

SENATE AGRICULTURE 4  
EXHIBIT NO. \_\_\_\_\_

DATE 2-8-11

BILL NO. SB 277

January 26, 2011

Ms. Charlene Rich  
Executive Director  
Montana Beef Council  
P.O. Box 80865  
Billings, MT 59108

Dear Charlene:

As we have discussed over the past few months, the Montana Beef Council (MBC) and the Montana Board of Livestock (MBOL) agreed that MBC would collect all assessments in the state of Montana beginning January 1, 2011. As I understand it, this change in collections resulted from MBOL's proposed increase of the collection fee to 10% of total collections and an unwillingness to continue collecting assessments for the fee of 5%. In addition, MBOL is unwilling to provide MBC with an accounting of the actual direct costs it incurs collecting checkoff assessments in Montana in order for MBOL to justify the increase from 5% to 10%. 9.3%

MBC's assumption of the responsibility for collecting certain beef checkoff assessments, while justified under the circumstances, has caused MBC and the Cattlemen's Beef Board (CBB) to be in violation of the Beef Promotion and Research Order (Order) (7 CFR Ch. XI) §1260.311(c). Specifically, cattle sales to a slaughter/packer, sales to a feedlot, sales to an order buyer/dealer, and country sales (as defined) are required to be collected by the MBOL. Cattle sales at an auction market are required to be collected by MBC directly from the auction markets, so no change in this practice should be made by MBC.

At this point, I see two options for bringing MBC and CBB back into compliance with the Order. The first option is to have the MBOL collect assessments in the state of Montana for sales to a slaughter/packer, sales to a feedlot, sales to an order buyer/dealer, and country sales (not auction markets), with the expectation that MBC only pay the MBOL a fee which is no more than the actual direct cost incurred by the MBOL to collect the assessments. The second option is to request that USDA begin the process to make the necessary modifications to the Order to reflect this change in responsibility for assessment collections in Montana.

When the MBC Board of Directors determines the best course of action to bring MBC and CBB into compliance with the Order, please notify me or Courtney Kalous and we will implement any necessary actions at CBB. If you have any questions in the meantime, please let us know.

Sincerely,



Tom Ramey  
Chief Executive Officer

cc: CBB Executive Committee  
Katherine Ayers, CBB  
Courtney Kalous, CBB

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**Agricultural Marketing Service, USDA**

**§ 1260.311**

in the sales transactions listed below in those States, these State authorized inspectors are authorized to, and shall, except as provided for in paragraph (f) of this section, collect assessments due as a result of the sale of cattle. In those transactions in which inspectors

are responsible for collecting assessments, the person paying the producer shall not be responsible for the collection and remittance of such assessments. The following chart identifies the party responsible for collecting and remitting assessments in these States:

State	Sales through auction market	Sales to a slaughter/packer	Sales to a feedlot	Sales to an order buyer/dealer	Country sales <sup>1</sup>
Arizona .....	CP	CP	CP	B	B
California .....	CP	CP	B	B-CP	B
Colorado .....	CP	B	B	B	B
Idaho .....	B	B	B	B	B
Montana .....	CP	B	B	B	B
Nebraska .....	CP	CP	B-CP	B-CP	B-CP
Nevada .....	B	B	B	B	B
Oregon .....	CP	B-CP	B	B	B
New Mexico .....	CP	B-CP	B-CP	B-CP	B-CP
Utah .....	CP	B-CP	B	B	B
Washington .....	CP	CP	B	B-CP	B
Wyoming .....	CP	B	B	B	B

**Key:**

~~B~~—Brand inspector has responsibility to collect and remit assessments due.

~~CP~~—The person paying the producer shall be the collecting person and has responsibility to collect and remit the assessments due.

~~B-CP~~—Brand inspector has responsibility to collect; however, when there has not been a physical brand inspection the person paying the producer shall be the collecting person and has the responsibility to collect and remit assessments due.

<sup>1</sup>For the purpose of this subpart, the term "country sales" shall include any sales not conducted at an auction or livestock market and which is not a sale to a slaughter/packer, feedlot, or order buyer or dealer.

(d) For cattle delivered on futures contracts, the commission firm or the market agency representing the seller in the delivery of cattle shall be the collecting person.

