



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[No. AMS-LPS-15-0084]

Amendment to the Beef Promotion and Research Rules and Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the Beef Promotion and Research Order (Order) established under the Beef Promotion and Research Act of 1985 (Act) to increase assessment levels for imported veal and veal products based on revised determinations of live animal equivalencies and to update and expand the Harmonized Tariff System (HTS) numbers and categories, which identify imported veal and veal products to conform with recent updates in the numbers and categories used by the U.S. Customs and Border Protection (Customs).

**DATES:** Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments should be posted online at [www.regulations.gov](http://www.regulations.gov). Comments received will be posted without change, including any personal information provided. All comments should reference the docket number, AMS-LPS-15-0084; the date of submission; and the page number of this issue of the Federal Register. Comments may also be sent to Mike Dinkel, Promotion and Research Division, Livestock, Poultry, and Seed Program, Agricultural Marketing Service, Department of Agriculture, Room 2610-S, STOP 0251, 1400 Independence Avenue, SW., Washington, D.C. 20250-0251; or via Fax to (202) 720-1125. Comments will be

made available for public inspection at the above address during regular business hours or via the Internet at [www.regulations.gov](http://www.regulations.gov). Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mike Dinkel, Agricultural Marketing Specialist; Research and Promotion Division, Room 2610-S; Livestock, Poultry and Seed Program; Agricultural Marketing Service, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, D.C. 20250-0251; facsimile (202) 720-1125; telephone (301) 352-7497, or by e-mail at [Michael.Dinkel@ams.usda.gov](mailto:Michael.Dinkel@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**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 proposed 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 U.S. or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to 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 Acting Administrator of AMS has considered the economic effect of this action on

small entities and has determined that this proposed rule will not have a significant economic impact on a substantial number of small business entities. The effect of the Beef Order upon small entities was discussed in the July 18, 1986, Federal Register [51 FR 26132]. 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.

There are approximately 270 importers who import beef or edible beef products into the U.S. and 198 importers who import live cattle into the U.S. The majority of these operations subject to the Beef Order are considered small businesses under the criteria established by the Small Business Administration (SBA)[13 CFR 121.201]. SBA defines small agricultural service firms as those having annual receipts of \$7.5 million or less.

The proposed rule will impose no significant burden on the industry. It will merely update and expand the HTS numbers and categories for veal and veal products to conform to recent updates in the numbers and categories used by Customs. This proposed rule will adjust the live animal equivalencies used to determine the amount of assessments collected on imported veal and veal products. This adjustment reflects an increase in the assessment of imported veal product so that it coincides with the assessment on domestic veal product. Accordingly, the Acting Administrator of AMS has determined that this action will not have a significant impact on a substantial number of small entities.

### **Paperwork Reduction Act**

In accordance with the Office of Management and Budget (OMB) regulations [5 CFR part 1320] that implement the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements contained in the Beef Order and Rules

and Regulations have previously been approved by OMB under OMB control number 0581-0093.

## **Background**

The Act authorized the establishment of a national beef promotion and research program. The final Beef Order was published in the Federal Register on July 18, 1986, (51 FR 21632), and the collection of assessments began on October 1, 1986. The program is administered by the Cattlemen's Beef Promotion and Research Board (Board), appointed by the Secretary of Agriculture (Secretary) from industry nominations, and composed of 100 cattle producers and importers. The program is funded by a \$1-per-head assessment on producer marketing of cattle in the U.S. and on imported cattle as well as an equivalent amount on imported beef and beef products.

Importers pay assessments on imported cattle, beef, and beef products. Customs collects and remits the assessment to the Board. The term "importer" is defined as "any person who imports cattle, beef, or beef products from outside the United States." Imported beef or beef products is defined as "products which are imported into the United States which the Secretary determines contain a substantial amount of beef including those products which have been assigned one or more of the following numbers in the Tariff Schedule of the United States."

The purpose of this proposed rule is to update, expand, and revise the table found under §1260.172 (7 CFR 1260.172) to reflect the current HTS numbers and assessments on veal and veal products.

As a result of these changes to HTS, there are 6 new categories that cover imported veal and veal products subject to assessment. The 30 categories identifying imported beef and beef

products have been expanded to 66 categories.

This proposed rule updates and expands the chart published in the 2006 final rule to conform with recent changes to the HTS numbering system and revises the live weight equivalents used to calculate import veal assessments. Importers are currently paying a lower assessment level for imported veal and veal products than what is being paid for domestic veal and veal products. At that time, the average dressed weight of veal slaughtered under Federal inspection was determined to be 154 pounds. USDA determined that using the average dressed weight of domestic veal slaughtered under Federal inspection would be most suitable because most of the imported veal and veal products were similar to domestic veal.

