

Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Department in accordance with section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Signature By (Name) _____

(Title) _____

(Address) _____

(Seal) _____

Attest _____

[FR Doc. 05-20017 Filed 10-4-05; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[No. LS-01-06]

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 reduce assessment levels for imported beef and beef products based on revised determinations of live animal equivalencies and to update and expand the Harmonized Tariff System numbers and categories, which identify imported live cattle, beef, and beef products to conform with recent updates in the numbers and categories used by the U.S. Customs and Border Protection (USCBP).

DATES: Written comments regarding changes to this proposed rule must be received by December 5, 2005.

ADDRESSES: Send any written comments to Kenneth R. Payne, Chief, Marketing Programs Branch, Room 2638-S; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250-0251. Comments may be sent by facsimile to 202/720-1125 and by electronic mail to BeefComments@usda.gov or www.regulations.gov. State that your comments refer to Docket No. LS-01-06. Comments received may be

inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, or on the Internet at <http://www.ams.usda.gov/lsg/mpb/rp-beef.htm>.

FOR FURTHER INFORMATION CONTACT:

Kenneth R. Payne, Chief, Marketing Programs Branch on 202/720-1115, fax 202/720-1125, or by e-mail at Kenneth.Payne@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 United States 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 Administration 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 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 United States and 198 importers who import live cattle into the United States. The majority of these operations subject to the Order are considered small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA defines small agricultural businesses as those with annual receipts of less than \$5 million.

The proposed rule imposes no significant burden on the industry. It would merely update and expand the HTS numbers and categories to conform to recent updates in the numbers and categories used by USCBP. This

proposed rule also adjusts the live animal equivalencies used to determine the amount of assessments collected on imported beef and beef products. This adjustment reflects an increase in the average dressed weight of cows slaughtered under Federal inspection that has occurred since the inception of the Beef Checkoff Program. Total import assessments collected under the Beef Checkoff Program in 2004 were \$8,322,145 including both live cattle and beef and beef products. The Department estimates that the proposed adjustment for 2005 could result in a decrease in importer assessment of approximately \$800,000. Accordingly, the 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 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 Order and Rules and Regulations have previously been approved by OMB under OMB control number 0581-0202 and merged into OMB control number 0581-0093.

Background and Proposed Change

The Act authorized the establishment of a national beef promotion and research program. The final 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 composed of 104 cattle producers and importers. The program is funded by a \$1-per-head assessment on producer marketing of cattle in the United States 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. USCBP 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.”

In 1989, USCBP implemented a new numbering system, the Harmonized Tariff Schedule (HTS), to replace the Tariff Schedule of the United States (TSUS) system. The Department updated the TSUS to HTS, in a final rule, published in the **Federal Register** on April 20, 1989, (54 FR 15915) to conform with updates made by USCBP. Since the inception of HTS, it has

undergone many changes. First, the original 11 digit system has been replaced with a 10 digit system. Additionally, most of the categories regarding imported beef and beef products have been subdivided and the new categories have been assigned HTS numbers. One of the purposes 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.

As a result of these changes to HTS, there are 20 new categories that cover imported live cattle subject to assessment compared with the previous 8 categories. The 30 categories identifying imported beef and beef products have been expanded to 54 categories. The chart, as published in the April 20, 1989, **Federal Register** final rule [54 FR 15918], is as follows:

IMPORTED LIVE CATTLE

	Live bovine animals:
	Purebred breeding animals
	Dairy:
0102.10.00103	Male
0102.10.00201	Female
	Other:
0102.10.00309	Male
0102.10.00504	Female
	Other:
0102.90.20004	Cows imported specially for dairy purposes
	Other:
0102.90.40206	Weighing less than 90 kg each
0102.90.40402	Weighing 90 kg or more but less than 320 kg each
0102.90.40607	Weighing 320 kg or more each

IMPORTED BEEF AND BEEF PRODUCTS

	Meat of bovine animals, fresh or chilled:
	Carcasses and half-carcasses:
0201.10.00103	Veal
0201.10.00906	Other:
	Other cuts with bone-in:
	Processed:
0201.20.20009	High-quality beef Cuts
0201.20.40005	Other:
0201.20.60000	Other:
	Boneless:
	Processed:
0201.30.20007	High-quality beef cuts
0201.30.40003	Other:
0201.30.60008	Other:
	Meat of bovine animals, frozen:
	Carcasses and half-carcasses:
0202.10.00102	Veal
0202.10.00905	Other
	Other cuts with bone in:
	Processed:
0202.20.20008	High-quality beef cuts
0202.20.40004	Other
0202.20.60009	Other
	Boneless:
	Processed:
0202.30.20006	High-quality beef cuts
0202.30.40002	Other
0202.30.60007	Other
	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled, or frozen:
0206.10.00000	Of bovine animals, fresh or chilled
	Of bovine animals, frozen:
0206.21.00007	Tongues
0206.22.00006	Livers
0206.29.00009	Other
	Meat and edible meat offal, salted, in brine, dried or smoked: edible flours and meals of meat or meat offal:
0210.20.00002	Meat of bovine animals
	Sausages and similar products, of meat, meat offal or blood; food preparation based on these products:
	Other:
1601.00.40003	Beef in airtight containers:
	Other:
1601.00.60204	Beef
	Other prepared or preserved meat, meat offal or blood:

