



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1220 and 1260

[No. AMS-LPS-13-0083]

[RIN 0581-AD49]

Soybean Promotion, Research, and Consumer Information; Beef Promotion and Research; Amendments to Allow Redirection of State Assessments to the National Program; Technical Amendments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Soybean Promotion, Research, and Consumer Information Order (Soybean Order) and the Beef Promotion and Research Order (Beef Order) to add provisions allowing soybean and beef producers to request, under certain circumstances, that their assessments paid to a State board or council authorized under their respective statutes, be redirected to the national program. The proposed rule also would make technical amendments to the Beef Order.

DATES: Written comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Pursuant to the Paperwork Reduction Act, comments on the information collection burden that would result from this proposal must be received by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL

REGISTER].

ADDRESSES: Interested persons are invited to submit written comments on the Internet at www.regulations.gov or to Kevin Studer; Research and Promotion Division; Livestock, Poultry, and Seed Program; Agricultural Marketing Service, USDA, Room 2608-S, STOP 0249, 1400 Independence Avenue, SW, Washington, D.C. 20250-0249; or fax to (202) 720-1125. All comments should reference the docket number, the date, and the page number of this issue of the Federal Register and will be available for public inspection at the above office during regular business hours.

Pursuant to the Paperwork Reduction Act (PRA), send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to the above address. Comments concerning the information collection under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Please be advised that all comments submitted in response to this notice will be included in the record and will be made available to the public on the Internet at <http://www.regulations.gov>. Also, the identity of the individuals or entities submitting the comments will be made public.

FOR FURTHER INFORMATION CONTACT: Kevin Studer, Research and Promotion Division, at (202) 253-2380, fax (202) 720-1125, or by e-mail at Kevinj.Studer@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. It is not intended to have retroactive effect.

Executive Order 13175

The Agricultural Marketing Service (AMS) has assessed the impact of this proposed rule on Indian tribes and determined that this rule would not, to our knowledge, have tribal implications that require tribal consultation under Executive Order 13175. If a Tribe requests consultation, AMS will work with the Department of Agriculture's (USDA) Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications are identified in this proposed rule.

Soybean Order

The Soybean Promotion, Research, and Consumer Information Act (Soybean Act) (7 U.S.C. 6301-6311) provides that administrative proceedings must be exhausted before parties

may file suit in court. Under section 1971 of the Soybean Act, a person subject to the Soybean Order may file a petition with USDA stating that the Soybean Order, any provision of the Soybean Order, or any obligation imposed in connection with the Soybean Order, is not in accordance with the law and request a modification of the Soybean Order or an exemption from the Soybean Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, USDA would rule on the petition. The Soybean Act provides that district courts of the United States in any district in which such person is an inhabitant, or has their principal place of business, has jurisdiction to review USDA's ruling on the petition, if a complaint for this purpose is filed within 20 days after the date of the entry of the ruling.

Further, section 1974 of the Soybean Act provides, with certain exceptions, that nothing in the Soybean Act may be construed to preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized under the laws of the United States or any State. One exception in the Soybean Act concerns assessments collected by Qualified State Soybean Boards (QSSBs). The exception provides that to ensure adequate funding of the operations of QSSBs under the Soybean Act, no State law or regulation may limit or have the effect of limiting the full amount of assessments that a QSSB in that State may collect, and which is authorized to be credited under the Soybean Act. Another exception concerns certain referenda conducted during specified periods by a State relating to the continuation of a QSSB or State soybean assessment.

Beef Order

Section 11 of the Beef Research and Promotion Act of 1985 (Beef Act) (7 U.S.C. 2901-2911) provides that nothing in the Beef 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.

Background and Proposed Action

Soybean Order Amendments

The Soybean Act and the Soybean Order issued thereunder authorize the collection of an assessment from soybean producers of one-half of one percent (0.5 percent) of the net market value of soybeans, processed soybeans, or soybean products. In most cases, these assessments are collected by QSSBs that retain up to half of the assessments as authorized by the Soybean Act. The QSSBs as defined under Section 1967 (14) of the Soybean Act will forward the remainder to the United Soybean Board (Soybean Board), which administers the national soybean checkoff program.¹

¹ Section 1967(14) of the Soybean Act states:

(14) QUALIFIED STATE SOYBEAN BOARD. The term “qualified State soybean board” means a State soybean promotion entity that is authorized by State law. If no such entity exists in a State, the term “qualified State soybean board” means a soybean producer-governed entity — (A) that is organized and operating within a State; (B) that receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs; and (C) that meets criteria established by the Board as approved by the Secretary relating to the qualifications of such entity to perform duties under the order and is recognized by the Board as the soybean promotion and research entity within the State.

