feeders, handlers, exporters, importers, or direct processors, will not be significant. The proposed Order also imposes a reporting and recordkeeping burden on (1) each collecting person, including processors and other persons required to remit assessments to the Board on live sheep or wool purchased from the producer, feeder, or handler, (2) each person marketing sheep products of that person's own production, (3) each exporter of sheep or greasy wool, and (4) each person importing sheep or sheep products, other than raw wool. This burden should average less than 5 hours per year, so its economic impact will not be significant. In addition, the sheep and wool promotion, research, education, and information program funded by the assessments is expected to benefit each person paying into the program by expanding and maintaining new and existing domestic and foreign markets and uses for sheep and sheep products and wool and products containing wool. Therefore, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This proposal also contains the certification and nomination procedures for the establishment of the Board. The Board will be appointed by the Secretary.

#### *Comments and Public Meeting*

Interested persons are invited to submit written comments concerning this proposed Order. Comments must be sent to the Livestock and Seed Division's Marketing Programs Branch and must refer to the date and page number of this issue of the **Federal Register**. Comments submitted pursuant to this document will be made available for public inspection during regular business hours. Comments must be received by July 17, 1995.

Additionally, notice is given that a public meeting will be held beginning at 9:00 a.m., eastern daylight time, on June 26, 1995, at the U.S. Department of Agriculture, Room 3501, South Building, 14th and Independence Avenue, SW., Washington, D.C.

The meeting will be conducted by a presiding officer chosen by the Department. The proceedings of such meeting will be transcribed and considered in the development of a final Order. The purpose of the meeting is to provide an opportunity for a full discussion on the proposal to foster a better understanding of the intent and application of the proposed Order. Interested persons may present data, views, or arguments concerning the proposed Order through exhibits, written statements, or oral presentations. We encourage persons who make oral presentations to submit their presentations in writing as well. Those who submit written statements must provide one original and three copies of the statement for the record. Persons who attend the meeting will be allowed to question participants who give oral presentations. We anticipate that the proponents of this proposal will attend the meeting and will answer questions about the proposal.

Any interested person shall have an opportunity to appear and be heard concerning the proposed Order. However, the presiding officer may limit the number of times and the amount of time that any one person may be heard and may exclude information that is immaterial, irrelevant, or unduly repetitious, in order to limit the amount of cumulative material presented and to avoid prolonging the meeting unnecessarily.

Copies of the transcript of the meeting will not be available for distribution through the Hearing Clerk's office. However, the transcript will be available for public inspection during normal business hours. Anyone who would like to buy a copy of the transcript should make arrangements with the reporter at the meeting.

#### *Paperwork Reduction*

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection requirements contained in this action will be submitted to OMB for approval. This action sets forth the provisions for establishing a nationwide, industry-funded sheep and wool promotion, research, education, and information program. Information collection requirements as required by this action are necessary for the implementation of this Order include:

(1) A report by each collecting person, including processors and other persons required to remit assessments to the Board for live sheep or wool purchased from the producer, feeder, or handler of sheep or sheep products and by each person marketing sheep or sheep products of that person's own production and by each exporter of sheep or greasy wool. The estimated number of respondents for this report is 700. Each respondent will submit one report per month, unless otherwise prescribed by the Board, and the estimated average reporting burden is 0.5 hours per response;

(2) A referendum ballot and registration form/envelope, or absentee ballot and registration form, to be completed by producers, feeders, and importers voting in an up-front referendum. The estimated number of respondents for this is approximately 25,000, (each of whom will submit one response) and the estimated average reporting burden is 0.10 hours per response;

(3) A nomination form by which certified organizations would nominate producers, feeders, and importers for membership on the Board. The estimated number of respondents for this form is 60 for the first year of the Order, and 20 each year thereafter. Each respondent will submit one response per year, and the estimated average reporting burden is 0.5 hours per response;

(4) An advisory committee membership background information form to be completed by candidates nominated by certified organizations for appointment to the Board. The estimated number of respondents for this form is 240 during the first year of the Order, and 80 each year thereafter. Each respondent will submit one response per year, and the estimated average reporting burden is 0.5 hours per response;

(5) An application for certification of organization to be completed by eligible organizations that request certification in order to be eligible to nominate

producers, feeders, and importers to the Board. The estimated number of respondents for this form is 70 (with each submitting one response), and the estimated average reporting burden is 0.5 hour per response; and

(6) A requirement to maintain sufficient records to verify reports submitted under the Order. The estimated number of recordkeepers needed to comply with this requirement is 700, each of whom will have an estimated annual reporting burden of 0.5 hours.

Comments concerning the information collection requirements contained in this action should also be sent to the Office of Information and Regulatory Affairs; Office of Management and Budget; Washington, D.C. 20503. Attention: Desk Officer for Agricultural Marketing Service, USDA.

#### *Background*

The Act (7 U.S.C. 7101–7111), approved October 22, 1994, authorizes the Secretary to establish a national sheep and wool promotion, research, education, and information program. The program will be funded by a mandatory assessment on domestic sheep producers, sheep feeders, and exporters of live sheep and greasy wool of 1-cent-per-pound on live sheep sold and 2-cents-per-pound on greasy wool sold. Importers will be assessed

1-cent-per-pound on live sheep imported and the equivalent of 1-cent-per-pound of live sheep for sheep products imported as well as 2-cents-per-pound of degreased wool or the equivalent of degreased wool for wool and wool products imported. Imported raw wool will be exempt from assessments. Each person who processes or causes to be processed sheep or sheep products of that person's own production, and who markets the processed products, will be assessed the equivalent of 1-cent-per-pound of live sheep sold or 2-cents-per-pound of greasy wool sold. All assessment rates may be adjusted in accordance with applicable provisions of the Act.

The Act provides for submission of proposals for a sheep and wool promotion, research, education, and information order (Order). The Secretary may propose the issuance of an Order, or an association of sheep producers may request the issuance of, and submit a proposed Order. The Act provides that when the Secretary decides to propose an Order or receives a request and proposal for an Order, the Secretary shall publish the proposed Order and give due notice and opportunity for public comment.

The Department issued an invitation to submit proposals for an initial Order in the January 4, 1995, issue of the **Federal Register**.

In response to the invitation to submit proposals, the American Sheep Industry Association (ASI), the sheep industry's producer member organization, submitted a proposed Order. In addition, the New Zealand Meat Producers Board, the Australian Meat and Live-stock Corporation, the Wools of New Zealand, the National Lamb Feeders Association, and the Lamb Committee of the National Livestock and Meat Board each submitted a partial proposal.

The Department has also received letters from other interested parties. The Department did not consider these letters to be proposals because they primarily addressed information relating to sections already established under Act, and were therefore not proposals to the proposed program. Copies of these and the comments received in response to this proposed Order, will be available for public inspection.

The Department is publishing ASI's proposal as Proposal I, the New Zealand Meat Producers Board's proposal as Proposal II, the Australian Meat and Live-stock Corporation's proposal as Proposal III, the Wools of New Zealand's proposal as Proposal IV, and the National Lamb Feeders Association's proposal as Proposal V. The Department has modified these proposals slightly in order to (1) make them consistent with the Act and other similar national research and promotion programs supervised by the Department, (2) simplify the language and format of some provisions, and (3) add certain sections necessary for proper administration of the Order by the Department. The Department rejected the proposal submitted by the Lamb Committee of the National Livestock and Meat Board and the proposal and its rejection are discussed below.

#### *Proposal I*

The proposed Order submitted by ASI is summarized as follows:

Sections 1280.101–1280.136 of the proposal define certain words that are used in the Order.

Sections 1280.201–1280.215 concern the establishment, membership, nominations, method of obtaining nominations, certification of organizations, term of office, compensation, removal, and powers and duties of the Board, which is the governing body authorized to administer the Order subject to the oversight of the Secretary. These

sections also include provisions for: (1) Budget review and approval, (2) the maintenance of books and records by the Board, (3) the investment of funds, and (4) the use of assessments, including reimbursement for expenses incurred for the Department's oversight responsibilities.