IMPORTED BEEF AND BEEF PRODUCTS—Continued

1602.50.05004	Of bovine animals: Offal Other:
1602.50.09000	Not containing cereals or vegetables: Cured or pickled Other: In airtight containers: Corned Beef In containers holding less than 1kg
1602.50.10203	Other
1602.50.10409	Other:
1602.50.20201	In containers holding less than 1kg
1602.50.20407	Other
1602.50.60006	Other

This rule proposes to update and expand the chart published in the 1989 final rule to conform with recent changes to the HTS numbering system and revises the live weight equivalents used to calculate import assessments. Importers are currently paying the same assessment level for imported beef and beef products that was established when the Order was first published in 1986. At that time, the average dressed weight of cows slaughtered under Federal inspection was determined to be 509 pounds. The Department determined that using the average dressed weight of domestic cows slaughtered under Federal inspection would be most suitable because about 90 percent of imported beef and beef products were similar to domestic cow beef.

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. Under the Order the Board may increase or decrease the level of assessments for imported beef and beef products based upon revised determination of live animal equivalencies.

The trend in cattle weight has been increasing. This is attributed to many factors such as genetic improvements, more refined feeding programs, better animal health, and better overall management. The weight of cattle will more than likely increase or hold steady. At the time the Order was published, the average dressed weight of cows slaughtered under Federal inspection in 1985 was 509 pounds compared to an average of 614 pounds for calendar year 2004.

The Department has received two recommendations concerning importer assessments. The Meat Importers

Council of America (MICA) requested to increase the live animal equivalency rate that would reduce the amount of assessments collected from importers of beef and beef products. MICA suggests using the dressed cow weight for calendar year 2000 to recalculate levels of assessments. This average would be 579 pounds. In updating the average dressed cow weight for calendar year 2004, the average would be 614 pounds. The Board has recommended using an average dressed cow weight from 1987 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 555 pounds.

After consideration of both recommendations, the Department has concluded that it is preferable to calculate the average using the past 5-year average dressed weight of all cows slaughtered in the U.S. under Federal inspection.

There is not a consistent calculation method among the various countries regarding average carcass weights of cattle slaughtered for export, the Department proposes that the average carcass weight, which will be used in calculating the live animal equivalents, will be the 5-year average (2000, 2001, 2002, 2003, and 2004) carcass weight of cows slaughtered in the United States. The average carcass weight of domestic cattle is not subject to variations in carcass weights resulting from possible differing methods of calculation in any of the exporting countries. Historically, since the majority of cattle are imported from Canada and Mexico and the majority of beef and beef products are imported from Canada, Australia, and New Zealand, the average U.S. dressed cow weight would be the most suitable

because of the similarity of domestic cow beef and beef products from these exporting countries.

Additionally, an average over this period of time achieves the goal of reflecting current genetics, production practices, and technology while also reflecting normal marketing conditions. A shorter time period, such as the most recent year, is subject to unusual marketing conditions. For example, severe drought or a sudden dip in milk prices may lead to a substantial shift in the normal marketing patterns for cull beef and dairy cows. A longer period, such as 10 or 15 years, does not achieve the goal of reflecting changes in animal genetics and industry production practices.

Accordingly, the Department has determined that the most recent 5-year weighted average balances the need to adjust for current genetics and technology while minimizing the influence of atypical marketing conditions on the average carcass weights of cows coming to slaughter. The 5-year weighted average would be 592 pounds.