Likewise, 7 CFR section 1220.122 of the Soybean Order states:

The term Qualified State Soybean Board means a State soybean promotion entity that is authorized by State law and elects to be the Qualified State Soybean Board for the State in which it operates pursuant to § 1220.228(a)(1). If no such entity exists in a State, the term Qualified State Soybean Board means a soybean producer-governed entity—

(a) That is organized and operating within a State; (b) That receives voluntary contributions and conducts

The original Soybean Order, which became effective July 9, 1991, mandated that all producers marketing soybeans pay an assessment of one-half of one percent (0.5 percent) of the net market price of the market price of soybeans sold. The original Soybean Order contained a provision in § 1220.228(b)(5)(i), which required QSSBs that were authorized or required to pay refunds to producers to certify to the Soybean Board that they would honor any request from a producer for a refund from the QSSB by forwarding to the Soybean Board those contributions for which the producer received a credit, pursuant to § 1220.223(a)(3). In other words, this section implicitly authorized refunds by the QSSB if State law allowed or required the QSSB to pay refunds; it further directed that the producer receive a credit for those refunds, with the amount sent to the Soybean Board.

Refunds under the soybean program were discontinued on October 1, 1995, after the Secretary determined through a producer poll that continuation of refunds was not favored by a majority of producers. In late 1995, 7 CFR 1220.228(b)(5)(i) was removed as part of rulemaking to eliminate obsolete regulatory language. However, this action had an unintended effect of inadvertently allowing QSSBs to retain a portion of the assessment even if not required by State law, under any circumstances.

In States where payments to a QSSB are not required by State law, the opportunity for producers to choose to direct the full federal assessment to the Soybean Board is already

soybean promotion, research, consumer information, or industry information programs; and (c) That meets the criteria, established by the Board and approved by the Secretary, relating to the qualifications of such entity to perform its duties under this part as determined by the Board, and is certified by the Board under § 1220.228(a)(2), with the approval of the Secretary.

AMS' current policy; this rule is intended to formalize the policy. Therefore, AMS proposes adding provisions that remedy the removal of the original refund language. A new provision would be added to the Soybean Order to (i) require producers in States where refunds are authorized to forward that refund to the Soybean Board and (ii) provide an opportunity for a refund if the QSSB is not authorized by State statute but is organized and operating within a State and is certified by the Soybean Board, as provided by § 1220.228(a)(2). AMS proposes to require that the form must be postmarked by the 30th day of the month following the month the soybeans were sold. Assessments would not be able to be retroactively redirected from the QSSB to the Soybean Board. Likewise, AMS proposes to require that the QSSB must respond by the last day of the month following the month in which the OMB-approved QSSB-1 form was received.

Regardless of a State's requirements or refunding provisions, a producer is required by the Soybean Act to pay an assessment of one-half of one percent (0.5 percent) of the net market value of soybeans, processed soybeans, or soybean products. Several States have additional producer assessments, mandated by State statutes that are collected in addition to the assessment required by the Soybean Act as set forth in the chart provided. If a QSSB offers a producer refund under a State statute, the QSSB can only refund to the producer any State assessment collected in excess of the assessment that the producer is required to pay under the Soybean Act. AMS proposes that the portion of the assessment compelled by the Soybean

Act that the QSSB would normally keep can be redirected to the national program by the producer if State law allows.

Examples:

- A soybean producer in California pays an assessment for a soybean sale. The assessment is collected by a certified Western Region Soybean Board, which keeps 50% and forwards the remaining 50% to the Soybean Board. California has no State law requiring a California assessment, so the California producer may request that the 50% of the assessment amount retained by the Western Region Soybean Board be redirected to the Soybean Board.
- A soybean producer in Iowa pays an assessment for a soybean sale. The assessment is collected by Iowa Soybean Promotion Board, which keeps 50% and forwards the remaining 50% to the Soybean Board. Iowa has a State law with a refund provision, so the Iowa producer may request that the 50% of the assessment amount retained by the Iowa Soybean Promotion Board be redirected to the Soybean Board.
- A soybean producer in Virginia pays an assessment for a soybean sale. The assessment is collected by the Virginia Soybean Board which keeps 50% and forwards the remaining 50% to the Soybean Board. Virginia has a State law with no refund provision, so the Virginia soybean producer may not request that the 50% of the assessment amount retained by the Virginia Soybean Board be redirected to the Soybean Board.

