

§ 1221.119

(d) If the Order is approved by the required referendum conducted under § 1221.130 then:

(1) The escrow account shall be closed; and

(2) The funds shall be available to the Board for disbursement under § 1221.112.

§ 1221.119 Refunds.

Any producer or importer from whom an assessment is collected and remitted to the Board, or who pays an assessment directly to the Board, under authority of the Act and this subpart through the announcement of the results of the required referendum, upon failure of the required referendum shall have the right to receive from the Board a refund of such assessment, or a prorated share thereof, upon submission of proof satisfactory to the Board that the producer or importer paid the assessment for which refund is sought. Any such demand shall be made by such producer or importer in accordance with the provisions of this subpart and in a manner consistent with regulations recommended by the Board and prescribed by the Secretary.

§ 1221.120 Procedure for obtaining a refund.

Upon failure of the required referendum, each producer or importer who paid an assessment pursuant to this subpart during the period beginning on the effective date of the Order and ending on the date the required referendum results are announced may obtain a refund of such assessment only by following the procedures prescribed in this section and any regulations recommended by the Board and prescribed by the Secretary:

(a) A producer or importer shall obtain a Board-approved refund application form from the Board. Such forms may be obtained by written request to the Board and the request shall bear the producer's or importer's signature or properly witnessed mark.

(b) Any producer or importer requesting a refund shall submit an application on the prescribed form to the Board within 60 days from the date the assessments were paid by such producer or importer but no later than the date the results of the required referendum are announced by the Sec-

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retary. The refund application shall show:

(1) Producer's or importer's name and address;

(2) Name and address of the person who collected applicant's assessment;

(3) Number of bushels or tons of sorghum on which a refund is requested;

(4) Total amount of refund requested;

(5) Date or inclusive dates on which assessments were paid; and

(6) The producer's or importer's signature or properly witnessed mark.

(c) The documentation provided pursuant to § 1221.125(b) to the producer by the first handler responsible for collecting an assessment pursuant to this subpart, or a copy thereof, or such other evidence deemed satisfactory to the Board, shall accompany the producer's refund application. An importer must submit documentation showing that the assessment was paid along with a copy of the appropriate Customs form stating the net market value of the sorghum.

(d) The Board shall initiate payment of refund requests, or pay a prorated share thereof, within 90 days of the date the results of the required referendum are released by the Secretary. Refunds shall be paid in a manner consistent with § 1221.119.

PROMOTION, RESEARCH, AND INFORMATION

§ 1221.121 Programs, plans, and projects.

(a) The Board shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program, plan, or project authorized under this subpart. Such programs, plans, or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate programs for promotion, research, and information, including consumer and industry information, with respect to sorghum; and

(2) The establishment and conduct of research with respect, but not limited to: The yield, use, nutritional value and benefits, sale, distribution, and marketing of sorghum, and the creation of new products thereof, to the end that the marketing and use of sorghum may be encouraged, expanded,

improved, or made more acceptable; and to advance the image, desirability, or quality of sorghum.

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the Board shall take appropriate steps to implement it.

(c) Each program, plan, or project implemented under this subpart shall be reviewed or evaluated periodically by the Board to ensure that it contributes to an effective program of promotion, research, or information. If it is found by the Board that any such program, plan, or project does not contribute to an effective program of promotion, research, or information, then the Board shall terminate such program, plan, or project.

(d) No program, plan, or project including advertising shall be false or misleading or disparaging to another agricultural commodity. Sorghum of all origins shall be treated equally.

§ 1221.122 Independent evaluation.

Pursuant to the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401), the Board shall, not less often than every five years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and other programs conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

§ 1221.123 Patents, copyrights, inventions, trademarks, information, publications, and product formulations.

(a) 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. Upon termination of this subpart, § 1221.132 shall apply to determine disposition of all such property.

(b) Should patents, copyrights, inventions, trademarks, information, publications, or product formulations be developed through the use of funds collected by the Board under this subpart 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 paragraph (a) of this section.

REPORTS, BOOKS, AND RECORDS

§ 1221.124 Reports.

(a) Each first handler, on a State-by-State basis, will be required to provide to the Board periodically such information as may be required by the Board, with the approval of the Secretary, which may include but not be limited to the following:

(1) Number of bushels or tons of domestic sorghum within the State that were marketed to the first handler;

(2) Number of bushels or tons of domestic sorghum within the State on which an assessment was paid;

(3) The amount of assessments remitted on sorghum within the State;

(4) Date that any assessments were paid within the State;

(5) The explanation, if necessary, to show why the remittance is less than the applicable assessment rate multiplied by the net market price multiplied by the number of bushels or tons within the State that were marketed to the first handler; and

(6) The first handler's tax identification number.

(b) Each importer will be required to provide to the Board periodically such