Sections 1280.216–1280.222 of the proposed Order establishes that the membership of the Executive Committee is comprised of 14 members, including 7 producer members elected from 7 regions reflecting sheep production and sheep producers, 1 sheep feeder, 3 importers of sheep or sheep products, and 3 elected officers of the Board. In addition, these sections authorize the Executive Committee to develop plans and projects of promotion, research, consumer information, education, industry information, and producer information with respect to sheep and sheep products and to develop and submit to the Board budgets of anticipated expenses and disbursements for program projects. The Secretary must approve such plans, projects, or budgets before they are implemented.

Section 1280.223 makes the Board responsible for expenses of the Board and the Executive Committee, as well as for contracts and agreements that the Board enters into.

Sections 1280.224–1280.228 establishes assessment rates on sheep and sheep products as provided by the Act.

Section 1280.229 authorizes each Qualified State Sheep Board (QSSB) to receive 20 percent of the total assessments collected by the Board on the marketing of domestic sheep and domestic sheep products in any one year from each State. However, no QSSB would receive less than \$2,500 per year.

Section 1280.230 establishes collection procedures for each person responsible for collecting the assessment, fixes a 2 percent late payment charge for past due assessments, and authorizes the Secretary to receive assessments on behalf of the Board, if the Board is not in place or is otherwise unable to collect assessments. This section also authorizes the Secretary to promulgate rules and regulations concerning assessments and the collection of assessments.

Section 1280.231 prohibits funds received under this program from being used to influence Government action or policy, with certain specified exceptions. In addition, funds received under this program that are used to conduct plans or projects shall not (1) make false or misleading claims on behalf of sheep or sheep products or

against a competing product or (2) promote or advertise any sheep or sheep products by brand or trade name without the approval of the Board and the concurrence of the Secretary.

Sections 1280.232–1280.235 contain reporting and recordkeeping requirements for persons subject to the Order, and provide that all information obtained by the Board or the Department from books and reports required by the Order would be kept confidential. In addition, they provide for a \$1,000 penalty or imprisonment for not more than 1 year, or both, for any willful violation of the Order.

Sections 1280.240–1280.246 contain miscellaneous provisions, including provisions concerning the Secretary's authority; proceedings after the termination of the Order; the effect of termination or amendment of the Order; personal liability of Board members; patents, copyrights, inventions and publications; amendments to the Order; and separability of Order provisions.

#### *Proposal II*

The New Zealand Meat Producers Board (NZMPB) proposes that of the 25 importers represented on the Board, 6 should be representatives of sheepmeat importers, and the remaining positions should be proportionally allocated to importers of wool and other sheep products. We have accepted this proposal for comment and identified it in § 1280.201 in the regulatory section under Proposal II.

NZMPB proposes that organizations that represent importers of sheep or sheep products may make nominations for representation of the importer unit. We have accepted this proposal for comment and identified it in § 1280.202 in the regulatory section under Proposal II.

NZMPB proposes that the Secretary certify foreign producer organizations that have historically represented importer interests in the United States market. We did not accept this proposal because the Act (1) contemplates that the Secretary would solicit importer nominees from United States organizations that have been certified and represent importers of sheep and sheep products and (2) does not authorize the Secretary to certify foreign producer organizations. Additionally, NZMPB's proposed criterion for eligibility for certification, that limits eligibility to—"foreign producer organizations with a history of representing importer interests in the United States market,"—is not one of the three specified criteria for certification set forth in the Act.

NZMPB proposes that at least one of the three importer members on the Executive Committee should represent importers of sheepmeat. We have accepted this proposal for comment and identified it in § 1280.217 in the regulatory section under Proposal II.

NZMPB proposes that the rate of assessment of sheep and sheep products not be raised without an affirmative determination by the Secretary, in consultation with the Special Trade Representative, and that such action would not violate the United States' obligations under the General Agreements on Tariffs and Trade. We did not accept this proposal because the Secretary is already directed to act pursuant to 7 U.S.C. 2278 and consequently, it is not necessary to include such request in the proposed Order.

NZMPB proposes that the equivalent of 1-cent-per-pound of live sheep should be determined by applying the dressing yield conversion factor published annually by the Department. We did not accept this proposal because the Act gives the Secretary the latitude to use the conversion factors that will most accurately determine the live sheep equivalents, and NZMPB's proposal would limit those calculations to the dressing percentage (yield).

#### *Proposal III*

The Australian Meat and Live-stock Corporation (AMLC) proposes a prohibition on the use of assessments for country of origin-specific promotions or programs. We have accepted this proposal for comment and identified it in § 1280.223 in the regulatory section under Proposal III.

#### *Proposal IV*

The Wools of New Zealand (WNZ) proposes (1) that funds generated under this subpart be used to promote a wide range of wool products in the United States, including interior textile products, e.g., carpet, rugs, and upholstery; and (2) that these funds be used to promote wool generically rather than to promote wool specifically grown in the United States. We have accepted this proposal and identified it in § 1280.223 in the regulatory section under Proposal IV.

#### *Proposal V*

The National Lamb Feeders Association (NLFA) proposes that the "national feeder organization" be defined as the only (1) organization in the United States chartered to represent lamb feeders with open membership for all interested in feeding lambs and (2) organization eligible to submit the

names of 15 sheep feeders for appointment to the 10 sheep feeder positions on the Board. We did not accept this proposal because it would preclude other existing organizations, new organizations, and/or successor organizations from being eligible to nominate feeders to the Board, thereby restricting the opportunity for all qualified organizations to participate in the nomination process.

NLFA proposes that assessments collected under the program be used to promote "Fresh American Lamb." We have accepted this proposal for comment and identified it in § 1280.223 in the regulatory section under Proposal V.

NLFA proposes that the Board use its contracting powers to provide an annual funding base to NLFA to assure continuation of industry information and education programs. This proposal was not accepted because the Act does not authorize such funding.

NLFA proposes that the assessment be "phased-in" for the first 90 days after the effective date of the Order, and that lamb feeders be assessed 1/2-cent-per-head-per-day, thus making contributions to the program fair and equitable. NLFA provided the following example to illustrate its proposal: If a feeder sells lambs 20 days or 60 days after the effective date of the Order the assessment would be calculated as follows:

20 days x \$0.005/head/day = \$0.10/  
head; or

60 days x \$0.005/head/day = \$0.30/  
head.

We did not accept this proposal because the Act contemplates that the assessment rate of 1-cent-per-pound of live sheep sold shall be the rate of assessment on the effective date of any Order.

Additionally, the Act makes no provisions for modifying the assessment rate for any particular group of persons or type of sheep (i.e., feeder).

The Lamb Committee of the National Livestock and Meat Board (Lamb Committee) proposed that the Board annually fund the Lamb Committee's projects and that the Lamb Committee should receive not less than the amount it currently receives through voluntary contributions—approximately 2 1/2 percent of the estimated income to be collected by the Board—to be used only for research, education, and consumer information projects. This proposal was not accepted because the Act does not authorize such funding.

Before the Department issues the final Order that will be voted on in an up-front referendum, it will analyze all

written views received to date, as well as written comments on the five proposals published below. The program will not become operational unless and until producers, feeders, and importers approve the program in the up-front referendum.

In addition to Subpart A—Sheep and Wool Promotion, Research, Education, and Information Order—proposed herein, the Department is proposing procedures under this part for the certification of organizations and the nomination of sheep producers, feeders, and importers for appointment to the Board, in order to expedite as much as possible the receipt of nominations for appointment to the Board.

Subpart C—Procedures for Certification of Organizations and Nominations of Sheep Producers, Feeders, and Importers for Appointment to the National Sheep Promotion, Research, and Information Board (Board) is summarized as follows:

Sections 1280.400–1280.414 of this part would establish procedures for certification of organizations and nominations of sheep producers, feeders, and importers for appointment to the Board.

#### List of Subjects in 7 CFR Part 1280

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Sheep and sheep products, Reporting and record keeping.

The full proposal and the four partial proposals set forth below have not received the approval of the Secretary.

We hereby propose that chapter XI of title 7 of the Code of Federal Regulations be amended as follows:

#### Proposal I

1. Part 1280 is proposed to be added to read as follows:

#### PART 1280 SHEEP PROMOTION, RESEARCH, AND INFORMATION

Subpart A—Sheep and Wool Promotion, Research, Education, and Information Order Sec.