Beef Order Amendments

Similarly, the Beef Promotion and Research Act of 1985 (Beef Act) and the Beef Promotion and Research Order (Beef Order) issued thereunder authorize the collection of an assessment from cattle producers of \$1.00 per head of cattle sold. In most cases, these assessments are collected by Qualified State Beef Councils (QSBCs) that retain up to one-half of the assessments as authorized by the Beef Act. The QSBCs, as defined under Section 3 (14) of the Beef Act, are required to forward the remainder to the Cattlemen's Beef Promotion and Research Board (Beef Board), which administers the national beef checkoff program.²

The original Beef Order, which became effective July 18, 1986, mandated that all producers owning and marketing cattle pay an assessment of \$1.00 per head of cattle, to be collected each time cattle are sold. The original Beef Order contained a provision in § 1260.181(b)(5), which required QSBCs that were authorized or required by State law to pay refunds to producers to certify to the Beef Board that they would honor any request from a producer for a refund from the QSBC by forwarding to the Beef Board those contributions for which the producer received a credit, pursuant to § 1260.172(a)(3). In other words, this section authorized refunds by the QSBC if State law allowed or required the QSBC to pay

² Section 3(14) of the Beef Act states that "the term "qualified State beef council" means a beef promotion entity that is authorized by State statute or is organized and operating within a State, that receives voluntary contributions and conducts beef promotion, research, and consumer information programs, and that is recognized by the Board as the beef promotion entity within such State." Likewise, 7 CFR section 1260.115 of the Beef Order states "Qualified State beef council means a beef promotion entity that is authorized by State statute or a beef promotion entity organized and operating within a State that receives voluntary assessments or contributions; conducts beef promotion, research, and consumer and industry information programs; and that is certified by the Board pursuant to this subpart as the beef promotion entity in such State."

refunds; it further directed that the producer receive a credit for those refunds, with the amount redirected to the Beef Board.

In a May 10, 1988, referendum conducted by the Secretary, cattle producers and importers voted to institute mandatory assessments. In late 1995, 7 CFR 1260.181(b)(5) was removed as part of rulemaking to eliminate obsolete regulatory language. However, this action had an unintended effect of inadvertently allowing QSBCs to retain a portion of the \$1.00-per-head assessment even if not required by State law, under any circumstances. Therefore, AMS proposes adding provisions that would remedy the removal of the original language in § 1260.181(b)(5).

Furthermore, while the Beef Act and Beef Order authorize QSBCs to retain up to 50 cents per head of cattle assessed, neither the Beef Act nor the Beef Order require producers to contribute a portion of the \$1.00-per-head assessment to a QSBC. Thus, unless State statutes require the collection of the \$1.00-per-head assessment set forth in the Beef Act (the federal assessment) or require producers to contribute a portion of the \$1.00-per-head federal assessment to the State beef council, producers may be able to choose not to contribute up to 50 cents per head of the federal assessment to their QSBC. While the original Beef Order did not address the specific situation that allows producers to choose not to contribute up to 50 cents per head of the federal assessment to a QSBC, AMS proposes to address this in the new language. A new provision would be added to the Beef Order to (i) require QSBCs in States where refunds to producers of the \$1.00-per-head assessment collected per the Beef Act and

Beef Order are authorized by State statute to forward that refund to the Beef Board, and (ii) provide an opportunity for producers to choose to direct the full \$1.00-per-head federal assessment to the Beef Board in States where State law does not require the collection of the \$1.00-per-head assessment set forth in the Beef Act (the federal assessment) or in States where State statutes do not require producers to contribute a portion of the \$1.00-per head federal assessment to the State beef council. In States where payments to a QSBC are not required by State law, the opportunity for producers to choose to direct the full \$1.00-per-head federal assessment to the Beef Board is already AMS' current policy; this rule is intended to formalize the policy. As QSBCs are responsible for collecting assessments on cattle sold in or originating in their State (§ 1260.172(a)(5) and § 1260.181(b)(3)), producers who are allowed refunds under State statutes and choose to redirect the full \$1.00-per-head assessment to Beef Board must submit to the QSBC a written request on an approved request form. AMS proposes to require that the form must be postmarked by the 15th day of the month following the month the cattle were sold. Assessments would not be able to be retroactively redirected from the QSBC to the Beef Board, and QSBCs would be required to respond to such requests within 60 days.

Regardless of a State's requirements or refunding provisions, a producer is required by the Beef Act to pay an assessment of \$1.00 on each head of cattle sold. Several States have additional producer assessments, mandated by State statutes, that are collected in addition to the \$1.00-per-head assessment required by the Beef Act. If a QSBC offers a producer refund under a State statute, the QSBC can only refund to the producer any State assessment

collected in addition to the \$1.00-per-head assessment that the producer is required to pay under the Beef Act. AMS proposes that the portion of the \$1.00-per-head federal assessment that the QSBC would normally keep under § 1260.181 (b)(4) can be redirected to the national program by the producer if State law allows.

