

and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) The committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 fiscal period begins on April 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable avocados handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

#### List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

#### **PART 915—AVOCADOS GROWN IN SOUTH FLORIDA**

1. The authority citation for 7 CFR part 915 continues to read as follows:

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

2. A new section 915.235 is added to read as follows:

Note: This section will not appear in the annual code of Federal Regulations.

#### **§ 915.235 Assessment rate.**

On and after April 1, 1996, an assessment rate of \$0.16 per bushel of assessable avocados is established for the Avocado Administrative Committee.

Dated: April 26, 1996.

Eric M. Forman,  
Deputy Director, Fruit and Vegetable Division.  
[FR Doc. 96-10871 Filed 5-1-96; 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: Final rule.

SUMMARY: This rule establishes a Sheep and Wool Promotion, Research,

Education, and Information Order (Order) which is authorized by the Sheep Promotion, Research, and Information Act of 1994 (Act). The program will be funded by assessments collected from sheep producers, sheep feeders and importers of sheep and sheep products. The program will be administered by a National Sheep Promotion, Research, and Information Board (Board).

Implementing regulations will be published separately in the Federal Register.

**EFFECTIVE DATE:** This final rule is effective May 3, 1996, except that § 1280.224-1280.228 become effective July 1, 1996.

**ADDRESSES:** 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.

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

**SUPPLEMENTARY INFORMATION:** Prior documents: Notice-Invitation to submit proposals published January 4, 1995 (60 FR 381); Proposed Rule-Sheep and Wool Promotion, Research, Education, and Information Order published June 2, 1995 (60 FR 28747); Proposed Rule-Procedures for Conduct of Referendum published August 8, 1995 (60 FR 40313); Notice-Certification of Organizations for Eligibility to Make Nominations to the Proposed Board published August 8, 1995 (60 FR 40343); Proposed Rule-Rules and Regulations published October 3, 1995 (60 FR 51737); Proposed Rule-Sheep and Wool Promotion, Research, Education, and Information Order published December 5, 1995 (60 FR 62298); and Final Rule and Referendum Order-Procedures for the Conduct of Referendum published December 15, 1995 (60 FR 64297).

#### Regulatory Impact Analysis

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

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This final rule was 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 would have the opportunity for a hearing on the petition. Thereafter the Secretary would issue a decision on the petition. The Act provides that the district court of the United States in the district in which the petitioner resides or carries on business has jurisdiction to review the Secretary's decision, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the decision. The petitioner must exhaust his or her administrative remedies before filing such a complaint in the district court.

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

The purpose of RFA is to fit regulatory actions to the scale of the businesses that are subject to such actions so that small businesses would not be unduly or disproportionately burdened.

According to the January 27, 1995, issue of "Sheep and Goats," published by the Department's National Agricultural Statistics Service, there are approximately 87,350 sheep operations 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). Additionally, there are approximately 9,000 importers of sheep and sheep products, nearly all of which would be classified as small businesses.

This final Order will require each person who makes payment to a sheep producer, feeder, or handler of sheep or sheep products to be a collecting person, and to collect an assessment from that sheep producer, feeder, or handler of sheep or sheep products. Any person who buys domestic live sheep or greasy wool for processing must also collect the assessment and remit it to the Board. 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 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 wool products, other than raw

wool, will pay an assessment. The U.S. Customs Service (Customs) 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 and 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 and 2 cents per pound of greasy wool sold. All assessment rates may be adjusted in accordance with the applicable provisions of the Act.

#### *Paperwork Reduction*

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection requirements contained herein were submitted to OMB for approval and assigned OMB No. 0581-0093. This action sets forth the provisions for establishing a nationwide, industry-funded sheep and wool promotion, research, education, and information program. The information collection requirements required by this action and necessary for the implementation of this Order include:

(1) A report by each collecting person required to remit assessments to the Board for live sheep or greasy wool purchased from the producer, feeder, or handler of sheep or sheep products; 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 would 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 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 would have an estimated annual reporting burden of 0.5 hours;

(3) 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 is 70 (with each submitting one response), and the estimated average reporting burden is 0.5 hour per response;

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

(5) 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 is 240 during the first year of the Order, and 80 each year thereafter. Each respondent would submit one response per year, and the estimated average reporting burden is 0.5 hour per response.

#### *Background*

The Act (7 U.S.C. 7101-7111), enacted 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 and 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 and 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 the 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 submit and request the issuance of an 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 Act further provides that an order contain certain specified terms and conditions. Such terms and conditions included provisions concerning the establishment of and composition of a Board and the powers and duties of such a Board. Also included under terms and conditions are provisions concerning plans and budgets, contracts and agreements, books and records of the Board, assessments, prohibitions, and reports, books, and records of collecting persons required to remit assessments and each person required to collect the assessment pursuant to the Act and the Order.