#### Definitions

- 1280.101 Act.
- 1280.102 Board.
- 1280.103 Carbonized wool.
- 1280.104 Certified organization.
- 1280.105 Collecting person.
- 1280.106 Consumer information.
- 1280.107 Customs Service.
- 1280.108 Degreased wool.
- 1280.109 Department.
- 1280.110 Education.
- 1280.111 Executive committee.
- 1280.112 Exporter.
- 1280.113 Feeder.
- 1280.114 Greasy wool.
- 1280.115 Handler.

- 1280.116 Importer.
- 1280.117 Industry information.
- 1280.118 National feeder organization.
- 1280.119 Part and subpart.
- 1280.120 Person.
- 1280.121 Processor.
- 1280.122 Producer.
- 1280.123 Producer information.
- 1280.124 Promotion.
- 1280.125 Pulled wool.
- 1280.126 Qualified State Sheep Board.
- 1280.127 Raw wool.
- 1280.128 Research.
- 1280.129 Secretary.
- 1280.130 Sheep.
- 1280.131 Sheep products.
- 1280.132 State.
- 1280.133 Unit.
- 1280.134 United States.
- 1280.135 Wool.
- 1280.136 Wool products.
- National Sheep Promotion, Research, and Information Board
- 1280.201 Establishment and membership of the Board.
- 1280.202 Nominations.
- 1280.203 Nominee's agreement to serve.
- 1280.204 Appointment.
- 1280.205 Method of obtaining nominations.
- 1280.206 Vacancies.
- 1280.207 Certification of organizations.
- 1280.208 Term of office.
- 1280.209 Compensation.
- 1280.210 Removal.
- 1280.211 Powers and duties of the Board.
- 1280.212 Budgets.
- 1280.213 Books and records of the Board.
- 1280.214 Investment of funds.
- 1280.215 Use of assessments.
- Executive Committee
- 1280.216 Establishment.
- 1280.217 Membership.
- 1280.218 Powers and duties.
- 1280.219 Term of office.
- 1280.220 Chairperson.
- 1280.221 Quorum.
- 1280.222 Vacancies.
- Expenses
- 1280.223 Expenses.
- Assessments
- 1280.224 Sheep purchases.
- 1280.225 Wool purchases.
- 1280.226 Direct processing.
- 1280.227 Export.
- 1280.228 Imports.
- 1280.229 Qualified State Sheep Board.
- 1280.230 Collection.
- 1280.231 Prohibition on use of funds.
- Reports, Books, and Records
- 1280.232 Reports.
- 1280.233 Books and records.
- 1280.234 Use of information.
- 1280.235 Confidentiality.
- Miscellaneous
- 1280.240 Right of the Secretary.
- 1280.241 Proceedings after termination.
- 1280.242 Effect of termination or amendment.
- 1280.243 Personal liability.
- 1280.244 Patents, copyrights, invention, and publication.
- 1280.245 Amendments.
- 1280.246 Separability.

Subpart B—[RESERVED]

Subpart C—Procedures for Certification of Organizations and Nominations of Sheep Producers, Feeders, and Importers for Appointment to the National Sheep Promotion, Research, and Information Board

- 1280.400 General.
- 1280.401 Definitions.
- 1280.402 Administration.
- 1280.403 Certification of eligibility.
- 1280.404 Application for certification.
- 1280.405 Review of certification.
- 1280.406 Notification of certification and the listing of certified organizations.
- 1280.407 Solicitation of nominations for appointment to the Board.
- 1280.408 Nominations of members for appointment to the Board.
- 1280.409 Initial Board membership.
- 1280.410 Length of appointment to the initial Board.
- 1280.411 Acceptance of appointment.
- 1280.412 Verification.
- 1280.413 Confidential treatment of information.
- 1280.414 Paperwork Reduction Act assigned number.

Subpart D—[Reserved]

Subpart E—[Reserved]

**Authority:** 7 U.S.C. 7101–7111.

Subpart A—Sheep and Wool Promotion, Research, Education, and Information Order

#### Definitions

##### § 1280.101 Act.

The term “Act” means the Sheep Promotion, Research, and Information Act of 1994, 7 U.S.C 7101–7111; Public Law No. 103–107; 108 Statute 4210, enacted October 22, 1994, and any amendments thereto.

##### § 1280.102 Board.

The term “Board” means the National Sheep Promotion, Research, and Information Board established pursuant to § 1280.201.

##### § 1280.103 Carbonized wool.

The term “carbonized wool” means wool that has been immersed in a bath, usually of mineral acids or acid salts, that destroys vegetable matter in the wool, but does not affect the wool fibers.

##### § 1280.104 Certified organization.

The term “certified organization” means any organization that has been certified by the Secretary pursuant to this part as being eligible to submit nominations for membership on the Board.

##### § 1280.105 Collecting person.

The term “collecting person” means any person who is responsible for collecting an assessment pursuant to the Act, this subpart and regulations

prescribed by the Board and approved by the Secretary, including processors and any other persons who are required to remit assessments to the Board pursuant to this part, except that a collecting person who is a market agency; *i.e.*, commission merchant, auction market, or livestock market in the business of receiving such sheep or sheep products for sale on commission for or on behalf of a producer or feeder shall pass the collected assessments on to the subsequent purchaser pursuant to the Act, this subpart and the regulations prescribed by the Board and approved by the Secretary.

**§ 1280.106 Consumer information.**

The term "consumer information" means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, or use of sheep products.

**§ 1280.107 Customs Service.**

The term "Customs Service" means the U.S. Customs Service of the Department of the Treasury.

**§ 1280.108 Degreased wool.**

The term "degreased wool" means wool from which the bulk of impurities has been removed by processing.

**§ 1280.109 Department.**

The term "Department" means the U.S. Department of Agriculture.

**§ 1280.110 Education.**

The term "education" means activities providing information relating to the sheep industry or sheep products to producers, feeders, importers, consumers, and other persons.

**§ 1280.111 Executive Committee.**

The term "Executive Committee" means the Executive Committee of the Board established under § 1280.216.

**§ 1280.112 Exporter.**

The term "exporter" means any person who exports domestic live sheep or greasy wool from the United States.

**§ 1280.113 Feeder.**

The term "feeder" means any person who feeds lambs until the lambs reach slaughter weight.

**§ 1280.114 Greasy wool.**

The term "greasy wool" means wool that has not been washed or otherwise cleaned.

**§ 1280.115 Handler.**

The term "handler" means any person who purchases and markets greasy wool.

**§ 1280.116 Importer.**

The term "importer" means any person who imports sheep or sheep products into the United States.

**§ 1280.117 Industry information.**

The term "industry information" means information and programs that will lead to increased efficiency in processing and the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of sheep or sheep products on a national or international basis.

**§ 1280.118 National feeder organization.**

The term "national feeder organization" means any organization of feeders that has been certified by the Secretary pursuant to the Act and this part as being eligible to submit nominations for membership on the Board.

**§ 1280.119 Part and subpart.**

"Part" means the Sheep and Wool Promotion, Research, Education, and Information 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.

**§ 1280.120 Person.**

The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

**§ 1280.121 Processor.**

The term "processor" means any person who slaughters sheep or processes greasy wool into degreased wool.

**§ 1280.122 Producer.**

The term "producer" means any person, other than a feeder, who owns or acquires ownership of sheep.

**§ 1280.123 Producer information.**

The term "producer information" means activities designed to provide producers, feeders, and importers with information relating to production or marketing efficiencies or developments, program activities, or other information that would facilitate an increase in the consumption of sheep or sheep products.

**§ 1280.124 Promotion.**

The term "promotion" means any action (including paid advertising) to advance the image and desirability of sheep or sheep products, to improve the competitive position, and stimulate

sales, of sheep products in the domestic and international marketplace.

**§ 1280.125 Pulled wool.**

The term "pulled wool" means wool that is pulled from the skin of slaughtered sheep.

**§ 1280.126 Qualified State Sheep Board.**

The term "Qualified State Sheep Board" means a sheep and wool promotion entity that (A) is authorized by State statute or organized and operating within a State, (B) receives voluntary contributions or dues and conducts promotion, research, or consumer information programs with respect to sheep or wool, or both, and (C) is recognized by the Board as the sheep and wool promotion entity within the State; except that not more than one QSSB shall exist in any State at any one time.