Further, the Department has used standard conversion factors for determining the amount of a particular type of beef or beef product represents a carcass. These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the non-beef components of beef products. The conversion factors have been utilized to determine the rate of assessment charged to importers. The rate of assessment is calculated by dividing the conversion factor by the average carcass weight and multiplying the result by the \$1-per-head assessment rate. The current rates being assessed by USCBP, as well as the most current HTS numbers, are as follows:

HTS No.	Imported live cattle	Assessment rate
	Live bovine animals:	
	Purebred breeding animals:	
	Dairy:	
0102.10.0010	Male	\$1.00/head.
0102.10.0020	Female	1.00/head.
	Other:	
0102.10.0030	Male	1.00/head.
0102.10.0050	Female	1.00/head.
	Other:	
	Cows imported specially for dairy purposes:	
0102.90.2011	Weighing less than 90 kg each	1.00/head.
0102.90.2012	Weighing 90 kg or more	1.00/head.
	Other:	
	Weighing less than 90 kg each:	
0102.90.4024	Male	1.00/head.
0102.90.4028	Female	1.00/head.
	Weighing 90 kg or more but less than 200 kg each:	
0102.90.4034	Male	1.00/head.
0102.90.4038	Female	1.00/head.
	Weighing 200kg or more but less than 320 kg each:	
0102.90.4054	Male	1.00/head.
0102.90.4058	Female	1.00/head.
	Weighing 320 kg or more each:	
	For immediate slaughter:	
0102.90.4062	Steers	1.00/head.
0102.90.4064	Bulls	1.00/head.
0102.90.4066	Cows	1.00/head.
0102.90.4068	Heifers	1.00/head.
	For breeding:	
0102.90.4072	Male	1.00/head.
0102.90.4074	Female	1.00/head.
	Other:	
0102.90.4082	Male	1.00/head.
0102.90.4084	Female	1.00/head.
HTS No.	Imported beef and beef products	Assessment rate per kg.
	Meat of bovine animals, fresh or chilled:	
	Carcasses and half-carcasses:	
0201.10.0510	Veal	.01697542
0201.10.0590	Other	.00440920
0201.10.1010	Veal	.01697542
0201.10.1090	Other	.00440920
	Other:	
0201.10.5010	Veal	.01697542
0201.10.5090	Other	.00595242
	Other cuts with bone in:	
	Processed:	
0201.20.0200	High-quality beef cuts	.00617288
0201.20.0400	Other	.00595242
0201.20.0600	Other	.00440920
	Processed:	
0201.20.1000	High-quality beef cuts	.00617288
0201.20.3000	Other	.00595242
0201.20.5000	Other	.00440920
	Other:	
0201.20.8090	Other	.00440920
	Boneless:	
	Processed:	
0201.30.0200	High-quality beef cuts	.00617288
0201.30.0400	Other	.00595242
0201.30.0600	Other	.00440920
	Processed:	
0201.30.1000	High-quality beef cuts	.00617288
0201.30.3000	Other	.00595242
0201.30.5000	Other	.00595242
	Other:	
0201.30.8090	Other	.00595242
	Meat of bovine animals, frozen:	
	Carcasses and half-carcasses:	
0202.10.5010	Veal	.01697542
0202.10.5090	Other	.00440920

HTS No.	Imported beef and beef products	Assessment rate per kg.
0202.10.1010	Veal	.01697542
0202.10.1090	Other	.00440920
0202.10.5010	Other:	
0202.10.5090	Veal	.01697542
	Other	.00440920
	Other cuts with bone in:	
	Processed:	
0202.20.0200	High-quality beef cuts	.00617288
0202.20.0400	Other	.00595242
0202.20.0600	Other	.00440920
	Processed:	
0202.20.1000	High-quality beef cuts	.00617288
0202.20.3000	Other	.00595242
0202.20.5000	Other	.00440920
0202.20.8000	Other	.00440920
	Boneless:	
	Processed:	
0202.30.0200	High-quality beef cuts	.00617288
0202.30.0400	Other	.00595242
0202.30.0600	Other	.00595242
	Processed:	
0202.30.1000	High-quality beef cuts	.00617288
0202.30.3000	Other	.00595242
0202.30.5000	Other	.00595242
0202.30.8000	Other	.00440920
	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen:	
0206.10.0000	Of bovine animals, fresh or chilled	.00440920
	Of bovine animals, frozen:	
0206.21.0000	Tongues	.00440920
0206.22.0000	Livers	.00440920
0206.29.0000	Other	.00440920
	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:	
0210.20.0000	Meat of bovine animals	.00716100
	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products:	
	Other:	
	Beef in airtight containers.	
1601.00.4010	Canned	.00551150
1601.00.4090	Other	.00551150
	Other:	
1601.00.6020	Beef	.00551150
	Other prepared or preserved meat, meat offal or blood:	
	Of bovine animals:	
	Offal:	
	Other:	
	Not containing cereals or vegetables:	
1602.50.0900	Cured or pickled	.0771610
	Other:	
	In airtight containers:	
	Corned Beef.	
1602.50.1020	In containers holding less than 1 kg	.00771610
1602.50.1040	Other	.00771610
	Other:	
1602.50.2020	In containers holding less than 1 kg	.00815702
1602.50.2040	Other	.00815702
1602.50.6000	Other	.00837748

The proposed assessment rates for imported beef and beef products are set forth in the regulatory text of § 1260.172. In 2004, importers' contribution to the program totaled \$8,322,145 including both live cattle and beef and beef products. The Department estimates that the proposed adjustment for 2005 could result in a

decrease in importer assessment of approximately \$800,000.