Examples:

- A producer in Kansas pays the \$1.00 federal assessment for a cattle sale. The Kansas Beef Council collects \$1.00, keeps \$0.50, and forwards \$0.50 to the Beef Board. Since there is no Kansas law compelling producers to contribute to the Kansas Beef Council, the producer may request that the \$0.50 of the original \$1.00 assessment be redirected to the Beef Board.
- A producer in Colorado pays \$1.00 in assessments for a cattle sale. The Colorado Beef Council collects \$1.00, keeps \$0.50, and forwards \$0.50 to the Beef Board. Colorado State law requires an assessment but allows a refund. The producer may request that the \$0.50 cents of the original \$1.00 assessment be redirected to the Beef Board.
- A producer in California pays \$1.00 in assessments for a cattle sale. The California Beef Council collects \$1.00, keeps \$0.50, and forwards \$0.50 to the Beef Board. California law compels the collection of the \$1.00-per-head assessment and does not provide for a refund. The producer may not request the California Beef Council to redirect any portion of the \$0.50 to the Beef Board.

- A producer in Idaho pays the \$1.00-per-head federal assessment plus the \$0.50-per-head State-mandated assessment for a cattle sale. The Idaho Beef Council collects \$1.50, keeps \$1.00, and forwards \$0.50 to the Beef Board. The producer requests a refund of all funds paid to the Idaho Beef Council. The Idaho Beef Council may refund the \$0.50-per-head State assessment to the producer, but the producer is required to pay \$1.00 under the Beef Act. Since Idaho State law only compels an assessment of \$0.50, which is refundable, the producer may request the Idaho Beef Council to redirect the remaining \$0.50 of the \$1.00 retained from the original \$1.00-per-head federal assessment to the Beef Board.

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601-612), the Administrator of the 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 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.

Soybean Industry

USDA's Farm Service Agency estimates that there are 569,998 soybean producers subject to the Soybean Order. This estimate comes from including all soybean producers engaged in the production of soybeans in the previous 2 years. The majority of producers

subject to the Soybean Order are small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA defines small agricultural producers as those having annual receipts of less than \$750,000.

This proposed rule imposes no new burden on the soybean industry. It would provide soybean producers, under certain circumstances, the option of requesting that their assessments paid to a State board be directed to the national program.

However, the proposed rule could result in decreased assessment funds for some QSSBs, depending on whether a State statute is in place, whether refund provisions are included, and whether the producer chooses to exercise the refund provision.

Potential Financial Impact on QSSBs by State

Current as of 05/01/2016

STATE¹	STATE LAW REQUIREMENT	REFUND OPTION	AMOUNT OF NATIONAL ASSESSMENT RETAINED BY STATE (50% OF ASSESSMENTS DUE UNDER SOYBEAN ACT)² (FY 2015)
Alabama	Statute establishes \$0.02 per bushel maximum assessment; regulations establish \$0.01 per bushel maximum assessment	Yes	\$445,917

Arizona ⁴	5% of the annual gross sales dollar value maximum annual assessment	No	--
Arkansas	\$0.02 per bushel; 0.25% of net market price during continuance of federal program	Yes, on both	\$3,946,583
California ⁴	None	Not applicable	--
Colorado ⁴	None	Not applicable	--
Connecticut ³	None	Not applicable	--
Delaware	None beyond federal	Yes (under general promotion statute)	\$245,921
Georgia	\$0.05 per bushel	No	\$195,398
Idaho ⁴	None	Not applicable	--
Illinois	Statute establishes ½ of 1% of the net market price of soybeans produced and sold	Yes	\$13,941,988
Indiana	None beyond federal	Yes	\$7,855,049
Iowa	If national assessment collection, 0.25% of net market price; if not, 0.5 % of net market price	Yes	\$12,788,353
Kansas	Statute sets maximum at 0.5% of net market price while federal program effective; regulation sets assessment at 20 mills (\$0.02) per bushel as State default assessment	Yes, provided refund amount is \$5 or more	\$3,415,025
Kentucky	0.25% of net market price per bushel on all soybeans marketed within Kentucky	Yes	\$2,148,849