**§ 1280.127 Raw wool.**

The term "raw wool" means greasy wool, pulled wool, degreased wool, or carbonized wool.

**§ 1280.128 Research.**

The term "research" means development projects and studies relating to the production (including the feeding of sheep), processing, distribution, or use of sheep or sheep products, to encourage, expand, improve, or make more efficient the marketing of sheep or sheep products.

**§ 1280.129 Secretary.**

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

**§ 1280.130 Sheep.**

The term "sheep" means ovine animals of any age, including lambs.

**§ 1280.131 Sheep products.**

The term "sheep products" means products produced in whole or in part from sheep, including wool and products containing wool fiber.

**§ 1280.132 State.**

The term "State" means each of the 50 States.

**§ 1280.133 Unit.**

The term "unit" means each State, group of States, or class designation that is represented on the Board.

**§ 1280.134 United States.**

The term "United States" means the 50 States and the District of Columbia.

## § 1280.135 Wool.

The term "wool" means the fiber from the fleece of a sheep.

## § 1280.136 Wool products.

The term "wool products" means products produced, in whole or in part, from wool and products containing wool fiber.

## National Sheep Promotion, Research, and Information Board

## § 1280.201 Establishment and membership of the Board.

There is hereby established a National Sheep Promotion, Research, and Information Board (Board) of 120 members. Members of the Board shall be appointed by the Secretary from nominations submitted in accordance with this subpart. The seats shall be apportioned as follows:

(a) Producers: For purposes of nominating producers to the Board, each State shall be represented by the following number of members:

Unit	Board members
Alabama .....	1
Alaska .....	1
Arizona .....	1
Arkansas .....	1
California .....	5
Colorado .....	4
Connecticut .....	1
Delaware .....	1
Florida .....	1
Georgia .....	1
Hawaii .....	1
Idaho .....	2
Illinois .....	1
Indiana .....	1
Iowa .....	2
Kansas .....	1
Kentucky .....	1
Louisiana .....	1
Maine .....	1
Maryland .....	1
Massachusetts .....	1
Michigan .....	1
Minnesota .....	2
Mississippi .....	1
Missouri .....	1
Montana .....	5
Nebraska .....	1
Nevada .....	1
New Hampshire .....	1
New Jersey .....	1
New Mexico .....	2
New York .....	1
North Carolina .....	1
North Dakota .....	2
Ohio .....	1
Oklahoma .....	1
Oregon .....	2
Pennsylvania .....	1
Rhode Island .....	1
South Carolina .....	1
South Dakota .....	4
Tennessee .....	1

Unit	Board members
Texas .....	10
Utah .....	3
Vermont .....	1
Virginia .....	1
Washington .....	1
West Virginia .....	1
Wisconsin .....	1
Wyoming .....	5

(b) Feeders. The feeder sheep industry shall be represented by 10 members.

(c) Importers. Importers shall be represented by 25 members.

(d) Alternates. A unit represented by only one producer member may have an alternate member appointed to ensure representation at meetings of the Board.

## § 1280.202 Nominations.

(a) Producers. The Secretary shall appoint producers and alternates to represent units as specified under § 1280.201(a) of this subpart from nominations submitted by organizations certified under § 1280.207. A certified organization may submit only nominations for producer representatives and alternates if appropriate from the membership of the organization for the unit in which the organization operates. To be represented on the Board, each certified organization shall submit to the Secretary at least 1.5 nominations for each seat on the Board for which the unit is entitled to representation. If a unit is entitled to only one seat on the Board, the unit shall submit at least two nominations for the appointment.

(b) Feeders. The Secretary shall appoint representatives of the feeder sheep industry to seats established under § 1280.201(b) from nominations submitted by qualified national organizations that represent the feeder sheep industry. To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board to which the feeder sheep industry is entitled.

(c) Importers. The Secretary shall appoint importers to seats established under § 1280.201(c) from nominations submitted by qualified organizations that represent importers. The Secretary shall receive at least 1.5 nominations for each appointment to the Board to which importers are entitled.

(d) As soon as practicable, the Secretary shall obtain nominations from certified organizations. If no organization is certified in a unit the Secretary may use other means to obtain nominations. A certified organization shall only submit nominations for positions on the Board representing

units in which such certified organization can establish that it is certified as eligible to submit nominations for representation of that unit of individual producers, feeders, or importers residing in that unit.

(e) After the establishment of the initial Board, the Department shall announce when a vacancy does or will exist. Nominations shall be initiated not less than 6 months before the expiration of the terms of the members whose terms are expiring, in the manner described in § 1280.205(b). In the case of vacancies due to reasons other than the expiration of term of office, successor Board members shall be appointed pursuant to § 1280.206.

(f) Where there is more than one eligible organization representing producers, feeders, or importers in a State or unit, they may caucus and jointly nominate a minimum of 1.5 qualified persons for each position representing that State or 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 certified organization may submit nominations for each appointment to be made to represent that State or unit.

(g) Nominations should be submitted in order of preference and, for the initial Board, in order of preference for staggered terms. If the Secretary rejects any nominations submitted and there are insufficient nominations submitted from which appointments can be made, the Secretary may request additional nominations under paragraphs (a), (b), or (c) of this section.

## § 1280.203 Nominee's agreement to serve.

Any producer, feeder, or importer nominated to serve on the Board, or as an alternate, shall file with the Secretary at the time of the nomination a written agreement to:

(a) Serve on the Board if appointed;  
(b) Disclose any relationship with any organization that operates a qualified State or regional program or has a contractual relationship with the Board; and

(c) Withdraw from participation in deliberations, decision making, or voting on matters that concern the relationship disclosed under paragraph (b).

## § 1280.204 Appointment.

From the nominations made pursuant to § 1280.202 above, the Secretary shall appoint the members of the Board on the basis of representation provided in § 1280.201 above.

### § 1280.205 Method of obtaining nominations.

(a) Initially Established Board.

(1) Producer and Alternate Nominations. The Secretary shall solicit, from organizations certified under § 1280.207, nominations for each producer—or alternate member's seat on the initially-established Board to which a unit is entitled. If no such organization exist, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(2) Feeder and Importer Nominations. The Secretary shall solicit, from certified organizations that represent feeders and importers, nominations for each seat to which feeders or importers are entitled. If no such organization exists, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate. In determining whether an organization is eligible to submit nominations under this subparagraph, the Secretary shall determine whether:

(A) The organization's active membership includes a significant number of feeders or importers in relation to the total membership of the organization;

(B) There is evidence of stability and permanency of the organization; and

(C) The organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry.

(b) Subsequent Appointment.

(1) Producer Nominations. The solicitation of nominations for subsequent appointment to the Board from eligible organizations certified under § 1280.207 shall be initiated by the Secretary, with the Board securing the nominations for the Secretary.

(2) Feeder and Importer Nominations. The solicitation of feeder and importer nominations for subsequent appointment to the Board from organizations certified in accordance with § 1280.205(a)(2).

### § 1280.206 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall appoint a successor from the most recent list of nominations for the position or from nominations submitted by the Board.

### § 1280.207 Certification of organizations.

(a) In general. The eligibility of any State organization to represent producers and to participate in the making of nominations under this

subpart shall be certified by the Secretary. The Secretary shall certify any State organization that the Secretary determines meets the eligibility criteria established under paragraph (b) below. An eligibility determination by the Secretary shall be final.

(b) Basis for Certification. Certification shall be based upon, in addition to other available information, a factual report submitted by the organization that shall contain information considered relevant and specified by the Secretary, including:

(1) The geographic territory covered by the active membership of the organization;

(2) The nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization;

(3) Evidence of stability and permanency of the organization;

(4) Sources from which the operating funds of the organization are derived;

(5) The functions of the organization; and

(6) The ability and willingness of the organization to further the aims and objectives of the Act.

(c) Primary Considerations. A primary consideration in determining the eligibility of an organization under this paragraph shall be whether:

(1) The membership of the organization consists primarily of producers who own a substantial quantity of sheep; and

(2) An interest of the organization is in the production of sheep.

