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multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(b)(1) For each calendar year, based on previous fiscal year/historical actual costs, AMS will calculate the benefits rate, operating rate, and allowance for bad debt rate components of the regular, overtime, and holiday rates as follows:

(i) *Benefits rate.* The total AMS service program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The total AMS service program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total AMS service program allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(2) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on OMB's most recent Presidential Economic Assumptions.

(c) Applicants are responsible for paying actual travel costs incurred to provide services, including but not limited to: Mileage charges for use of privately owned vehicles, rental vehicles and gas, parking, tolls, and public transportation costs such as airfare, train, and taxi service.

(d) The applicant is responsible for paying per diem costs incurred to provide services away from the auditor's or USDA official's official duty station(s). Per diem costs shall be calculated in accordance with existing travel regulations (41 CFR, subtitle F—Federal Travel Regulation System, chapter 301).

(e) When costs other than those costs specified in paragraphs (a) through (c) of this section are involved in providing the services, the applicant shall

be responsible for these costs. The amount of these costs shall be determined administratively by AMS. However, the applicant will be notified of these costs before the service is rendered.

§ 62.301 Payment of fees and other charges.

Fees and other charges for services shall be paid in accordance with each service or program's policy(ies) and documentation. The applicant shall remit payment by the date indicated on the invoice. Payment may be made by automated clearing house transactions; credit card, debit card, or direct debit via *Pay.gov* or PayPal; electronic funds transfer; check; or money order. Remittance must be to USDA, AMS and include the customer number (*i.e.*, account number) from the invoice. Check or money orders must be mailed to the remit address indicated on the invoice. Wire transfers are exclusive to foreign customers. Fees and charges shall be paid in advance if required by the service or program's authorized USDA official. Failure to pay fees can result in denial, suspension, or cancellation of service.

Subpart F—OMB Control Number

§ 62.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection and recordkeeping requirements of this part have been approved by OMB under 44 U.S.C. Chapter 35 and have been assigned OMB Control Numbers: 0581-0125, 0581-0128, 0581-0251, and 0581-0283.

PART 63—NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER

Subpart A—General Provisions

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AUTHORITY: 7 U.S.C. 1621–1627.

SOURCE: 75 FR 43034, July 23, 2010, unless otherwise noted.

Subpart A—General Provisions

DEFINITIONS

§ 63.1 Act.

Act means the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627).

[79 FR 31845, June 3, 2014]

§ 63.2 Board.

Board means National Sheep Industry Improvement Center Board of Directors established under § 63.100.

§ 63.3 Department or USDA.

Department or *USDA* means the United States Department of Agriculture.

§ 63.4 Eligible entity.

Eligible entity means an entity that promotes the betterment of the United States sheep or goat industries and that is a public, private, or cooperative organization; an association, including a corporation not operated for profit; a federally recognized Indian Tribe; or a public or quasi-public agency.

§ 63.5 Eligible organization.

Eligible organization means any national organization that meets the criteria provided for in § 63.105 as being eligible to submit nominations for membership on the Board.

§ 63.6 Fiscal year.

Fiscal year means a calendar year or any other 12 month period as determined by the Board.

§ 63.7 Fund.

Fund means the NSIIC Revolving Fund established in the United States Department of the Treasury that is available to the NSIIC without fiscal year limitation, to carry out the programs and activities authorized under the Act.

§ 63.8 NSIIC.

NSIIC or *Center* means the National Sheep Industry Improvement Center established under § 63.200.

§ 63.9 Part.

Part means the rules and regulations issued pursuant to the Act that appear in part 63 of title 7 of the Code of Federal Regulations.

§ 63.10 Secretary.

Secretary means the Secretary of Agriculture of the United States or any

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other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 63.11 Under Secretary for Rural Development.

Under Secretary for Rural Development means the Under Secretary for Rural Development of the U.S. Department of Agriculture, or any other officer or employee of the Department designated by the Under Secretary to act in the Under Secretary's stead.

§ 63.12 Under Secretary for Research, Education, and Economics.

Under Secretary for Research, Education, and Economics means the Under Secretary for Research, Education, and Economics of the U.S. Department of Agriculture, or any other officer or employee of the Department designated by the Under Secretary to act in the Under Secretary's stead.

§ 63.13 United States.