Louisiana	\$0.01 per bushel on all soybeans grown in Louisiana	Yes	\$2,131,537
Maine ³	None beyond federal	No	--
Maryland	None beyond federal	Yes	\$588,195
Massachusetts ³	None	Not applicable	--
Michigan	None beyond federal	Yes, for funds left over at close of marketing season	\$2,329,254
Minnesota	General statute sets maximum at 1% of the market value of the year's production of participating producers; MN Soybean and Research and Promotion Council sets assessment at 0.5%	Yes	\$8,151,802
Mississippi	\$0.01 per bushel	Yes	\$2,955,549
Missouri	None beyond federal	Yes	\$6,419,003
Montana ⁴	None beyond federal	No	--
Nebraska	None beyond federal	No	\$6,952,254
Nevada ⁴	None	Not applicable	--
New Hampshire ³	None	Not applicable	--
New Jersey	None beyond federal	No	\$110,113
New Mexico ⁴	None beyond federal	No	--
New York	None beyond federal	Yes, but left to discretion of commissioner	\$254,297

North Carolina	None beyond federal	Yes, if assessment enacted	\$1,768,352
North Dakota	0.5% of sale value	No	\$4,913,972
Ohio	None beyond federal; capped at 2 cents per bushel if assessment enacted	Yes	\$6,575,663
Oklahoma	None beyond federal	Yes	\$279,962
Oregon ⁴	None beyond federal	No	--
Pennsylvania	None beyond federal	No	\$618,190
Rhode Island ³	None	Not applicable	--
South Carolina	\$0.005 per bushel	Yes	\$367,307
South Dakota	0.5% of value of the net market price	Yes	\$5,185,112
Tennessee	\$0.01 per bushel	Yes	\$1,985,565
Texas	None beyond federal	Yes	\$117,588
Utah ⁴	None beyond federal	No	--
Vermont ³	None beyond federal	No	--
Virginia	Statute allows \$0.02 per bushel; regulation specifies \$0.01 per bushel	No	\$645,754
Washington ⁴	None beyond federal	No	--
West Virginia ³	None	Not applicable	--
Wisconsin	Capped by statute at \$0.02 per bushel; actual assessment determined annual by board	Yes	\$1,838,960

Wyoming ⁴	None beyond federal	No	--
Eastern Region ⁵			\$48,391
Western Region ⁶			\$17,121

¹ There are 31 QSSBs. Two represent multiple States.

² Only includes 50 percent of the national assessment that the State retains; does not include State assessment revenue derived from an independent State assessment. In addition, the notation -- indicates that the amount of national assessment retained by the state is a de minimis amount.

³ Covered by Eastern Region.

⁴ Covered by Western Region.

⁵ Eastern Region includes Connecticut, Florida, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and West Virginia.

⁶ Western Region includes Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

The information collection requirements on QSSBs are minimal. QSSBs are already required to remit assessments to the national programs. We have not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Accordingly, the Administrator of AMS has conducted this Initial Regulatory Flexibility Analysis and has determined that this proposed rule will not have a significant economic impact

on a substantial number of small soybean entities. However, we invite comments concerning potential effects of this proposed rule.

Beef Industry

In the February 2013, publication of “Farms, Land in Farms, and Livestock Operations,” USDA’s National Agricultural Statistics Service (NASS) estimates that the number of operations in the United States with cattle in 2012 totaled approximately 915,000, down from 950,000 in 2009. The majority of these operations that are subject to the Beef Order may be classified as small entities. According to the NASS Web site “Farms, Land in Farms, and Livestock Operations,” the issues released between 2005 and 2013 included "Livestock Operations" in the title. Beginning in 2014, livestock operations data will be available in the Census of Agriculture and most recent data can be referenced from Census data. This proposed rule imposes no new burden on the beef industry. It would provide beef producers, under certain circumstances, the option of requesting that their assessments paid to a State council be directed to the national program.

However, the proposed rule could result in decreased assessment funds for some QSBCs, depending on whether a State statute is in place, whether refund provisions are included, and whether the producer chooses to exercise the refund provision. Currently, a number of States are in various stages of establishing or amending State laws regarding beef checkoff requirements, so this information is likely to change.

Potential Financial Impact on QSBCs by State

Current as of 05/06/2016

STATE¹	STATE LAW REQUIREMENT²	STATE REFUND OPTION?	AMOUNT OF NATIONAL ASSESSMENT RETAINED BY STATE (50% OF ASSESSMENTS DUE UNDER BEEF ACT)³ (FY 2015)
Alabama	\$1.00 per head beyond federal	Yes	\$308,618
Arizona	None beyond federal	No	\$326,251
Arkansas	None beyond federal	Yes	\$366,702
California	None beyond federal	No	\$1,810,135
Colorado	None beyond federal	Yes	\$1,364,278
Delaware	None beyond federal	No	\$4,325
Florida	None beyond federal	Yes	\$3,340,762
Georgia	\$1.00 beyond federal	No	\$270,011
Hawaii	None	Not applicable	\$15,623
Idaho	\$0.50 per head beyond federal	Yes	\$830,548
Illinois	None beyond federal	Yes	\$296,718
Indiana	None beyond federal	No	\$215,364
Iowa	None beyond federal	If State assessment	\$1,636,842