### § 1280.208 Term of office.

Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially established Board shall be proportionally for 1-year, 2-year, and 3-year terms. No person may serve more than two consecutive 3-year terms, except that elected officers shall not be subject to the term limitation while they hold office.

### § 1280.209 Compensation.

Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as Board members.

### § 1280.210 Removal.

If the Secretary determines that any person appointed under this part fails to perform his or her duties properly or engages in acts of dishonesty or willful misconduct, the Secretary shall remove the person from office. The Secretary may remove a person appointed or certified under this part, or any

employee of the Board, if the Secretary determines that the person's continued service would be detrimental to the purposes of the Act.

### § 1280.211 Powers and duties of the Board.

The Board shall have the following powers and duties:

(a) To elect officers of the Board, including a chairperson, vice chairperson, and secretary/treasurer;

(b) To administer this subpart in accordance with its terms and provisions;

(c) To recommend regulations to effectuate the terms and provisions of this subpart;

(d) To hold at least one annual meeting and any additional meetings it deems appropriate;

(e) To elect members of the Board to serve on the Executive Committee;

(f) To approve or reject budgets submitted by the Executive Committee;

(g) To submit budgets to the Secretary for approval;

(h) To contract with entities, if necessary, to implement plans or projects in accordance with the Act;

(i) To conduct programs of promotion, research, consumer information, education, industry information, and producer information;

(j) To receive, investigate, and report to the Secretary complaints of violations of this subpart;

(k) To recommend to the Secretary amendments to this subpart;

(l) To provide the Secretary with prior notice of meetings of the Board to permit the Secretary or a designated representative to attend such meetings;

(m) To provide not less than annually a report to producers, feeders, and importers, accounting for the funds expended by the Board, and describing programs implemented under the Act; and to make such report available to the public upon request;

(n) To establish seven regions that, to the extent practicable, contain geographically contiguous States and approximately equal numbers of sheep producers and sheep production;

(o) To employ or retain necessary staff; and

(p) To invest funds in accordance with § 1280.214.

### § 1280.212 Budgets.

(a) In general. The Board shall review the budget submitted by the Executive Committee, on a fiscal year basis, of anticipated expenses and disbursements by the Board, including probable costs of administration and promotion, research, consumer information, education, industry information, and



producer information projects. The Board shall submit the budget to the Secretary for the Secretary's approval.

(b) Limitation. No expenditure of funds may be made by the Board unless such expenditure is authorized under a budget or budget amendment approved by the Secretary.

#### § 1280.213 Books and records of the Board.

The Board shall:

(a) Maintain such books and records, which shall be made available to the Secretary for inspection and audit, as the Secretary may prescribe,

(b) Prepare and submit to the Secretary, from time-to-time, such reports as the Secretary may prescribe, and

(c) Account for the receipt and disbursement of all funds entrusted to it. The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

#### § 1280.214 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 bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Any income from any such investment may be used for any purpose for which the invested funds may be used.

#### § 1280.215 Use of assessments.

(a) Assessments received by the Board shall be used by the Board for the payment of expenses incurred in administering this subpart, including a reasonable reserve.

(b) The Board shall reimburse the Secretary, from assessments collected, for costs incurred in implementing and administering the Order as provided for under the Act.

#### Executive Committee

#### § 1280.216 Establishment.

The Board shall establish an Executive Committee of the Board to assist the Board in the administration of the terms and provisions of this subpart, under the direction of the Board, and consistent with the policies determined by the Board.

#### § 1280.217 Membership.

The Executive Committee shall be comprised of 14 members. Eleven members of the Executive Committee shall be elected by the Board annually. Of these members:

(1) One member shall represent each of the seven regions established under § 1280.211(n) for a total of seven members representing producers;

(2) One member shall represent feeders; and

(3) Three members shall represent importers.

The remaining three members of the Executive Committee shall be the elected officers of the Board.

#### § 1280.218 Powers and duties.

(a) Plans and Projects. The Executive Committee shall develop plans or projects of promotion and advertising, research, consumer information, education, industry information, and producer information, which plans or projects shall be paid for with assessments collected by the Board. The plans or projects shall not become effective until approved by the Secretary.

(b) Budgets. The Executive Committee shall be responsible for developing and submitting to the Board, for Board approval, budgets on a fiscal year basis of the Board's anticipated expenses and disbursements, including the estimated costs of advertising and promotion, research, consumer information, education, industry information, and producer information projects. The Board shall approve or disapprove such budgets and, if approved, shall submit them to the Secretary for the Secretary's approval.

#### § 1280.219 Term of office.

Terms of appointment to the Executive Committee shall be for 1 year.

#### § 1280.220 Chairperson.

The Chairperson of the Board shall serve as chairperson of the Executive Committee.

#### § 1280.221 Quorum.

A quorum of the Executive Committee shall consist of eight members.

#### § 1280.222 Vacancies.

To fill any vacancy caused by the death, removal, resignation, or disqualification of any member of the Executive Committee, the Board shall elect a successor for the position pursuant to § 1280.217.

#### Expenses

#### § 1280.223 Expenses.

(a) The Board shall be responsible for all expenses of the Board and the Executive Committee.

(b) Contracts and Agreements. Any contract or agreement entered into by the Board shall provide that:

(1) The contracting party shall develop and submit to the Board a plan or project of promotion, research, education, consumer information, industry information, and producer information, together with a budget or budgets that shall show estimated costs to be incurred for such plan or project; and

(2) No plan, project, contract, or agreement shall become effective until it has been approved by the Secretary.

(c) The contracting party shall:

(1) keep accurate records of all of its transactions;

(2) account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities;

(3) make periodic reports to the Board of activities conducted; and

(4) make such other reports as the Board or the Secretary may require.

#### Assessments

#### § 1280.224 Sheep purchases.

(a) In general. Each person making payment to a producer or feeder for sheep purchased from the producer or feeder shall be a collecting person and shall collect an assessment from the producer or feeder on each sheep sold by the producer or feeder. Each such producer or feeder shall pay such assessment to the collecting person at the rate set forth in paragraph (d) below.

(b) Remittances. Each processor making payment to a producer, feeder, or collecting person for sheep purchased from the producer, feeder, or collecting person shall be a collecting person and shall collect an assessment from the producer, feeder, or other collecting person on each sheep sold by the producer, feeder, or collecting person, and each such producer, feeder, or collecting person shall pay such assessment to the processor at the rate set forth in paragraph (d) below, and such processor shall remit the assessment to the Board.

(c) Processing. Any person who purchases sheep for processing shall collect the assessment from the seller and remit the assessment to the Board.

(d) Rate. Except as otherwise provided, the rate of assessment shall be 1-cent-per-pound of live sheep sold. The rate of assessment may be raised or lowered no more than 0.15 of a cent in

any 1 year as recommended by the Executive Committee and approved by the Board and the Secretary. The rate of assessment shall not exceed 2½-cents-per-pound.

#### § 1280.225 Wool purchases.

(a) In general. Each person making payment to a producer, feeder, or handler of wool for wool purchased from the producer, feeder, or handler shall be a collecting person and shall collect an assessment from the producer, feeder, or handler on each pound of greasy wool sold. The producer, feeder, or handler shall pay such assessment to the collecting person at the rate set forth in (d) below.

(b) Remittances. Each processor making payment to a producer, feeder, handler, or collecting person for wool purchased from the producer, feeder, handler, or collecting person shall be a collecting person and shall collect an assessment from the producer, feeder, handler, or other collecting person on all wool sold by the producer, feeder, handler, or collecting person, and each such producer, feeder, handler, or collecting person shall pay such assessment to the processor at the rate set forth in paragraph (d) below and such processor shall remit the assessment to the Board.

(c) Processing. Any person purchasing greasy wool for processing shall collect the assessment and remit the assessment to the Board.

(d) Rate. Except as otherwise provided, the rate of assessment shall be 2-cents-per-pound. The rate of assessment may be raised or lowered no more than 0.2 of a cent per pound in any 1 year as recommended by the Executive Committee and approved by the Board and the Secretary. The rate of assessment shall not exceed 4-cents-per-pound of greasy wool.

