

1, 2002, when the change became effective under the Ethics Act.

Executive Order 12866

In promulgating these technical amendments, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. These amendments have not been reviewed by the Office of Management and Budget under that Executive order, since they are not deemed "significant" thereunder.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this final amendatory regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this amendatory rulemaking does not contain information collection requirements that require the approval of the Office of Management and Budget.

Congressional Review Act

The Office of Government Ethics has determined that this amendatory rulemaking is a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and has submitted a report thereon to the United States Senate, House of Representatives and General Accounting Office in accordance with that law.

List of Subjects

5 CFR Part 2634

Certificates of divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

5 CFR Part 2635

Conflict of interests, Executive branch standards of ethical conduct, Government employees.

Approved: September 25, 2002.

Amy L. Comstock,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR parts 2634 and 2635 as follows:

PART 2634—EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; Pub. L. 101-410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104-134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

2. Section 2634.304 is amended by:

a. Removing the dollar amount "\$260" in paragraphs (a) and (b) and in example 1 following paragraph (d) and adding in its place in each instance the dollar amount "\$285";

b. Removing the dollar amount "\$104" in paragraph (d) and in examples 1 and 2 following paragraph (d) and adding in its place in each instance the dollar amount "\$114";

c. Removing the dollar amount "\$105" in example 1 following paragraph (d) and adding in its place the dollar amount "\$145";

d. Removing the word "exception" and the regulatory citation "\$ 2634.105(h)" in examples 2 and 3 following paragraph (d) and adding in their place in each instance, respectively, the word "exclusion" and the regulatory citation "\$ 2634.105(h)(4)"; and

e. Removing the dollar amount "\$260" in examples 3 and 4 following paragraph (d) and adding in its place the dollar amount "\$285".

PART 2635—STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

3. The authority citation for part 2635 continues to read as follows:

Authority: 5 U.S.C. 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

4. Section 2635.204 is amended by:

a. Removing the dollar amount "\$260" in paragraph (g)(2) and in examples 1 and 2 (in the latter of which it appears twice) following paragraph

(g)(6) and adding in its place in each instance the dollar amount "\$285"; and
b. Removing the dollar amount "\$520" in example 2 following paragraph (g)(6) and adding in its place the dollar amount "\$570".

[FR Doc. 02-24961 Filed 10-1-02; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[No. LS-99-20]

Amendment to the Beef Promotion and Research Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Beef Promotion and Research Rules and Regulations (Rules and Regulations) established under the Beef Promotion and Research Act of 1985 (Act) by providing producers the opportunity to voluntarily pay the \$1-per-head assessment to the Qualified State Beef Council (QSBC) located in the producer's State of residence prior to sale, subject to certain conditions. In addition, the chart which establishes the party responsible for collecting and remitting assessments in brand inspected States to the QSBC or the Cattlemen's Beef Promotion and Research Board (Board) is updated to reflect the changes the cattle industry has incurred since the inception of the program.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Payne, Chief, Marketing Programs Branch, Room 2638-S; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250-0251; telephone 202/720-1115.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Rule—Beef Promotion and Research Program: Amendment to Beef Promotion and Research Rules and Regulations published October 19, 2001 (66 FR 53127), with a 60 day comment period. The comment period ended December 18, 2001.

Executive Order 12866

The Office of Management and Budget (OMB) has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge of the provisions of this rule.

Regulatory Flexibility Act

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 effect of this action on small entities and has determined that this rule will not have a significant economic impact on a substantial number of small business 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 burdened.

The Department of Agriculture's (Department) National Agricultural Statistics Service estimates that in calendar year 2000 the number of cattle operations in the United States totaled approximately 1.1 million, including feedlot operations. There are also 45 QSBCs in the United States. In addition, there are 11 States with brand inspectors. The majority of these operations are considered small businesses under the criteria established by the Small Business Administration.

This final rule imposes no significant burden on the industry as it merely gives producers the opportunity to voluntarily pay the \$1-per-head assessment on cattle of their own production prior to sale and to remit the assessments to the QSBC located in the producers State of residence.