The Act requires that assessments on imported beef and beef products be determined by converting such imports into live animal equivalents to ascertain the corresponding number of head of cattle. Carcass weight is the principle factor in calculating live animal equivalents.

Prior to publishing the proposed rule, USDA received information from the Board regarding imported veal assessments on April 7, 2015. The Board requested to expand the number of HTS codes for imported veal and veal products in order to capture product that is not currently being assessed and to update the live animal equivalency rate on imported veal to reflect the same assessment as domestic veal and veal products. The Board also suggested that AMS update the dressed veal weight to better reflect current dressed veal weights. The Board recommends using an average dressed veal weight from 2010 to the most current data. The Board states that “establishing an average over this period of time takes into account short term highs and lows due to the cattle cycle, weather effects, and feed prices.” This average would be 154 pounds.

**List of Subjects in 7 CFR Part 1260**

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Meat and meat products, Beef, and Beef products.

For the reasons set forth in the preamble, title 7 of the CFR part 1260 is proposed to be amended as follows:

**PART 1260--BEEF PROMOTION AND RESEARCH**

1. The authority citation for 7 CFR part 1260 continues to read as follows:

**Authority:** 7 U.S.C. 2901-2911 and 7 U.S.C. 7401.

2. Amend § 1260.172 by revising paragraph (b)(2) to read as follows:

**§ 1260.172 Assessments.**

\* \* \* \* \*

(b) \* \* \*

(2) The assessment rates for imported cattle, beef, and beef products are as follows:

Imported Live Cattle	
HTS Number	Assessment Rate
0102.10.0010	\$1.00/head
0102.10.0020	\$1.00/head
0102.10.0030	\$1.00/head
0102.10.0050	\$1.00/head
0102.90.2011	\$1.00/head
0102.90.2012	\$1.00/head
0102.90.4024	\$1.00/head
0102.90.4028	\$1.00/head
0102.90.4034	\$1.00/head
0102.90.4038	\$1.00/head
0102.90.4054	\$1.00/head
0102.90.4058	\$1.00/head
0102.90.4062	\$1.00/head
0102.90.4064	\$1.00/head

0102.90.4066	\$1.00/head
0102.90.4068	\$1.00/head
0102.90.4072	\$1.00/head
0102.90.4074	\$1.00/head
0102.90.4082	\$1.00/head
0102.90.4084	\$1.00/head

Imported Beef and Beef Products	
HTS Number	Assessment Rate per kg
0201.10.0510	.01693600
0201.10.0590	.00379102
0201.10.1010	.01693600
0201.10.1090	.00379102
0201.10.5010	.01693600
0201.10.5090	.00511787
0201.20.0200	.00530743
0201.20.0400	.00511787
0201.20.0600	.00379102
0201.20.1000	.00530743
0201.20.3000	.00511787
0201.20.5000	.00379102
0201.20.8090	.00379102
0201.30.0200	.00530743
0201.30.0400	.00511787
0201.30.0600	.00379102
0201.30.1000	.00530743
0201.30.3000	.00511787
0201.30.5000	.00511787
0201.30.8090	.00511787
0202.10.0510	.01693600
0202.10.0590	.00379102
0202.10.1010	.01693600
0202.10.1090	.00370102
0202.10.5010	.01693600
0202.10.5090	.00379102
0202.20.0200	.00530743
0202.20.0400	.00511787
0202.20.0600	.00379102
0202.20.1000	.00530743
0202.20.3000	.00511787
0202.20.5000	.00379102

0202.20.8000	.00379102
0202.30.0200	.00530743
0202.30.0400	.00511787
0202.30.0600	.00527837
0202.30.1000	.00530743
0202.30.3000	.00511787
0202.30.5000	.00511787
0202.30.8000	.00379102
0206.10.0000	.00379102
0206.21.0000	.00379102
0206.22.0000	.00379102
0206.29.0000	.00379102
0210.20.0000	.00615701
1601.00.4010	.00473877
1601.00.4090	.00473877
1601.00.6020	.00473877
1602.50.0900	.00663428
1602.50.1020	.00663428
1602.50.1040	.00663428
1602.50.2020	.00701388
1602.50.2040	.00701388
1602.50.6000	.00720293

NEW Imported (Veal) Beef and Beef Products	
HTS Number	Assessment Rate per kg
0201.20.5010	.01693600
0201.20.5020	.01693600
0201.30.5010	.01693600
0201.30.5020	.01693600
0202.30.5010	.01693600
0202.30.5020	.01693600

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Dated: March 10, 2016.

Elanor Starmer,  
Acting Administrator,  
Agricultural Marketing Service.

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