		collected, refund available	
Kansas	None	Not applicable	\$3,385,185
Kentucky	None beyond federal	Yes	\$624,147
Louisiana	\$0.50 per head beyond federal	Yes	\$189,751
Maine	None beyond federal	No	\$1,914
Maryland	None beyond federal	Yes	\$43,891
Michigan	None beyond federal	No	\$284,914
Minnesota	None beyond federal	Yes	\$685,484
Mississippi	None beyond federal	Yes	\$222,968
Missouri	None beyond federal	No	\$1,160,733
Montana	None beyond federal	Yes	\$866,981
Nebraska	None beyond federal	No	\$3,468,679
Nevada	None	Not applicable	\$112,784
New Jersey	None beyond federal	No	\$4,771
New Mexico	None beyond federal	Yes	\$491,527
New York	None beyond federal	No	\$326,982
North Carolina	None beyond federal	No	\$162,782
North Dakota	None beyond federal	Yes, when ND Attorney General certifies federal law does not preclude	\$534,462

Ohio	\$1.00 beyond federal	Yes	\$308,689
Oklahoma	None beyond federal	Yes	\$1,548,338
Oregon	\$0.50 beyond federal	Yes, for “incorrect” assessments	\$427,685
Pennsylvania	None beyond federal	No	\$372,275
South Carolina	None beyond federal	Yes, at discretion of Commission	\$79,772
South Dakota	None	Not applicable	\$1,422,366
Tennessee	\$0.50 beyond federal	Yes	\$405,046
Texas	\$1.00 beyond federal, effective 10/1/14	Yes	\$4,620,761
Utah	\$0.50 beyond federal	Yes	\$264,339
Vermont	None beyond federal	No	\$50,235
Virginia	None beyond federal	No	\$366,879
Washington	\$0.50 beyond federal	No	\$513,601
Wisconsin	None beyond federal	No	\$696,796
Wyoming	None beyond federal	No	\$428,350

¹ There are seven States without a QSBC. They are Alaska, Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, and West Virginia. In these seven States, the Beef Board collects assessments directly.

² Per head of cattle sold.

³ Only includes 50 percent of the national assessment that the State retains; does not include State assessment revenue derived from an independent State assessment.

The information collection requirements on QSBCs are minimal. QSBCs are already required to remit assessments to the national programs. We have not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Accordingly, the Administrator of AMS has conducted this Initial Regulatory Flexibility Analysis and has determined that this proposed rule will not have a significant economic impact on a substantial number of small cattle or beef entities. However, we invite comments concerning potential effects of this proposed rule.

Paperwork Reduction Act

The information collection and recordkeeping requirements that are imposed by the Soybean and Beef Orders have been approved previously under OMB control number 0581-0093. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this proposed rule also announces that AMS is seeking emergency approval for a new information collection request allowing soybean and beef producers, under certain circumstances, to request that assessments paid to a QSSB or QSBC be redirected to the Soybean Board or Beef Board, respectively. The additional burden is optional and is only imposed if a producer wants to divert assessments to the national program. According to the Beef Board, there have been very few requests from producers seeking redirection of assessments to the Beef Board. Additionally, the Soybean Board has not reported any requests from producers seeking

redirection of assessments to the Soybean Board. Therefore, we estimate that annually a small number of soybean producers and beef producers might submit such a request and estimate that it would take an average of 5 minutes per person, resulting in an additional burden of 0.83 hour for the soybean program and 1.67 hours for the beef program.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

Title: Redirection of State Soybean and Beef Assessments to the National Program.

OMB Number: 0581-NEW.

Type of Request: New collection.

Abstract: The information collection requirements are essential to carry out this rule.

The Soybean Act and Order and the Beef Act and Order authorize the collection of assessments from soybean and beef producers. In most cases, these assessments are collected by QSSBs or QSBCs that retain up to half of the assessments. The QSSBs and QSBCs forward the remainder to the Soybean Board and Beef Board, which administer the national soybean and beef checkoff programs.