The impact on QSBCs will be a redistribution of an estimated maximum of one-half million dollars of the \$40 million currently retained annually in total by the 45 QSBCs. The Department estimates that up to 6 million head or 20 percent of the approximately 30 million head of steers and heifers slaughtered annually are sold for slaughter under retained ownership. The Department also estimates that assessments on up to one-sixth of the cattle (1 million head) will be paid in advance to QSBCs. If the \$1 assessment were paid in advance to QSBCs on these cattle, the QSBCs' 50 percent share of up to \$1 million in assessments or as

much as \$500,000 will be redistributed among the QSBCs.

The major cattle feeding States of Texas, Nebraska, Kansas, Colorado, and Oklahoma could reasonably be expected to account for up to 80 percent of the \$500,000 in reduced revenue to QSBCs annually. These States collect an average of \$19 million annually and retain one-half that amount or \$9.5 million. Assuming that the revenue to each of these five States available for State directed programs was reduced by an average of \$80,000, it would represent about a 1 percent decrease in the average revenue available for State directed programs in these States.

The remaining 40 QSBCs have annual State budgets that average about \$500,000. An estimated net increase in annual income for these States, as a result of the advance payment of assessments, could average up to \$10,000 per State representing a 2 percent increase.

Producers wishing to direct payment of assessments to the QSBC in the producers' State of residence when cattle are sent to another State for feeding under retained ownership, would complete a form that would be provided to affected parties including the QSBC, the feedlot, and the packer or the collecting person.

Copies of the completed "Certification of Producer Directed Payment of Cattle Assessments" form shall be maintained on file by the producer, the QSBC, the feedlot operator, and the purchaser of the cattle for 3 years.

We estimate the average cost of the reporting burden per respondent would be \$16 annually.

We estimate the total average cost of the recordkeeping burden per recordkeeper would be \$8 annually.

The Administrator of AMS has considered the economic effect of this action on small entities and has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

The proposed rule that was published in the **Federal Register** on October 19, 2001 (66 FR 53127), invited interested persons to submit comments to the Department concerning potential effects. No comments were received regarding the RFA.

Paperwork Reduction Act

In accordance with OMB regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements contained in this rule have been approved by OMB under OMB control number 0581-0202.

Title: Certification of Producer Directed Payment of Assessments.

OMB Number: 0581-0202

Expiration Date of Approval: March 1, 2005.

Type of Request: Approval of new information collection.

Abstract: The Act provides for a program of promotion, research, consumer information, and industry information funded by assessments paid by beef producers each time cattle are sold and by importers of cattle and beef products upon importation.

Assessments on imported cattle and beef products are collected by the U.S. Customs Service at the rate of \$1 per head or the live animal equivalent of beef and beef products. An assessment of \$1 per head is due from the producer each time a producer sells cattle in the United States. The assessment is to be collected by the purchaser or other "collecting person" as provided in the rules and regulations published in the **Federal Register** on February 26, 1988 (53 FR 5749). The producer assessments are then remitted to QSBCs in 45 States and to the Board in the remaining States. QSBCs retain up to one-half of the \$1 assessment for use in State directed programs and forward the other half to the Board. Currently, QSBCs in the traditional cattle feeding States (*e.g.*, Texas, Kansas, Nebraska, Oklahoma, and Colorado) collect and retain assessments on cattle sold that are owned by producers residing in other States. This benefits QSBCs in the States that have large numbers of cattle in feedlots owned by producers residing in other States. Some producers retain ownership of cattle and transport them to one of the cattle feeding States. To provide producers with more flexibility and to provide the opportunity for a more equitable distribution of assessment funds to States based on cattle ownership, the final "Certification of Producer Directed Payment of Cattle Assessments" form would be made available for use by producers who want the QSBC located in their States of residence to receive assessment funds rather than the QSBC in the State where the cattle are fed.

1. Certification of Producer Directed Payment of Assessments.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average .20 hour per response.

Respondents: Producers wishing to direct payment of assessments to the QSBC in the producers' State of residence when cattle are sent to another State for feeding under retained ownership would use the form.