A 60-day comment period is provided for interested persons to comment.

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, it is proposed that title 7 of the CFR part 1260 be amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

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

Authority: 7 U.S.C. 2901–2911.

2. Paragraph (b)(2) of § 1260.172 is revised 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 No.	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 No.	Assessment rate per kg
0201.10.0510	.01487175
0201.10.0590	.00386279
0201.10.1010	.01487175
0201.10.1090	.00386279
0201.10.5010	.01487175
0201.10.5090	.00521477
0201.20.0200	.00540791
0201.20.0400	.00521477
0201.20.0600	.00386279
0201.20.1000	.00540791
0201.20.3000	.00521477
0201.20.5000	.00386279
0201.20.8090	.00386279
0201.30.0200	.00540791
0201.30.0400	.00521477
0201.30.0600	.00386279
0201.30.1000	.00540791
0201.30.3000	.00521477
0201.30.5000	.00521477
0201.30.8090	.00521477
0202.10.0510	.01487175
0202.10.0590	.00386279
0202.10.1010	.01487175
0202.10.1090	.00386279
0202.10.5010	.01487175
0202.10.5090	.00386279
0202.20.0200	.00540791
0202.20.0400	.00521477
0202.20.0600	.00386279
0202.20.1000	.00540791
0202.20.3000	.00521477
0202.20.5000	.00386279
0202.20.8000	.00386279
0202.30.0200	.00540791

IMPORTED BEEF AND BEEF PRODUCTS—Continued

HTS No.	Assessment rate per kg
0202.30.0400	.00521477
0202.30.0600	.00527837
0202.30.1000	.00540791
0202.30.3000	.00521477
0202.30.5000	.00521477
0202.30.8000	.00386279
0206.10.0000	.00386279
0206.21.0000	.00386279
0206.22.0000	.00386279
0206.29.0000	.00386279
0210.20.0000	.00386279
1601.00.4010	.00482849
1601.00.4090	.00482849
1601.00.6020	.00482849
1602.50.0900	.00675989
1602.50.1020	.00675989
1602.50.1040	.00675989
1602.50.2020	.00714617
1602.50.2040	.00714617
1602.50.6000	.00733931

* * * *

Dated: September 29, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–20016 Filed 10–4–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20803; Directorate Identifier 2005–CE–19–AD]

RIN 2120–AA64

Airworthiness Directives; BURKHARDT GROB LUFT-UND RAUMFAHRT GmbH & CO KG Models G103 TWIN ASTIR, G103 TWIN II, G103A TWIN II ACRO, G103C TWIN III ACRO, and G103C Twin III SL Sailplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2004–08–13, which applies to certain BURKHARDT GROB LUFT-UND RAUMFAHRT GmbH & CO KG (Grob) Models G103 TWIN ASTIR, G103 TWIN II, G103 TWIN III ACRO, and G103C Twin III SL sailplanes. AD 2004–08–13 currently requires you to replace the center of gravity (CG) release hook attachment brackets with brackets of improved design. This proposed AD

results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. This proposed AD would retain all the actions required in AD 2004–08–13 and add Model G103A TWIN II ACRO sailplanes to the applicability. The actions specified by this proposed AD are to prevent abnormal or uncontrolled sailplane release due to cracked CG release hook attachment brackets. This condition could result in reduced or loss of sailplane control.

DATES: We must receive any comments on this proposed AD by November 9, 2005.

ADDRESSES: Use one of the following to submit comments on this proposed AD:

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

- *Fax:* 1–202–493–2251.

- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this proposed AD, contact BURKHARDT GROB LUFT-UND RAUMFAHRT GmbH & CO KG, Letenbachstrasse 9, D–86874 Tussenhausen-Mattsies, Germany; telephone: 011 49 8268 998139; facsimile: 011 49 8268 998200.

To view the comments to this proposed AD, go to <http://dms.dot.gov>. The docket number is FAA–2005–20803; Directorate Identifier 2005–CE–19–AD.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include the docket number, “FAA–2005–20803; Directorate Identifier 2005–CE–19–AD” at the