(e) In a case where a producer sells cattle as part of a custom slaughter operation, the producer shall be the collecting person in the same manner as if the cattle were slaughtered for sale.

(f)(1) In lieu of each person making a payment to a producer for cattle purchased in the United States, producers are provided the option in accordance with this paragraph (f) to remit the assessment to the QSBC in the State in which the producer resides. A producer who transports, prior to sale, cattle of that producer's own production to another State, may elect to make a directed payment of the \$1-per-head assessment in advance to the QSBC in the State in which the producer resides, provided that the producer fulfills the following requirements:

(i) Transports the cattle under retained ownership to a feedlot or similar location, and the cattle remain at such location, prior to sale, for a period not less than 30 days; and

(ii) The producer, either before or at the time of transport, signs a Certification of Producer Directed Payment of Cattle Assessments form indicating that the assessment has been paid in advance, and remits the assessment to the appropriate QSBC. A copy of the certification form indicating the payment of the assessment shall be sent by the producer with the assessment when remitted to the QSBC. The producer also shall send a copy of the certification form to the feedlot operator at the time the cattle are delivered. A copy of the certification form also shall be given to the purchaser of the cattle by the feedlot operator at the time of sale.

(2) The certification form will include the following information:

- (i) Producer's Name.
- (ii) Producer's social security number or Tax I.D. number.
- (iii) Producer's address (street address or P.O. Box, city, State, and zip code).
- (iv) Signature of Producer.
- (v) Producer's State of residence.

(vi) Number of cattle shipped to out of State feedyard under retained ownership.

(vii) Date cattle shipped.

(viii) State where cattle will be on feed.

(ix) Name of feedyard.

(x) Address of feedyard.

(3) Cattle of a producer's own production shall be those cattle which meet all of the following requirements:

(i) The cattle shall be offspring of a producer's own cow herd;

(ii) The cattle shall have been continuously and exclusively under the producer's ownership; and

(iii) The cattle are transported to a feedlot with such producer continuously owning the cattle through the entire feeding phase.

(4) For those cattle for which the assessment has been producer directed and paid in advance pursuant to paragraph (f)(1) of this section, the purchaser of the cattle shall not be required to collect and remit the assessment, but shall maintain on file a copy of the Certification of Producer Directed Payment of Cattle Assessments form completed and signed by the producer who originally transported the cattle under retained ownership.

(5) For those cattle for which the assessment has been producer directed and paid in advance pursuant to paragraph (f)(1) of this section, copies of the completed Certification of Producer Directed Payment of Cattle Assessments form shall be maintained on file by the producer, the QSBC or the Board, the feedlot operator, and the purchaser of the cattle for 3 years.

(6) Producers shall not receive credit of the assessment required to be paid pursuant to paragraph (f)(1) of this section for those cattle lost because of death.

[53 FR 5754, Feb. 26, 1988, as amended at 67 FR 61766, Oct. 2, 2002]

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

Each person responsible for the collection and remittance of assessments shall transmit assessments and a report of assessments to the qualified State beef council of the State in which such person resides or if there is

no qualified State beef council in such State, then to the Cattlemen's Board as follows:

(a) *Reports.* Each collecting person shall make reports on forms made available or approved by the Cattlemen's Board. Each collecting person shall prepare a separate report for each reporting period. Each report shall be mailed to the qualified State beef council of the State in which the collecting person resides, or its designee, or if there exists no qualified State beef council in such State, to the Cattlemen's Board. Each report shall contain the following information:

(1) The number of cattle purchased, initially transferred or which, in any other manner, is subject to the collection of assessment, and the dates of such transactions;

(2) The amount of assessment remitted;

(3) The basis, if necessary, to show why the remittance is less than the number of head of cattle multiplied by one dollar; and

(4) The date any assessment was paid.

(b) Reporting periods. Each calendar month shall be a reporting period and the period shall end at the close of business on the last business day of the month.

(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 P.O. Box 27-275; Kansas City, Missouri 64180-0001, 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.

**§ 1260.313 Document evidencing payment of assessments.**

Each collecting person responsible for remitting an assessment to a qualified State beef council or the Board, other than a producer slaughtering cattle of the producer's own production