Estimated Number of Respondents: 1,000.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 800 hours.

Total cost: \$16,000.

2. Maintenance of records: 3 years.

Estimate of Burden: The public recordkeeping burden for keeping this document is estimated to average .10 hour per recordkeeper.

Recordkeepers: Producers, QSBCs, feedlot operators, and purchasers.

Estimated Number of Recordkeepers: 1,260.

Estimated Total Recordkeeping Hours: 504 hours.

Estimated Total Cost: \$10,080.

The total average cost of the estimated annual reporting burden per respondent would be: \$16.00.

The total average cost of the recordkeeping burden per recordkeeper would be: \$8.00.

Background

The Act authorizes the establishment of a national beef promotion and research program. The final Order establishing a beef promotion and research program was published in the **Federal Register** on July 18, 1986, (51 FR 21632) and assessments began on October 1, 1986. The program is administered by the Board which is composed of 110 domestic cattle producers and importers. The program is funded by a \$1-per-head assessment on producer marketings of cattle in the United States and an equivalent amount on imported cattle, beef, and beef products. In 45 States, QSBCs receive the \$1-per-head of cattle assessment remitted under the program and retain up to half of the \$1 for State-directed programs and remit the remainder to the Board. The Board receives all import assessments and all producer assessments in the five States with relatively small cattle numbers that do not have QSBCs. In 2000, the 45 QSBCs received a total of about \$80 million in assessments. QSBCs retained about \$40 million and remitted approximately \$40 million to the Board.

The domestic assessment, due each time cattle are sold by a producer, is collected by the buyer or "collecting person" and remitted to the Board or QSBC. The term "producer" is defined as follows: "any person who owns or acquires ownership of cattle; provided, however, that a person shall not be considered a producer within the meaning of this subpart if (a) the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee; or (b) the person (1)

acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third-party, (2) resold such cattle no later than 10 days from the date on which the person acquired ownership, and (3) certified, as required by regulations prescribed by the Board and approved by the Secretary, that the requirements of this provision have been satisfied."

When cattle are sold within 10 days of purchase by a person who is not a producer under the above definition, the collecting person is not required to collect the \$1 assessment from the person (seller), if the seller provides the collecting person with a Statement of Certification of Non-Producer Status on a form approved by the Board and the Secretary. The person claiming non-producer status must submit to the collecting person a Statement of Certification of Non-Producer Status "at the time of sale" in lieu of paying the assessment.

In a similar fashion, this modification to the regulations to permit producer-directed payment of assessments will result in the collecting person, at the time of sale, collecting a document certifying that the assessment had been paid in advance by the producer.

The Department believes that this producer-directed payment option will be used by producers of a relatively small share of all cattle sold. This rule will apply only to cattle of a producer's own production transported to another State under retained ownership for feeding prior to sale as slaughter cattle. Utilizing this option would permit a producer who retains ownership of cattle to ensure that the QSBC located in the State where the producer resides receives the \$1 checkoff rather than the QSBC in the State in which the cattle are located when sold. This final rule could increase checkoff revenue for many QSBCs such as those located in the southeastern United States that currently do not receive revenue from cattle owned and sold by producers residing in the southeastern States who use feedlots in States such as Texas, Kansas, Nebraska, Oklahoma, and Colorado to finish cattle before selling the cattle to packers.

Since States retain up to one-half of the \$1-per-head checkoff for use in State directed programs, providing producers with the flexibility and the opportunity to direct payment of the assessment to their home State likely would increase revenue in many States such as Florida, Georgia, Alabama, and Mississippi with limited feedlot capacity.

Comments

On October 19, 2001, the Department published in the **Federal Register** (66

FR 53127) for comment a proposed rule to amend the Rules and Regulations established under the Act. The proposed rule provided the opportunity for a producer to pay the \$1-per-head assessment to the QSBC located in the producer's State of residence prior to sale, subject to certain conditions.