The original Soybean and Beef Orders contained provisions directing QSSBs and QSBCs, if authorized or required by State law to pay refunds to producers, to honor producer

refund requests by forwarding to the national Board that portion of such refunds equal to the amount of credit received by the producer for contributions to the State entities. Amendments to the Soybean and Beef Orders in 1995 to remove obsolete language concerning refunds had an unintended consequence, inadvertently allowing QSSBs and QSBCs to retain a portion of the assessment even if not required by State law, under certain circumstances. Therefore, we propose adding provisions that would remedy the removal of the original language. New provisions would be added to both Orders to (i) require QSSBs and QSBCs in States where refunds to producers are authorized by State statutes to forward such requested refunds to the national board and (ii) provide an opportunity for producers, in States where the State entity is not authorized by State statute or State statutes allow, to choose to direct the full federal assessment to the national Board.

An estimated 10 soybean respondents and 20 beef respondents will provide information to a QSSB or QSBC to request redirection of assessments. The estimated cost of providing the information to the QSSB or QSBC by respondents would be \$82.17. This total has been estimated by multiplying 2.49 total hours required for reporting by \$33.00, the average mean hourly earnings of various occupations involved in keeping this information. Data for computation of this hourly rate was obtained from the U.S. Department of Labor Statistics.

In turn, QSSBs or QSBCs will respond to those producers with the decision and will forward the assessments and records to the Soybean Board or Beef Board. The estimated cost of the QSSB or QSBC providing the information to producers and the Soybean Board or Beef

Board would be \$82.17. This total has been estimated by multiplying 2.49 total hours required for reporting by \$33.00, the average mean hourly earnings of various occupations involved in keeping this information. Data for computation of this hourly rate was obtained from the U.S. Department of Labor Statistics.

The design of the forms has been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other soybean and beef programs administered by the USDA and other State programs. In fact, the forms to be used by the QSSBs and QSBCs were designed to serve a dual purpose, both for informing producers of the outcome of their requests and for forwarding assessments and information to the Soybean Board and Beef Board. AMS has determined that there is no practical method for collecting the required information without the use of these forms. The forms would be available from the national boards, QSSBs, and QSBCs. The information collection would be used only by authorized QSSB, QSBC, Soybean Board, and Beef Board employees and representatives of USDA, including AMS staff. Authorized QSSB, QSBC, Soybean Board, and Beef Board employees will be the primary users of the information, and AMS will be the secondary user.

The forms require the minimum information necessary to effectively carry out producers' wishes to redirect to the national boards the portion of the assessments that the State entities would otherwise retain. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for

individuals filling out the forms and remitting assessments to the QSSBs and QSBCs. The forms will be simple, easy to understand, and place as small a burden as possible on the person filing the form. The forms are entirely voluntary for producers, and QSSBs and QSBCs will only complete their forms as a result of producers' requests.

The form may be submitted at any time, though within the prescribed deadlines, so as to meet the needs of the industry while minimizing the amount of work necessary to complete the forms. In addition, the information to be included on these forms is not available from other sources because such information relates specifically to individual producers who are subject to the provisions of the Soybean or Beef Acts and because there is a need to ensure that producers are paying the full assessment required by law.

Therefore, there is no practical method for collecting the information without the use of these forms.

The request for approval of the new information collection is as follows:

- (1) Form QSSB-1, Notification to Qualified State Soybean Board of intent to redirect assessments to the United Soybean Board.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per soybean producer.

Respondents: Soybean producers in certain States.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent per year: 1.

Estimated Total Annual Burden on Respondents: 0.83 hours.

- (2) Form QSBC-1, Notification to Qualified State Beef Council of intent to redirect assessments to the Cattlemen's Beef Promotion and Research Board.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per cattle producer.

Respondents: Beef producers in certain States.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent per year: 1.

Estimated Total Annual Burden on Respondents: 1.66 hours.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology.

A 60-day period is provided to comment on the information collection burden.

Comments should reference OMB No. 0581-NEW and be sent to Kevin Studer; Research and Promotion Division; Livestock, Poultry, and Seed Program; Agricultural Marketing Service,

USDA, Room 2608-S, STOP 0249, 1400 Independence Avenue, SW, Washington, D.C. 20250-0249; or fax to (202) 720-1125. All comments received will be available for public inspection. All responses to this proposed rule will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Comments concerning the information collection under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Beef Technical Amendments

In addition, several technical amendments are proposed to update information in the Beef Promotion and Research Order and rules and regulations:

Section 1260.181 (b)(4) currently requires QSBCs to remit assessments to the Beef Board by the last day of the month in which the QSBC received the assessment “unless the Board determines a different date.” The Beef Board’s practice has been to require QSBCs to remit assessments by the 15th of the following month. This section would be updated to reflect actual practice.

Section 1260.315 would be amended to reflect the current QSBCs.

List of Subjects

7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Reporting and recordkeeping requirements, Soybeans and soybean products.