United States means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

BOARD OF DIRECTORS

§ 63.100 Establishment and membership.

There is hereby established a National Sheep Industry Improvement Center Board. The Board is composed of seven voting members and two non-voting members. Voting members of the Board shall be appointed by the Secretary from nominations submitted in accordance with this part. The Board shall consist of the following:

(a) *Voting members.* (1) Four members shall be active producers of sheep or goats in the United States;

(2) Two members shall have expertise in finance and management; and

(3) One member shall have expertise in lamb, wool, goat, or goat product marketing.

(b) *Non-voting members.* (1) One member shall be the Under Secretary of Agriculture for Rural Development, USDA; and

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(2) One member shall be the Under Secretary for Research, Education, and Economics, USDA.

§ 63.101 Nominations.

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

(a) Nominations shall be obtained by the Secretary from national organizations eligible under § 63.105. An eligible organization shall submit to the Secretary for consideration at least two nominations for one or more voting member seats on the Board. If two nominations for each voting member seat are not submitted by such organization(s), then the Secretary may solicit nominations from other sources.

(b) After the establishment of the initial Board, USDA shall announce when a vacancy does or will exist. Nomination for subsequent Board members shall be submitted to the Secretary not less than sixty (60) days prior to the expiration of the terms of the members whose terms are expiring, in the manner as described in this section. In the case of vacancies due to reasons other than the expiration of a term of office, successor Board members shall be appointed pursuant to § 63.104.

(c) If more than one eligible organization exists, they may caucus and jointly nominate at least two qualified persons for each position. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization may submit to the Secretary at least two nominees for each appointment to be made.

§ 63.102 Nominee's agreement to serve.

Any person nominated to serve on the Board shall file with the Secretary at the time of the nomination a written agreement to:

(a) Serve on the Board if appointed;

(b) Disclose any relationship that may create a conflict of interest under § 63.112; and

(c) Withdraw from participation in deliberations, decision-making, or voting on matters which concern any relationship disclosed under paragraph (b) of this section.

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§ 63.103 Appointment.

From the nominations made pursuant to § 63.101, the Secretary shall appoint the members of the Board.

§ 63.104 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 the Secretary shall request nominations for a successor pursuant to § 63.101 and such successor shall be appointed pursuant to § 63.103.

§ 63.105 Nominating organizations.

(a) *In general.* Nominations for voting members of the Board may be submitted by any national organization that the Secretary determines meets the eligibility criteria established under paragraph (b) of this section.

(b) *Basis for eligibility.* A national organization is eligible to submit nominations for voting members on the Board if:

(1) The membership of the organization consists primarily of active sheep or goat producers in the United States; and

(2) The primary interest of the organization is the production of sheep or goats in the United States.

§ 63.106 Term of office.

(a) The voting members of the Board shall serve for a term of three years; except that persons (other than the chairperson) appointed to the initial Board shall serve staggered terms of one, two, and three years, as determined by the Secretary.

(b) No member may serve more than two consecutive full terms.

§ 63.107 Compensation.

Board members shall serve without compensation, but shall be reimbursed for their reasonable travel, subsistence, and other necessary expenses incurred in performing their duties as members of the Board.

§ 63.108 Removal.

If the Secretary determines that any person appointed under this part fails

or refuses to perform his or her duties properly or engages in acts of dishonesty or willful misconduct, the Secretary shall remove the person from office. A person appointed under this part or any employee of the Board may be removed by the Secretary if the Secretary determines that the person's continued service would be detrimental to the purposes of the Act.

§ 63.109 Procedure.

(a) At a Board meeting, it will be considered a quorum when a simple majority of the voting representatives are present.

(b) A decision of the Board shall be made by a majority of the voting members of the board.

(c) The Board shall meet not less than once each fiscal year at the call of the chairperson or at the request of the executive director.

(d) The location of the meeting shall be established by the Board.

(e) A chairperson shall be selected from among the voting members of the Board and all serve a term of office of two years.

(f) All Board members and the Secretary will be notified at least 30 days in advance of all Board meetings, unless an emergency meeting is declared.