The proposed rule was published with a request for comments to be submitted by December 18, 2001. The Department received comments from 47 national and State beef and dairy cattle organizations, and brand inspectors, as well as from cattle producers. Comments from 44 commenters were filed on time. Eleven commenters supported the proposed rule while four commenters proposed modifications and requested clarifications to it. Twenty-nine commenters opposed the proposed rule. Three comments were submitted after the comment period ended. The late comments, however, supported the rule as proposed.

The comments are discussed below, together with a description of the changes made by the Department in this final rule. In general, persons and organizations in States that may see an increase in assessments supported the proposed rule, while persons and organizations in the primary cattle feeding States that may see a reduction in assessments did not support the proposed rule.

Three commenters suggested producers, QSBCs, the Board, the feedlot operator, and the purchaser of the cattle should maintain copies of the Certification of Producers Direct Payment of Cattle Assessments forms on file for 3 years rather than 2 years. The standard procedure currently in place for random compliance audits of remitters is 3 years. The Department believes that this comment has merit, and this change is reflected in § 1260.311(f)(4) by removing 2 years and inserting 3 years.

One commenter asserted that the QSBC which receives the additional checkoff funds must be responsible for compliance. Currently, QSBCs are responsible for collecting and remitting the assessment to the Board and ensuring that those persons subject to the assessment remit them. In States where there is no QSBC, the Board is responsible for compliance. Accordingly, the Department is not making any changes in response to this comment.

The same commenter suggested that the term Board could be omitted from § 1260.311(f)(1), as only

the QSBC located in the State where the producer resides would apply. The commenter noted that producers in the five States without a QSBC will be unable to use this option as their dollar already is currently directed to the Board. The Department believes that this comment has merit and therefore the term Board is removed from § 1260.311(f)(1) in this final rule.

Five commenters stated that the regulations must specify what "cattle of a producer's own production" are in order to ensure this includes only offspring from a producer's own cow herd that have been continuously and exclusively under his or her ownership, and are being sent to feedlots with the intent of continuously owning the cattle through the entire feeding phase. The Department believes that this comment has merit and additional clarification regarding the meaning of "cattle of a producer's own production" is reflected in new § 1260.311(f)(iii) of this final rule.

Three commenters asserted that producers must list the number of their cow herds on the certificate as a method to cross check that the cattle transported to the feedyard qualify as retained ownership cattle. The Department believes that this additional requirement would not have any impact on compliance activities. The current compliance practices in the industry and the proposed certification process are sufficient to ensure compliance with the provisions of the Act, the Beef Promotion and Research Order (Order), and this final rule.

Two commenters suggested that the regulation should apply only to true retained ownership cattle. Since cattle sold through auctions, dealer/order buyers, and country sales are not applicable, the commenters believe these references should be removed from the table in § 1260.311(c). While the table in § 1260.311(c) is being updated as part of this final rule, it does not directly apply to the producer payment option of this final rule. It specifies the party responsible for collecting and remitting assessments in designated States. Accordingly, the Department is not making any changes in response to these comments.

Another commenter stated that assessments should be collected on cattle sold within the first 30 days of movement and the dollars returned to the State of Origin under the current rules. The Department believes that the option provided for in this rule is flexible and cost effective for producers. Under § 1260.311(f)(1)(ii) of the rule producers can pay the assessment either before or at the time the cattle are

transported. Therefore, we are not making any changes to the rule in response to this comment.

Three commenters stated that the regulations should address death loss on cattle that are prepaid in the State of Origin. The commenters suggested that the proposal should specify that the producer will not be given a credit of their dollar for cattle that have died before they are shipped to the ultimate purchaser of the cattle. The Department believes that this comment has merit. Because of the low mortality rates and the costs associated with administrative matters involving investigation of animal death and producer, QSBC and Board notification, the costs associated with producer credits would be substantial, far in excess of the \$1-per-head assessment paid by the producer. Therefore, we are adding a new paragraph 5 to § 1260.311(f) of this final rule to prohibit credits of assessments for those cattle lost because of death.

Three commenters asserted that many feedlots and retained ownership programs involve sorting and comingling of cattle from various owners into numerous different pens and lots and then sold to the packer at different times. Consequently, if the assessment is prepaid, the documentation on those cattle could be confusing since they will not be processed in the same lot. The Department believes the feedlot should not be required to complete a new form. Feedlots may note on the existing form that the specific cattle marketed have been prepaid in order to facilitate their own recordkeeping. Accordingly, we are not making any changes in response to this comment.