7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that

7 CFR Parts 1220 and 1260 be amended as follows:

PART 1220-SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for Part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301-6311 and 7 U.S.C. 7401.

2. In § 1220.228, add a new paragraph (b)(5) to read as follows:

§ 1220.228 Qualified State Soybean Boards.

* * * * *

(b) * * *

* * * * *

(5) If the entity is authorized or required to pay refunds to producers, certify to the Board that any requests from producers for such refunds for contributions to it by the producer will be honored by forwarding to the Board that portion of such refunds equal to the amount of credit received by the producer for contributions pursuant to § 1220.223(a)(3). Entities not authorized by State statute but organized and operating within a State and certified by the Board pursuant to paragraph (a)(2) of this section must provide producers an opportunity for a State

refund and must forward that refunded portion to the Board. Producers receiving a refund from a State entity are required to remit that refunded portion to the Board in the manner and form required by the Secretary.

* * * * *

PART 1260—BEEF PROMOTION AND RESEARCH

3. 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

4. In § 1260.181, revise paragraph (b)(4) and add paragraph (b)(5) to read as follows:

§ 1260.181 Qualified State Beef Councils.

* * * * *

(b) * * *

* * * * *

(4) Certify to the Board that such organization shall remit to the Board assessments paid and remitted to the council, minus authorized credits issued to producers pursuant to § 1260.172(a)(3), by the 15th day of the month following the month in which the assessment was remitted to the qualified State beef council unless the Board determines a different date for remittance of assessments.

(5) Redirection of assessments. Qualified State beef councils which are authorized or required by State statutes to pay refunds to producers must certify to the Board that any requests from producers for refunds from the council for contributions to such council by the

producer will be honored by redirecting to the Board that portion of such refunds equal to the amount of credit received by the qualified State beef councils. In States where State law does not require the collection of the \$1.00-per-head assessment set forth in the Act (the federal assessment) or in States where State statutes do not require producers to contribute a portion of the \$1.00-per head federal assessment to the State beef council, qualified State beef councils must provide an opportunity for producers to choose to direct the full \$1.00-per-head federal assessment to the Board. The request to redirect funds to the Board must be submitted on the appropriate form and postmarked by the 15th day of the month following the month the cattle were sold. Requests may not be retroactive. Requests to redirect funds must be submitted by the producer who paid the assessment.

* * * * *

5. In § 1260.312, paragraph (c) is revised to read as follows:

§ 1260.312 Remittance to the Cattlemen’s Board or Qualified State Beef Council.

* * * * *

(c) Remittances. The remitting person shall remit all assessments to the qualified State beef council or its designee, or, if there is no qualified State beef council, to the Cattlemen’s Board at an address designated by the Board, with the report required in paragraph (a) of this section not later than the 15th day of the following month. All remittances sent to a qualified State beef council or the Cattlemen’s Board by the remitting persons shall be by check or money order payable to the order of the qualified State beef council or the Cattlemen’s Board.

All remittances shall be received subject to collection and payment at par.

6. Revise § 1260.315 to read as follows:

§ 1260.315 Qualified State Beef Councils.

The following State beef promotion entities have been certified by the Board as qualified

State beef councils:

Alabama Cattlemen's Association

Arizona Beef Council

Arkansas Beef Council

California Beef Council

Colorado Beef Council

Delaware Beef Advisory Board

Florida Beef Council, Inc.

Georgia Beef Board, Inc.

Hawaii Beef Industry Council

Idaho Beef Council

Illinois Beef Council

Indiana Beef Council

Iowa Beef Cattle Producers Association

Kansas Beef Council

Kentucky Beef Cattle Association

Louisiana Beef Industry Council

Maryland Beef Industry Council

Michigan Beef Industry Commission

Minnesota Beef Council

Mississippi Beef Council, Inc.

Missouri Beef Industry Council, Inc.

Montana Beef Council

Nebraska Beef Council

New Jersey Beef Industry Council

Nevada Beef Council

New Mexico Beef Council

New York Beef Industry Council

North Carolina Cattlemen's Association

North Dakota Beef Commission

Ohio Beef Council

Oklahoma Beef Council

Oregon Beef Council

Pennsylvania Beef Council, Inc.

South Carolina Beef Council

South Dakota Beef Industry Council

Tennessee Beef Industry Council

Texas Beef Council

Utah Beef Council

Vermont Beef Industry Council

Virginia Beef Industry Council

Washington State Beef Commission

Wisconsin Beef Council, Inc.

Wyoming Beef Council

Dated: July 11, 2016

Elanor Starmer
Administrator
Agricultural Marketing Service

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