As established by the Act, the Order provides for the establishment of a Board comprised of 85 sheep producers, 10 sheep feeders, and 25 importers of sheep and sheep products. The Act further provides that any State with one producer member may have an alternate producer member.

The Department issued an invitation to submit proposals for an initial Order in the January 4, 1995, (60 FR 381) issue of the Federal Register. In response to that invitation, 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 also received letters from other interested parties. The Department did not consider these letters to be proposals because they primarily addressed information related to provisions of the Act itself.

The Department published 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 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 the 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 discussed that proposal in the proposed rule. Each proposal was published in the June 2, 1995, issue of the Federal Register (60 FR 28747). Interested persons were invited to submit comments on the proposals until July 17, 1995. On June 26, 1995, a public meeting was held at the Department to afford any interested person the opportunity to comment on the proposed Order.

The Department received 137 written comments concerning the proposed Order from individual sheep producers, sheep feeders, importers of sheep and sheep products, State sheep producer organizations, general farm organizations, universities, and other interested parties. Ninety-three comments were filed on time and forty-four comments were filed after the comment period closed. The comments on the proposed Order were discussed in the December 5, 1995, issue of the Federal Register (60 FR 62298). A nationwide referendum was held on February 6, 1996, among eligible producers, feeders, and importers to determine whether the Order would become effective. Requests for absentee ballots were available from January 16, 1996, through January 26, 1996. An Order becomes effective only if the Secretary determines that the Order has been approved by not less than a majority of the producers, feeders, and importers voting in the referendum or at least two-thirds of the production represented by persons voting in the referendum. The Order was approved by a majority of those persons voting in the referendum.

The Order provisions as proposed by the Department and approved in the referendum are summarized as follows:

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

Sections 1280.201–1280.211 of the Order 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.

Sections 1280.212–1280.214 of the Order provide for budget review and approval, maintenance of books and records by the Board, and the investment of funds.

Section 1280.215 of the Order authorizes the use of assessments which includes expenditures of funds for

domestic country of origin specific promotion and reimbursement for expenses incurred for the Department's oversight responsibilities.

Sections 1280.216–1280.222 of the Order establish that the membership of the Executive Committee will be composed 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 of the Order holds the Board responsible for expenses of the Board and the Executive Committee, and establish requirements for contracts and agreements that the Board enters into.

Sections 1280.224–1280.228 establish assessment rates on sheep and sheep products as provided by the Act. These sections also provide that the domestic rate and the import rate must be raised or lowered simultaneously by an equivalent amount.

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 will receive less than \$2,500 per year.

Section 1280.230 of the Order 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.

Section 1280.231 of the Order 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 of the Order 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. A correction is made to § 1280.235(d) by deleting the word "subpart" and inserting in its place the word "section."

Sections 1280.240–1280.246 of the Order 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.

On February 6, 1996, a nationwide referendum was conducted among eligible sheep producers, sheep feeders, and importers of sheep and sheep products to determine whether the Order should become effective. Requests for absentee ballots were available from January 16, 1996, through January 26, 1996. The representative period for establishing voter eligibility was from January 1, 1994, through December 31, 1994.

It is determined that a majority of those persons who voted in the referendum approved the implementation of the Order. To become effective, the Order had to be approved either by a simple majority vote or by those persons voting in the referendum who accounted for at least two-thirds of the production voted.

After consideration of all relevant material presented, including the initial proposals, comments received, the referendum results, and other available information, it is found that the Order and all of the terms and conditions thereof, should be made final.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register. Each section of this final rule except, § 1280.224 through § 1280.228 which establish assessment rates on both domestic and imported sheep and sheep products as provided by the Act, will become effective upon publication of this final rule. Sections 1280.224–1280.228 of the Order will become effective July 1, 1996, after regulations implementing the collection and remittance procedures are issued and published in the Federal Register.

Accordingly, no useful purpose would be served in delaying the effective date of the other provisions of the Order. The Act requires implementation of the Order if the Order is approved by the sheep and wool industry and the sheep and wool industry approved the Order in the February 6, 1996, referendum. Further, the Board must be appointed to administer the program as soon as possible. Therefore, this final rule is effective on the day following date of publication in the Federal Register except for the provisions in § 1280.224–§ 1280.228.

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

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Sheep and sheep products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1280 of the Code of Federal Regulations is amended as follows:

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

1. The authority citation for Part 1280 continues to read as follows:

Authority: 7 U.S.C. 7101–7111.