#### § 1280.226 Direct processing.

Each person who processes or causes to be processed sheep or sheep products of that person's own production, and markets such sheep or sheep products, shall pay an assessment on such sheep or sheep products at the time of sale at a rate equivalent to the rate established in § 1280.224(d) or § 1280.225(d), as appropriate, and shall remit such assessment to the Board.

#### § 1280.227 Export.

Each person who exports live sheep or greasy wool shall remit the assessment on such sheep or greasy wool at the time of export, at a rate equivalent to the rate established in § 1280.224(d) or § 1280.225(d), as

appropriate, and shall remit such assessment to the Board.

#### § 1280.228 Imports.

(a) In general. Each person who imports sheep or sheep products or who imports wool or products containing wool (with the exception of raw wool) into the United States shall pay an assessment to the Board.

(b) Collection. The Customs Service is authorized to collect and remit such assessment to the Secretary for disbursement to the Board.

(c) Rate for Sheep and Sheep Products. The assessment rate for sheep shall be 1-cent-per-pound of live sheep. The assessment rate for sheep products shall be the equivalent of 1-cent-per-pound of live sheep, as determined by the Secretary in consultation with the domestic sheep industry. Such rates may be raised or lowered no more than 0.15-cent-per-pound in any 1 year as recommended by the Executive Committee and approved by the Board and the Secretary, but shall not exceed 2½-cents-per-pound.

(d) Rate for Wool and Wool Products. The assessment rate for wool and products containing wool shall be 2-cents-per-pound of degreased wool or the equivalent of degreased wool. The rate of assessment may be raised or lowered no more than 0.2-cents-per-pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, but shall not exceed 4-cents-per-pound of clean wool or the equivalent.

(e) The Secretary shall issue regulations regarding the assessment rates for imported sheep and sheep products. The Secretary may exclude from assessment certain imported products that contain *de minimis* levels of sheep or sheep products and waive the assessment on such products.

#### § 1280.229 Qualified State Sheep Boards.

(a) Except as provided in paragraph (b) below, 20 percent of the total assessments collected by the Board on the marketings of domestic sheep and domestic sheep products in any 1 year from a State shall be returned to the QSSB of the State.

(b) No QSSB shall receive less than \$2,500 under paragraph (a) above in any 1 year.

(c) The Board shall establish procedures with the approval of the Secretary to account for funds expended pursuant to paragraphs (a) and (b) of this section.

#### § 1280.230 Collection.

(a) Each person responsible for the collection and remittance to the Board of assessments under this subpart shall do so on a monthly basis, unless the Board, with the approval of the Secretary, has specifically authorized otherwise.

(b) Late Payment Charges. Any unpaid assessments due the Board or from a person responsible for remitting assessments to the Board, shall be increased by 2 percent each month beginning with the day after the date such assessments were due under this subpart. Any assessments or late payment charges that remain unpaid shall be increased at the same rate on the corresponding day of each month thereafter until paid.

(c) Any unpaid assessments due to the Board pursuant to § 1280.224, § 1280.225, § 1280.226, and § 1280.227 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 date later than the date prescribed by this subpart because of a person's failure to submit a timely report to the Board shall be considered to have been payable by the date it would have been due if the report had been timely filed. The date of payment is the applicable postmark date or the date of receipt by the Board, whichever is earlier.

(d) 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.

#### § 1280.231 Prohibition on use of funds.

(a) Except as otherwise provided in paragraph (b) below, no funds collected by the Board under this subpart shall be used in any manner for the purpose of influencing any action or policy of the United States Government, any foreign or State Government, or any political subdivision thereof.

(b) The prohibition in paragraph (a) shall not apply:

(1) To the development and recommendation of amendments to this subpart; or

(2) To the communication to appropriate government officials, in response to a request made by the officials, of information relating to the conduct, implementation, or results of promotion, research, consumer information, education, industry information, or producer information activities under this subpart;

(c) A plan or project conducted pursuant to this title shall not make false or misleading claims on behalf of sheep or sheep products or against a competing product.

(d) No such plans or projects shall be undertaken to promote or advertise any sheep or sheep products by brand or trade name without the approval of the Board and the concurrence of the Secretary.

#### Reports, Books, and Records

##### § 1280.232 Reports.

(a) Each collecting person, including processors and other persons required to remit assessments to the Board pursuant to § 1280.224(b) for live sheep, each person who markets sheep products of that person's own production and each exporter of sheep shall report to the Board information pursuant to regulations prescribed by the Board and approved by the Secretary. Such information may include:

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

(2) The number of sheep imported or exported, or the equivalent thereof of sheep products imported;

(3) The amount of assessment remitted;

(4) An explanation for the remittance of any assessment that is less than the pounds of sheep multiplied by the assessment rate; and

(5) The date any assessment was paid.

(b) Each collecting person, including processors and other persons required to remit assessments to the Board pursuant to § 1280.225(b) for wool purchased from the producer or handler of wool or wool products, each person purchasing greasy wool for processing, each importer of wool or wool products (except raw wool), each exporter of greasy wool, and each person who markets wool of that person's own production shall report to the Board information pursuant to regulations prescribed by the Board and approved

by the Secretary. Such information may include:

(1) The amount of wool purchased, initially transferred or in any other manner subject to the collection of assessment, and the dates of such transaction;

(2) The amount of wool imported (except raw wool) or the equivalent thereof of wool products imported or the amount of greasy wool exported;

(3) The amount of assessment remitted;

(4) An explanation for the remittance of an assessment that is less than the pounds of wool multiplied by the assessment rate; and

(5) The date any assessment was paid.

##### § 1280.233 Books and records.

(a) Each collecting person, including processors and other persons required to remit assessments to the Board, each importer of sheep or sheep products (except raw wool), and exporter of sheep or greasy wool, and each person who markets sheep products of that person's own production, shall maintain and make available for inspection such books and records as may be required by regulations prescribed by the Board and approved by the Secretary, including records necessary to verify any required reports. Such records shall be maintained for the period of time prescribed by the regulations issued hereunder.

(b) Document Evidencing Payment of Assessments. Each collecting person responsible for collecting an assessment paid pursuant to this subpart, other than a person who slaughters sheep or markets sheep products of his or her own production for sale, is required to give the person or collecting person from whom the collecting person collected an assessment written evidence of payment of the assessments paid pursuant to this Subpart. Such written evidence serving as a receipt shall include:

(1) Name and address of the collecting person;

(2) Name of the producer who paid the assessment;

(3) Number of head of sheep or pounds of wool sold;

(4) Total assessments paid by the producer;

(5) Date; and

(6) Such other information as the Board, with the approval of the Secretary, may require.

##### § 1280.234 Use of information.

Information from records or reports required pursuant to this subpart shall be made available to the Secretary as is appropriate to the administration or

enforcement of the Act, this subpart or any regulation issued under the Act. In addition, the Secretary shall authorize the use under this part of information that is accumulated under laws or regulations other than the Act or regulations issued under the Act regarding persons paying producers, feeders, importers, handlers, or processors.

##### § 1280.235 Confidentiality.

(a) All information from records or reports required pursuant to this subpart shall be kept confidential by all officers and employees of the Department and of the Board. Such information may be disclosed only if the Secretary considers the information relevant, the information is disclosed only in a suit or administrative hearing brought at the direction or on the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and the information relates to the Act.

(b) Administration. No information obtained under the authority of this subpart may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of the Act and any investigatory or enforcement action necessary for the implementation of the Act.

(c) General Statements. Nothing in paragraph (a) may be deemed to prohibit:

(1) the issuance of general statements, based on 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, or

(2) the publication, by direction of the Secretary, of the name of any person violating this subpart and a statement of the particular provisions of this subpart violated by such person.

(d) Penalty. Any person who willfully violates the provisions of this subpart, on conviction, shall be subject to a fine of not more than \$1,000, or to imprisonment for not more than 1 year, or both, and if the person is an officer or employee of the Board or the Department, that person shall be removed from office.

#### Miscellaneous

##### § 1280.240 Right of the Secretary.

All fiscal matters, programs or projects, bylaws, rules or regulations, reports, or other substantive actions proposed, and prepared by the Board shall be submitted to the Secretary for approval.

#### § 1280.241 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend not more than five 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 any claims of the Board against third parties that exist at the time of such termination.