(g) In lieu of voting at a properly convened meeting and, when in the opinion of the chairperson of the Board such action is necessary, the Board may take action if supported by a simple majority of the Board representatives by mail, telephone, electronic mail, facsimile, or any other means of communication. In that event, all representatives must be notified and provided the opportunity to vote. Any action so taken shall have the same force and effect as though such action had been taken at a properly convened meeting of the Board. All telephone votes shall be confirmed promptly in writing. All votes shall be recorded in Board minutes.

(h) There shall be no voting by proxy.

(i) The organization of the Board and the procedures for conducting meetings of the Board shall be in accordance with its bylaws, which shall be established by the Board and approved by the Secretary.

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§ 63.110 Powers and duties of the Board.

The management of the NSIIC shall be vested in the Board of Directors. The Board shall have the following powers and duties:

- (a) Be responsible for the general supervision of the NSIIC;
- (b) Review any grant or contract agreement to be made or entered into by the NSIIC and any financial assistance provided to the NSIIC;
- (c) Make the final decision, by majority vote, on whether or not to provide grants to an eligible entity in accordance with the strategic plan;
- (d) Develop and establish a budget plan and long-term operating plan to carry out the goals of the NSIIC;
- (e) Adopt, and amend as appropriate, bylaws as necessary for the proper management and functioning of the NSIIC;
- (f) Provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the NSIIC;
- (g) Appoint and establish compensation for an executive director, who will serve at the pleasure of the Board, to be the chief executive officer of the NSIIC;
- (h) Appoint other officers, attorneys, employees, and agents as necessary and set forth their respective duties and powers;
- (i) Delegate, by resolution, to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board—other than voting on a grant, contract, agreement, budget, or annual strategic plan; and
- (j) Consult with the following entities to carry out this part:
 - (1) State departments of agriculture;
 - (2) Federal departments and agencies;
 - (3) Nonprofit development corporations;
 - (4) Colleges and universities;
 - (5) Banking and other credit-related agencies;
 - (6) Agriculture and agribusiness organizations, and
 - (7) Regional planning and development organizations.

§ 63.111 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

- (a) Any action that is a conflict of interest under § 63.112;
- (b) Using funds to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, State, national, and foreign governments, other than recommending to the Secretary amendments to the Order; and
- (c) Any activity that is false, misleading, or disparaging to another agricultural commodity.

§ 63.112 Conflict of interest.

(a) *In general.* Members of the Board shall not vote on any particular matter pending before the Board in which, to the knowledge of the member, an interest is held by the member, any spouse of the member, any child of the member, any partner of the member, any organization in which the member is serving as an officer, director, trustee, partner, or employee; or any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest, except as provided in paragraph (c) of this section.

(b) *Validity of action.* An action by a member of the Board that violates § 63.112 (a) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

(c) *Disclosure.* If a member of the Board makes full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in paragraph (d) of this section. A member that discloses an interest under section § 63.112(a) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

(d) *Remands.* The Secretary may vacate and remand to the Board for reconsideration any decision made if the Secretary determines that there has

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been a violation of this section or any conflict of interest provision of the by-laws of the Board with respect to the decision.

(1) In the case of any violation and remand of a funding decision to the Board, the Secretary shall inform the Board of the reasons for the remand.

(2) If a decision with respect to the matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER

§ 63.200 NSIIC establishment and purpose.

(a) There is hereby established a National Sheep Industry Improvement Center. The purpose of the Center shall be to:

(1) Promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

(2) Optimize the use of available human capital and resources within the sheep or goat industries;

(3) Provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

(4) Advance activities that empower and build the capacity of the U.S. sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

(5) Adopt flexible and innovative approaches to solving the long-term needs of the United States sheep and goat industry.

(b) The NSIIC shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the NSIIC. A strategic plan shall identify:

(1) Goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates

to the national and regional goals of the NSIIC;

(2) The amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

(3) Funding priorities;

(4) Selection criteria for funding; and

(5) A method of distributing funding.

REVOLVING FUND

§ 63.300 Establishment.

The NSIIC Revolving Fund established in the Treasury shall be available to the NSIIC, without fiscal year limitation, to carry out the authorized programs and activities of the NSIIC under this part. There shall be deposited in the Fund:

(a) Such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the NSIIC;

(b) Payments received from any source for products, services, or property furnished in connection with the activities of the NSIIC;

(c) Fees and royalties collected by the NSIIC from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants or contracts executed by the NSIIC;

(d) Donations or contributions accepted by the NSIIC to support authorized programs and activities. Such contributions shall be free from any encumbrance by the donor and the NSIIC shall retain complete control of their use; and

(e) Any other funds acquired by the NSIIC.