2. In Part 1280, Subpart A is added to read as follows:

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

##### Definitions

##### Sec

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.  
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 1280.211 Powers and duties of the Board.  
 1280.212 Budgets.  
 1280.213 Books and records of the Board.  
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#### Executive Committee

1280.216 Establishment.  
 1280.217 Membership.  
 1280.218 Powers and duties.  
 1280.219 Term of office.  
 1280.220 Chairperson.  
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#### 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.  
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#### 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 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 would 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 would 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

Unit	Board members
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
Wyoming .....	5

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) of this section.

**§ 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's 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

(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

nominations for subsequent appointment to the Board shall be made by the Secretary from organizations certified in accordance with paragraph (a)(2) of this section.

**§ 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) of this section. 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 proportionately 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:

(1) To fund promotion, research, education, and information plans and projects authorized under this subpart, including promotion plans and projects which make specific reference to domestic sheep and sheep products originating or being produced and/or marketed in the U.S., except that the combined expenditures for such promotion plans and projects involving domestic country of origin shall be limited to no more than the combined domestic assessments collected on sheep and sheep products and the percentage of domestic assessments spent on the promotion of domestic sheep and sheep products shall not exceed the percentage of import assessments spent on the generic promotion of sheep and sheep products; and

(2) 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:

(a) 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.

(b) 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) of this section.

(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) in this section, 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. However, if the Board makes a recommendation to the Secretary to raise or lower the assessment rates, the domestic rate and the import rate must be raised or lowered simultaneously by an equivalent amount. 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) of this section.

(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) of this section 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. However, if the Board makes a recommendation to the Secretary to raise or lower the assessment rates, the domestic rate and the import rate must be raised or lowered simultaneously by an equivalent amount. 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. Customs 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. However, if the Board makes a recommendation to the Secretary to raise or lower the assessment rates, the domestic rate and the import rate must be raised or lowered simultaneously by an equivalent amount.

(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 degreased wool or the equivalent. However, if the Board makes a recommendation to the Secretary to raise or lower the assessment rates, the domestic rate and the import rate must be raised or lowered simultaneously by an equivalent amount.

(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) of this section, 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) of this section 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) of this section, 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) of this section 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 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) of this section 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 section, 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.

Dated: April 26, 1996.  
Lon Hatamiya,  
*Administrator.*  
[FR Doc. 96-10887 Filed 5-1-96; 8:45 am]  
BILLING CODE 3410-02-P

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Parts 5, 20, and 28**

[Docket No. 96-11]

RIN 1557-AB26

**International Banking Activities**

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is comprehensively revising its regulations governing the international operations of national banks and the operation of foreign banks through Federal branches and agencies in the United States. The revision is part of the OCC's Regulation Review Program, which seeks to simplify OCC regulations and reduce unnecessary compliance costs, consistent with maintaining safety and soundness and furthering the other

responsibilities of the OCC. The final rule streamlines and consolidates into one part of the Code of Federal Regulations substantially all provisions relating to international banking, and clarifies and simplifies their various requirements.

The final rule also updates the rules to implement provisions of the Foreign Bank Supervisory Enhancement Act of 1991 (FBSEA) and the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act) relating to Federal branches and agencies.

**EFFECTIVE DATE:** July 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Raija Bettauer, Counselor for International Activities, (202) 874-0680, Raija.Bettauer@OCC.treas.gov.; Laurie Sears, Attorney, International Activities (202) 874-0680, Laurie.Sears@OCC.treas.gov.; Timothy M. Sullivan, Director, International Banking and Finance, (202) 874-4730, Tim.Sullivan@OCC.treas.gov.; Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 5, 1995, the OCC published a notice of proposed rulemaking (60 FR 34907) (proposal) proposing to revise its regulations governing the international operations of national banks and the operation of foreign banks through Federal branches and agencies in the United States (12 CFR parts 20 and 28). The proposal was another component of the OCC's Regulation Review Program (Program). The goal of the Program is to review all of the OCC's rules and to eliminate provisions that impose unnecessary regulatory burden and do not contribute significantly to maintaining the safety and soundness of national banks (and Federal branches and agencies) or to accomplishing the OCC's other statutory responsibilities. Another goal of the Program is to clarify the OCC's regulations and to better communicate the standards that the rules intend to convey.

The proposal sought to achieve those goals and also to update the OCC's rules to implement provisions in the FBSEA (Pub. L. 102-242, title II, 105 Stat. 2286) and Interstate Act (Pub. L. 103-328, 108 Stat. 2338) relating to Federal branches and agencies of foreign banks. It also added a mechanism for the OCC to obtain information on foreign banking organizations to improve the OCC's safety and soundness oversight of Federal branches and agencies.

The proposal further sought to reduce the complexity of the existing regulatory