(b) The trustees shall:

(1) Act as trustees until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into by the Board pursuant to § 1280.223(b);

(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 assignment of other instruments necessary or appropriate to transfer to such persons full title and right to all of the funds, property, and claims of 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 pay the necessary costs of liquidation shall be turned over to the Secretary to be used, to the extent practicable, for continuing one or more of the promotion, research, consumer information, education, industry information, and producer information plans or projects authorized pursuant to this subpart.

#### § 1280.242 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 that has arisen or may hereafter arise in connection with any provision of this subpart or any regulation issued thereunder; or

(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, the

Secretary or any person with respect to any such violation.

#### § 1280.243 Personal liability.

No member, employee, or agent of the Board, including employees, agents, or Board members of the QSSB, acting pursuant to the authority provided in this subpart, 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, of such member, employee, or agent except for acts of dishonesty or willful misconduct.

#### § 1280.244 Patents, copyrights, inventions, and publication.

Any patents, copyrights, inventions, or publications developed through the use of funds remitted to the Board under the provisions of this subpart shall be the property of the United States Government as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, inure to the benefit of the Board. Upon termination of this subpart, § 1280.240 shall apply to determine disposition of all such property.

#### § 1280.245 Amendments.

Amendments to the subpart may be proposed, from time to time, by the Board or by any interested person affected by the provisions of the Act, including the Secretary.

#### § 1280.246 Separability.

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

#### Proposal II

##### § 1280.201 Establishment and membership of the Board.

(c) Importers. Importers shall be represented by 25 members. At least six members shall represent importers of sheepmeat, and the remaining importer positions shall be proportionally allocated to importers of wool and sheep and sheep products.

##### § 1280.202 Nominations.

(c) Importers. The Secretary shall appoint importers to seats established under § 1280.201(c), with nominations for representation of the importer unit made by organizations which represent importers of sheep or sheep products.

#### Executive Committee

##### § 1280.217 Membership.

(3) Three members of the Executive Committee shall represent importers, and at least one importer member shall represent sheepmeat importers.

#### Proposal III

##### Expenses

##### § 1280.223 Expenses.

(d) The use of assessments for country of origin-specific promotions or programs is prohibited.

#### Proposal IV

##### Expenses

##### § 1280.223 Expenses.

(d) Funds generated under this subpart shall be used to promote a wide range of wool products in the United States including interior textile products, e.g., carpet, rugs, and upholstery.

(e) Funds generated under this subpart shall be used to promote wool generically rather than to promote wool specifically grown in the United States.

#### Proposal V

##### Expenses

##### § 1280.223 Expenses.

(d) Funds generated under this subpart shall be used for the promotion of "Fresh American Lamb."

Subpart B—[Reserved]

Subpart C—Procedures for Certification of Organizations and Nominations of Sheep Producers, Feeders, and Importers for Appointment to the National Sheep Promotion, Research, and Information Board

#### PART 1280—SHEEP PROMOTION, RESEARCH, AND INFORMATION

1280.400 General.

1280.401 Definitions.

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1280.406 Notification of Certification and the Listing of Certified Organizations.

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1280.408 Nominations of Members for Appointment to the Board.

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1280.413 Confidential Treatment of Information.

1280.414 Paperwork Reduction Act Assigned Number.

§ 1280.400 General.

The Secretary shall determine which organizations are certified as eligible to nominate sheep producers and

alternates, sheep feeders, and importers of sheep and sheep products (excluding importers that import only raw wool) for appointment to the Board. The making and receiving of the nominations shall be conducted in accordance with this Subpart.

#### § 1280.401 Definitions.

As used in this subpart:

(a) The term "Act" means the Sheep Promotion, Research, and Information Act of 1994, 7 U.S.C. 7101-7111, Public Law 103-407, 108 Statute 4210, enacted October 22, 1994, and any amendments thereto.

(b) The term "Board" means the National Sheep Promotion, Research, and Information Board.

(c) The term "carbonized wool" means wool that has been immersed in a bath, usually of mineral acids or acid salts, that destroys vegetable matter in the wool, but does not affect the wool fibers.

(d) The term "Department" means the U.S. Department of Agriculture.

(e) The term "feeder" means any person who feeds lambs until the lambs reach slaughter weight.

(f) The term "importer" means any person who imports sheep or sheep products into the United States.

(g) The term "Livestock and Seed Division" means the Livestock and Seed Division of the Department's Agricultural Marketing Service.

(h) The term "National feeder organization" means any organization of feeders that has been certified by the Secretary pursuant to the Act and this part as being eligible to submit nominations for membership on the Board.

(i) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(j) The term "producer" means any person, other than a feeder, who owns or acquires ownership of sheep.

(k) The term "raw wool" means greasy wool, pulled wool, degreased wool, or carbonized wool.

(l) The term "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has been delegated, or to whom authority may be delegated to act in the Secretary's stead.

(m) The term "sheep" means ovine animals of any age, including lambs.

(n) The term "sheep products" means products produced in whole or in part from sheep, including wool and products containing wool fiber.

(o) The term "State" means each of the 50 States.

(p) The term "unit" means each State, group of States or class designation that is represented on the Board.

(q) The term "United States" means the 50 States and the District of Columbia.

(r) The term "wool" means the fiber from the fleece of a sheep.

(s) The term "wool products" means products produced, in whole or in part, from wool and products containing wool fiber.

#### § 1280.402 Administration.

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

#### § 1280.403 Certification of eligibility.

(a) State Organizations. Requirements for Certification. The Secretary shall certify any State organization that the Secretary determines meets the criteria established under paragraphs (a) and (b) of this section to be eligible for certification to nominate producer members and alternate producer members to the Board. Certification for State producer organizations shall be based upon:

(1) The geographic territory covered by the active membership of the organization;

(2) The nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization;

(3) Evidence of stability and permanency of the organization;

(4) Sources from which the operating funds of the organization are derived;

(5) The functions of the organization; and

(6) The ability and willingness of the organization to further the aims and objectives of the Act.

(b) Primary Considerations. A primary consideration in determining the eligibility of a State producer organization under this paragraph shall be whether:

(1) The membership of the organization consists primarily of producers who own a substantial quantity of sheep; and

(2) An interest of the organization is in the production of sheep.

(c) Feeder and Importer Organizations. Requirements for certification.

The Secretary shall certify any national feeder organization and qualified importer organization that the Secretary determines meets the following criteria to be eligible for certification to nominate feeders and importers to the Board:

(1) The organization's active membership includes a significant

number of feeders or importers in relation to the total membership of the organization;

(2) There is evidence of stability and permanency of the organization; and

(3) The organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry.

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

#### § 1280.404 Application for certification.

Any organization that meets the eligibility criteria for certification specified in § 1280.403 is entitled to apply to the Secretary for such certification of eligibility to nominate sheep producers, feeders, or importers for appointment to the Board. The Secretary may require third party verification of information submitted by organizations, in determining their eligibility. To apply, such organization must submit a completed "Application for Certification of Organization" form. Copies may be obtained from the Livestock and Seed Division; AMS-USDA, Room 2606-S; P.O. Box 96456; Washington, D.C. 20090-6456. (Telephone: 202/720-1115)

#### § 1280.405 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 may remain certified or eligible to make nominations. The Secretary may require third party verification of information submitted by organizations in determining their eligibility to continue making nominations.

#### § 1280.406 Notification of certification and the listing of certified organizations.

Organizations shall be notified in writing whether they are eligible to nominate sheep producers, feeders, or importers as members to the Board or not. A copy of the certification or eligibility determination shall be furnished to certified or eligible organizations. Copies shall also be available for inspection in the Livestock and Seed Division.

§ 1280.407 Solicitation of nominations for appointment to the Board.

In general, as soon as practicable after this subpart becomes operational, nominations for appointment to the initial Board shall be obtained from certified producer, feeder, and importer organizations by the Secretary.

(a) Initially Established Board.

(1) Producer and Alternate Nominations. The Secretary shall solicit from organizations certified under § 1280.403 (a) and (b) nominations for each producer or alternate member seat on the initially established Board to which a unit is entitled. If no such organization exists, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(2) Feeder and Importer Nominations. The Secretary shall solicit from organizations certified under § 1280.403(c) nominations for each feeder or importer member on the initially established Board to which a unit is entitled. If no such organization exists, the Secretary shall solicit nominations for appointment in such manner as the Secretary determines appropriate.