One commenter expressed concern that some cattle may be placed on feed with the producer having the intention of retaining ownership through the entire feeding cycle. However, during the feeding cycle, the producer may decide to sell a partial interest in the cattle within the feedyard. The purpose of this rule is to provide producers the opportunity to voluntarily pay the \$1-per-head assessment to the QSBC on cattle transported to a feedyard under retained ownership. This rule does not provide producers with an opportunity for a credit. If a producer transfers any interest in the cattle prior to their sale to a purchaser, the cattle are no longer covered under the provisions of this rule. Consequently, an additional assessment is due as a result of the new owner transfer, even if the transfer of ownership is only partial.

Four commenters asserted that the QSBC receiving the checkoff should be required to send a new verification form to the feedlot to notify it that the

checkoff has been received. The Department believes that any additional certification of producer payment by QSBCs would be unnecessary and burdensome. As noted previously, the Department believes that the current certification is sufficient to ensure compliance with the provisions of this final rule. Therefore, we are not making any changes in response to this comment.

One commenter stated that the assessments should be paid at the time of transport. Under § 1260.311(f)(1)(ii) of the rule producers can pay the assessment either before or at the time the cattle are transported.

One commenter suggested that the packer should retain a copy of the certificate, not the feedlot, because the packer, as the purchaser, is responsible for collecting the checkoff for slaughter cattle. The commenter believes that this would provide a simple and streamlined procedure for compliance and audit. Section 1260.311(f)(4) requires that the certification form be sent to all parties involved, including packers when they act as purchasers.

One commenter suggested that the producer should be responsible for ensuring the paperwork accompanies the cattle throughout the production process. Section 1260.311(f)(1)(i) requires that the certification be completed by the producer and sent to the feedlot operator. This certification will accompany the cattle when they are sold.

One commenter believes that the final regulation will create compliance problems and will be difficult to correctly monitor and may cause double assessments, incorrect assessments, or no assessments collected. The Department believes that because of the anticipated small number of producers that will prepay the assessment, any compliance problems that may arise will be manageable. In addition, the rule provides that the required certification must accompany the cattle through the entire process, thereby minimizing any potential compliance problems. Further, if the certification does not accompany the cattle, those cattle would be assessed the \$1-per-head checkoff in accordance with the Act and the Order.

Twenty-eight commenters asserted that the proposal would increase paperwork required to accompany cattle transported to other States. The Department does not anticipate a significant increase in administrative costs and paperwork for those States primarily affected by this final rule because of the anticipated small number of producers who will prepay the assessment.

Twenty-seven commenters asserted that the top five cattle producing States would have to deal with this new procedure more frequently than other States. While the Department recognizes that the larger cattle producing States will likely be more affected, we believe that because of the anticipated small number of producers who will prepay the assessment, any additional burden will be small.

Twenty-nine commenters asserted that in the hosting State, livestock markets, packing plants, feedlots, etc., will need to implement a new accounting procedure to exempt the checkoff from this type of transaction. The Department believes that the certification form completed by the producer should not require persons to implement a new accounting system since the cattle will have already been assessed.

Twenty-nine commenters asserted that in the hosting State, double assessments may increase if cattle arrive without the new certification. If the certification does not accompany the cattle, those cattle would be assessed the \$1-per-head checkoff in accordance

with the Act and the Order. It is the responsibility of the producer to ensure that the certification form accompanies the cattle when they are transported to the feedlot.

Twenty-nine commenters asserted that if out of State cattle arrive without the certification, brand inspectors will, by law, collect the assessment. As previously noted, if the certification form does not accompany the cattle, the brand inspector will collect the assessment in accordance with the Act, the Order, and the Rules and Regulations.