§ 63.301 Use of fund.

The NSIIC shall use the Fund to:

(a) Make grants to eligible entities in accordance with a strategic plan submitted under § 63.310 of this part. Specifically, amounts in the Fund may be used to:

(1) Participate with Federal and State agencies in financing activities that are in accordance with the strategic plan, including participation with several States in a regional effort;

(2) Participate with other public and private funding sources in financing activities that are in accordance with the

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strategic plan, including participation in a regional effort;

(3) Accrue interest;

(4) Serve broad geographic areas and regions of diverse production, to the maximum extent practicable;

(5) Only to supplement and not supplant Federal, State, and private funds expended for rural development;

(6) For administration purposes, with a maximum 10 percent of the NSIIC Fund balance at the beginning of each fiscal year for the administration of the NSIIC;

(b) Provide funds to eligible entities contingent upon that entity agreeing to account for the amounts using generally accepted accounting principles and to provide access to the Secretary for inspection and audit of such records.

[75 FR 43034, July 23, 2010, as amended at 79 FR 31845, June 3, 2014]

REPORTS, BOOKS, AND RECORDS

§ 63.400 Books and records.

The Board and NSIIC shall:

(a) Maintain such books and records, which shall be made available to the Secretary for inspection and audit as is appropriate for the administration or enforcement of the Act or rules and regulations issued thereunder;

(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 NSIIC 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.

§ 63.401 Use of information.

Information from records or reports required pursuant to this part shall be made available to the Secretary as is appropriate for the administration or enforcement of the Act or rules and regulation issued thereunder.

§ 63.402 Confidentiality.

All information obtained from books, records, reports, or any other material obtained under the Act and this part, shall be kept confidential by all persons, including employees and former

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employees of the NSIIC. Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports or the statistical data, which statements do not identify the information furnished by any entity.

MISCELLANEOUS

§ 63.500 Compliance.

The Secretary shall review and monitor compliance by the Board and the NSIIC with the Act and this part.

§ 63.501 Patents, copyrights, inventions, trademarks, information, publications, and product formulations.

Any patents, copyrights, inventions, trademarks, information, publications, or product formulations developed through the use of funds collected by the Board under the provisions of this subpart shall be the property of the U.S. Government, as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, inventions, trademarks, information, publications, or product formulations, inure to the benefit of the Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval by the Secretary. Should patents, copyrights, inventions, trademarks, information, publications, or product formulations be developed through the use of funds collected by the Board under this part and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, inventions, trademarks, information, publications, or product formulations shall be determined by agreement between the Board and the party contributing funds towards the development of such patents, copyrights, inventions, trademarks, information, publications, or product formulations in a manner consistent with this paragraph.

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§ 63.502 Personal liability.

No member or employee of the Board shall be held personally responsible, either individually or jointly, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 63.503 Separability.

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

§ 63.504 Amendments.

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

§ 63.505 OMB control number.

The control number assigned to the information collection requirements of this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, is OMB control number 0505-new.

Subpart B [Reserved]

PART 65—COUNTRY OF ORIGIN LABELING OF LAMB, CHICKEN, AND GOAT MEAT, PERISHABLE AGRICULTURAL COMMODITIES, MACADAMIA NUTS, PECANS, PEANUTS, AND GINSENG

Subpart A—General Provisions

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Subpart B [Reserved]

AUTHORITY: 7 U.S.C. 1621 *et seq.*

SOURCE: 74 FR 2704, Jan. 15, 2009, unless otherwise noted.

Subpart A—General Provisions

DEFINITIONS

§ 65.100 Act.

Act means the Agricultural Marketing Act of 1946, (7 U.S.C. 1621 *et seq.*).

§ 65.105 AMS.

AMS means the Agricultural Marketing Service, United States Department of Agriculture.

§ 65.115 Born.

Born in the case of chicken means hatched from the egg.

§ 65.120 Chicken.

Chicken has the meaning given the term in 9 CFR 381.170(a)(1).

§ 65.125 Commingle covered commodities.

Commingle covered commodities means covered commodities (of the same type) presented for retail sale in a consumer package that have been prepared