§ 1280.408 Nomination of members for appointment to the Board.

(1) In general. All nominations to the Board shall be made in the following manner:

(a) Producers. The Secretary shall appoint sheep producer and alternate members to represent units as specified under § 1280.409 (a) and (b) of this subpart, from nominations submitted by organizations certified under § 1280.403. A certified organization may only submit nominations for producer representatives and alternates if appropriate from the membership of the organization for the unit in which the organization operates. To be represented on the Board, each certified organization shall submit to the Secretary at least 1.5 nominations for each seat on the Board for which the unit is entitled to representation. If a unit is entitled to only one seat on the Board, the unit shall submit at least two nominations for the appointment. If a producer member and a producer alternate member are to be appointed to represent the unit, at least three nominations must be submitted for the two positions.

(b) Feeders. The Secretary shall appoint representatives of the feeder sheep industry to seats established under § 1280.409(c), from nominations submitted by qualified national organizations certified under § 1280.403 that represent the feeder sheep industry.

To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board to which the feeder sheep industry is entitled.

(c) Importers. The Secretary shall appoint importers to seats established under § 1280.409(d) from nominations submitted by qualified organizations certified under § 1280.403 that represent importers of sheep and sheep products. The Secretary shall receive at least 1.5 nominations for each appointment to the Board to which importers are entitled.

(d) After the establishment of the initial Board, the Department shall announce when a vacancy does or will exist. Nominations for subsequent appointments shall be initiated by the Secretary with the Board securing the nominations from certified producer organizations. Feeder and importer nominees shall be submitted directly to the Secretary by certified feeder and importer organizations. Nominations shall be initiated not less than 6 months before 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 caused by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall appoint a successor from the most recent list of nominations for the position or from nominations submitted by the Board for producers or from certified feeder or importer organizations for feeders and importers.

(e) Where there is more than one eligible organization representing producers in a State or unit, or representing feeders, or importers, they may caucus and jointly nominate a minimum of 1.5 qualified persons for each position representing that unit on the Board for which a producer member or producer alternate member is to be appointed. If they cannot agree on any such nominations, or if no caucus is held, each eligible organization may submit to the Secretary at least 1.5 nominations for each seat on the Board for which the unit is entitled to representation. If a unit is entitled to only one seat on the Board, the unit shall submit at least two nominations for the appointment to represent that unit.

(f) Nominations should be submitted in order of preference and, for the initial Board, in order of preference for staggered terms. If the Secretary rejects any nominations submitted and there are insufficient nominations submitted from which appointments can be made, the Secretary may request additional

nominations under paragraph (a), (b), or (c) above.

(2) Official Nomination Forms. A "Nomination for Appointment to the National Sheep Promotion, Research, and Information Board" must be used to nominate producers, feeders, or importers for appointment to the Board. An "Advisory Committee Membership Background Information" form must be completed by each nominee listed on the "Nomination for Appointment to the National Sheep Promotion, Research, and Information Board" and must be attached to that form. Official nomination forms and additional information on nominations are available from the Marketing Programs Branch; Livestock and Seed Division; AMS-USDA, Room 2606-S; P.O. Box 96456; Washington, D.C. 20090-6456 (Telephone: 202/720-1115).

(3) The Secretary may reject any nomination submitted under subsection (1) of this section. If there are insufficient nominations from which to appoint members to the Board because the Secretary rejected the nominations submitted by a State or unit, the State or unit shall submit additional nominations, as provided in paragraph (1) of this section.

§ 1280.409 Initial Board membership.

(a) Base Membership. The number of producer members appointed to the Board from each State or unit shall be allocated as follows:

Alabama 1; Alaska 1; Arizona 1; Arkansas 1; California 5; Colorado 4; Connecticut 1; Delaware 1; Florida 1; Georgia 1; Hawaii 1; Idaho 2; Illinois 1; Indiana 1; Iowa 2; Kansas 1; Kentucky 1; Louisiana 1; Maine 1; Maryland 1; Massachusetts 1; Michigan 1; Minnesota 2; Mississippi 1; Missouri 1; Montana 5; Nebraska 1; Nevada 1; New Hampshire 1; New Jersey 1; New Mexico 2; New York 1; North Carolina 1; North Dakota 2; Ohio 1; Oklahoma 1; Oregon 2; Pennsylvania 1; Rhode Island 1; South Carolina 1; South Dakota 4; Tennessee 1; Texas 10; Utah 3; Vermont 1; Virginia 1; Washington 1; West Virginia 1; Wisconsin 1; and Wyoming 5.

(b) Alternate Members. A unit represented by only one producer member may have an alternate producer member appointed to ensure representation at meetings of the Board.

(c) Feeders. The feeder sheep industry shall be represented by ten members.

(d) Importers. Importers shall be represented by 25 members.

§ 1280.410 Length of appointment to the initial Board.

When the Secretary appoints the members to the initial Board, the

Secretary shall also specify the term of office for each member. To the extent practicable, one-third of the members shall serve for 1-year, one-third shall serve for 2-years, and one-third shall serve for 3-years. No person may serve more than two consecutive 3-year terms, except that elected officers shall not be subject to the term limitation while they hold office.

**§ 1280.411 Acceptance of appointment.**

Producers, feeders, and importers nominated to the Board must confirm in writing their intent to serve if appointed, to disclose any relationship with any organization that operates a qualified State or regional program or has a contractual relationship with the Board and to withdraw from participation in deliberations, decision making, or voting on matters that concern the aforementioned disclosed relationships.

**§ 1280.412 Verification.**

The Secretary shall have the right to examine at any time the books, documents, papers, records, files, and facilities of nominating units as the Secretary deems necessary to verify the information submitted and to procure such other information as may be required to determine whether the unit is eligible to nominate sheep producers, feeders, or importers for appointment to the Board.

**§ 1280.413 Confidential treatment of information.**

All documents submitted in accordance with this subpart shall be kept confidential by all employees of the Department. Nothing in this section shall be deemed to prohibit the disclosure of such information so furnished or acquired as the Secretary deems relevant and then only in the issuance of general statements based upon the reports of a number of persons subject to the Order or statistical data collected therefrom, when such a statement or data does not identify the information furnished by any one person.

**§ 1280.414 Paperwork Reduction Act assigned number.**

The control number assigned to the information collection requirements in Part 1280 by OMB pursuant to the Paperwork Reduction Act of 1980 is OMB 0581-0093.

Subpart D—[Reserved]

Subpart E—[Reserved]

Dated: May 26, 1995.

**Lon Hatamiya,**

*Administrator.*

[FR Doc. 95-13485 Filed 6-1-95; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 94-NM-191-AD]

#### **Airworthiness Directives; Airbus Model A310 and A300-600 Series Airplanes Equipped with SOGERMA-SOCEA Pilot, Co-Pilot, and Third Occupant Seats**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to certain Airbus Model A310 and A300-600 series airplanes, that would have required repetitive inspections to detect distortion and/or cracks on the attachment brackets of the backrest recline control locks of certain seats. That proposed AD would have also required replacement of cracked or distorted brackets and their associated attachment fittings with new parts, which would have terminated the repetitive inspection requirements. That proposal was prompted by a report of failure of the bracket of the backrest recline control lock on a seat due to fatigue-related cracking. This action revises the proposed rule by requiring repetitive inspections following replacement of cracked or distorted brackets and by providing a new optional terminating modification for the repetitive inspections. The actions specified by this proposed AD are intended to prevent fatigue-related cracking and/or distortion, which could result in failure of the seat backrest attach fitting, and the subsequent uncommanded 50° angle recline of the pilot or co-pilot seat; this situation could lead to the temporary inability of the pilots to control the airplane.

**DATES:** Comments must be received by June 23, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport

Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-191-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SOGERMA-SOCEA, Group Aerospatiale, Product Support Department, B.P. 109, 17303 Rochefort Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2797; fax (206) 227-1320.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94-NM-191-AD." The postcard will be date stamped and returned to the commenter.

##### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No.