Twenty-one commenters asserted that if out of State cattle arrive without the prepaid document, QSBCs will have increased workload due to processing the double assessments. The Department does not anticipate a significant increase in workload or paperwork burden because of the anticipated small number of producers who will prepay the assessment. If cattle arrive without the required certification, the cattle will be assessed in accordance with the Act, the Order, and the Rules and Regulations.

One commenter asserted that the proposal would divert a significant amount of funds away from promotion into record and paperwork management. The Department does not expect that there will be a significant increase in workload or paperwork burden because of the anticipated small number of producers who will prepay the assessment.

Additional Changes. We are making nonsubstantiative changes to § 1260.311(f) for the purpose of clarity. In addition, the Board recommended that the chart under § 1260.311(c) be corrected and updated to reflect the current collection and remittance procedures in States where brand inspectors are responsible for collecting and remitting assessment. Based upon our review of the Board's comment, we are making changes to the chart in this rule as follows:

Add the State of Nevada and change collecting person (CP) to brand inspector (B) in Idaho for transactions which occur at auction markets and slaughter/packer. The changes reflect those additions and changes to the chart under § 1260.311(c).

States	Sales through auction markets	Sales to a slaughter/packer	Sales to a feedlot	Sales to an order buyer/dealer	Country sales
Nevada	B	B	B	B	B
Idaho	B	B	B	B	B

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. An effective date of October 1, 2002, will allow producers to take advantage of this action in time for fall cattle marketings. This rule permits producers who retain ownership of cattle that are shipped to another State for feeding to pay the \$1 checkoff to the QSBC located in the State where the producer resides rather than the QSBC in the State in which the cattle are located when sold.

List of Subjects in 7 CFR Part 1260

Advertising, Agricultural research, Imports, Marketing agreements, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1260 is amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation of part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901–2911.

2. In § 1260.311, revise paragraphs (a) and (c) and add paragraph (f) to read as follows:

§ 1260.311 Collecting persons for purposes of collection of assessments.

* * * * *

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

producer shall give the producer a receipt indicating payment of the assessment.

* * * * *

(c) In the States listed in the following chart there exists a requirement that cattle be brand inspected by State authorized inspectors prior to sale. In addition, when cattle are sold in the sales transactions listed below in those States, these State authorized inspectors are authorized to, and shall, except as provided for in paragraph (f) of this section, collect assessments due as a result of the sale of cattle. In those transactions in which inspectors are responsible for collecting assessments, the person paying the producer shall not be responsible for the collection and remittance of such assessments. The following chart identifies the party responsible for collecting and remitting assessments in these States:

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

Key:

B—Brand inspector has responsibility to collect and remit assessments due.

CP—The person paying the producer shall be the collecting person and has responsibility to collect and remit the assessments due.

B-CP—Brand inspector has responsibility to collect; however, when there has not been a physical brand inspection the person paying the producer shall be the collecting person and has the responsibility to collect and remit assessments due.

¹ For the purpose of this subpart, the term “country sales” shall include any sales not conducted at an auction or livestock market and which is not a sale to a slaughter/packer, feedlot, or order buyer or dealer.

* * * * *

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

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

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

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

- (i) Producer’s Name.
- (ii) Producer’s social security number or Tax I.D. number.

(iii) Producer’s address (street address or P.O. Box, city, State, and zip code).

(iv) Signature of Producer.

(v) Producer’s State of residence.

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

(vii) Date cattle shipped.

(viii) State where cattle will be on feed.

(ix) Name of feedyard.

(x) Address of feedyard.

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

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

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

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

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

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

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

Dated: September 26, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 331 and 381

[Docket No. 02–028F]

Termination of Designation of the State of Maine With Respect to the Inspection of Meat and Meat Food Products and Poultry and Poultry Food Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Direct final rule and termination of designation.

SUMMARY: This direct final rule amends the Federal meat and poultry products inspection regulations by terminating the designation of the State of Maine under Titles I, II, and IV of the Federal Meat Inspection Act (FMIA) and under sections 1 through 4, 6 through 11, and 12 through 22 of the Poultry Products Inspection Act (PPIA).

DATES: This direct final rule will be effective November 1, 2002 unless FSIS receives written adverse comments within the scope of this rulemaking or written notice of intent to submit