

ARTICLE 12:79

SOUTH DAKOTA CERTIFIED™ BEEF PROGRAM

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CHAPTER 12:79:01

DEFINITIONS

Section	
12:79:01:01	Definitions.

12:79:01:01. Definitions. Terms defined in SDCL titles 38, 39, and 40 have the same meaning when used in this article. Other terms used in this article mean:

- (1) "Animal Industry Board," the Animal Industry Board continued by SDCL 40-3-1;
- (2) "Antibiotic drug," any compound or family of compounds, either naturally or artificially produced, that are administered at subtherapeutic or therapeutic levels, which kill or inhibit the growth of bacteria within the body, including penicillins, cephalosporins, aminoglycosides, sulfonamides, fluoroquinolones, florfinicol, macrolides, tetracyclines, and ionophores;
- (3) "Backfat," backfat on a carcass that is evaluated in terms of the thickness of this fat over the ribeye muscle exposed between the twelfth and thirteenth ribs, measured perpendicular to the outside surface at a point three-fourths of the length of the ribeye from its chine bone end. This

measurement may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass;

(4) "Beef product," edible muscle tissue produced from the harvesting and processing of certified finished cattle or certified natural finished cattle;

(5) "Beef program," the *SOUTH DAKOTA CERTIFIED*TM beef program created by SDCL chapter 39-24 and this article;

(6) "Blood splashed," meat showing evidence of rupture of capillaries in fat and muscle due to short-term violent excitement;

(7) "BQA/CMP manual," the Beef Quality Assurance/Critical Management Plan program manual produced by the South Dakota Animal Industry Board;

(8) "BQA/CMP certificate," the Beef Quality Assurance/Critical Management Plan Certificate issued by the South Dakota Cattlemen's Association;

(9) "Carcass defects," traits that decrease the value of a beef carcass by decreasing the palatability, or decreasing consumer acceptance of appearance;

(10) "Certification mark," the certification mark as depicted in U.S. Trademark Serial Number 78/526958, alone or in conjunction with a tradename as provided in § 12:79:04:01;

(11) "Certified enrolled cattle," certified feeder cattle, certified finished cattle, certified natural feeder cattle, and certified natural finished cattle as defined in this section;

(12) "Certified feeder cattle," live cattle that are born and raised within the State of South Dakota in conformity with the requirements of the enrolled cattle program and the license agreement;

(13) "Certified finished cattle," certified feeder cattle that are fed within the State of South Dakota in conformity with the requirements of § 12:79:03:08 and the license agreement;

(14) "Certified natural feeder cattle," live cattle that are born and raised in conformity with §§ 12:79:03:01 to 12:79:03:06, inclusive, and are also raised in conformity with the requirements of the natural program in § 12:79:10:01 and the license agreement;

(15) "Certified natural finished cattle," certified natural feeder cattle that are produced in conformity with the natural program in § 12:79:10:02 and the license agreement;

(16) "Corrective action," the action required of a licensee by the secretary to come into compliance with the requirements of any program and the license agreement;

(17) "Dark cutters," carcasses or parts of carcasses showing evidence of dark red to dark brown tissue coloring resulting from long-term or intermediate-term glycogen depletion caused by stress to the living animal;

(18) "Data management system," the electronic internet-based system designated by the secretary for use in submitting reports required by this article and the license agreement;

(19) "Department," the Department of Agriculture;

(20) "Distiller's grain," the corn byproduct from corn-to-ethanol production;

(21) "Electronic ear tag," a radio frequency identification ear tag that contains a fifteen digit unique identification number for each animal and which is used by producers to identify certified enrolled cattle;

(22) "Enrolled cattle program," the *SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*[™] program created by this article;

(23) "Fund," the South Dakota Certified Beef Fund created by SDCL 39-24-10;

(24) "HACCP," the Hazard Analysis and Critical Control Point plan developed by processors pursuant to 9 C.F.R. Ch. III (January 1, 2005) or as required by the meat inspection program;

(25) "Heifer," female bovine that has not produced offspring;

(26) "Hormone," all exogenous estrogenic and androgenic growth promoting hormones including the active ingredients of zeranol, estradiol, progesterone, testosterone, trenbolone acetate, and melengestrol acetate and all exogenous reproductive hormones including progesterone, prostaglandin (PGF_{2A}), gonadotropin releasing hormone (GnRH), follicle stimulating hormone (FSH), and luteinizing hormone (LH);

(27) "Hot carcass weight," the weight of a carcass measured before the carcass is chilled. Carcass is defined as the beef animal following slaughter with the hide, head, feet, tail, and internal organs, except the kidneys, removed;

(28) "License," a marketer license, producer license, or a processor license;

(29) "Licensee," a marketer, producer, or processor who has met all requirements for participation in any program and has entered into a valid license agreement signed by the secretary;

(30) "License agreement," a written agreement between the department and a participant in any program that sets forth the terms and conditions under which the applicant is granted permission to use the proprietary rights as specified in the agreement;

(31) "Licensed marketer," a marketer who meets the requirements of § 12:79:03:10 and has entered into a valid license agreement signed by the secretary;

(32) "Licensed processor," a processor who meets the requirements of § 12:79:03:09 and has a current and valid license agreement signed by the secretary;

(33) "Licensed producer," a producer who has a ~~premises identification number, verifiable~~ [address that](#) meets the requirements of § 12:79:03:05, and has a current and valid license agreement signed by the secretary;

(34) "Marbling score," a description of the amount, distribution, and texture of intramuscular fat found in the longissimus muscle that was exposed between the twelfth and thirteenth rib of a beef carcass. The degrees of marbling referenced in the specifications, in order

of descending quantity are: slightly abundant, moderate, modest, small, slight, traces, and practically devoid;

(35) "Marketer," a person who raises certified enrolled cattle or purchases certified enrolled finished cattle before harvest, contracts to have them processed by a licensed processor and then markets the resulting beef product to wholesalers, retailers, or the public; or a person who purchases beef product processed by a licensed processor and markets the beef product to wholesalers, retailers, or the public; or a person who purchases certified enrolled finished cattle before harvest and then sells those cattle to a licensed processor or another licensed marketer;

(36) "Meat inspection program," the meat inspection program administered by the Animal Industry Board pursuant to SDCL chapter 39-5;

(37) "Minimally processed," beef that has been subject only to minimal processing, including those traditional processes used to make food edible, or to preserve it or make it safe for human consumption, e.g., smoking, roasting, freezing, drying, and fermenting; or those physical processes that do not fundamentally alter the raw product or that only separate a whole, intact food into component parts, as defined in "Food Standards and Labeling Policy Book";

(38) "Natural beef program," the *SOUTH DAKOTA CERTIFIED*TM natural designation as described by this article;

(39) "Natural enrolled cattle program," the *SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM natural designation as described by this article;

(40) "Person," a natural person, or an association, partnership, cooperative corporation, limited liability partnership, limited liability company, or corporation registered with the Secretary of State to do business in the State of South Dakota;

~~(41) "Premises," an identifiable physical location that in the judgment of the state veterinarian, represents a unique and describable geographic entity where activity affecting the health or the traceability of livestock may occur;~~

~~(42) "Premises identification number," a computer generated random seven digit number assigned by the state veterinarian pursuant to SDCL chapter 40-3;~~

~~(43)~~ (41) "Processing procedures manual," the document written by the processor and approved by the secretary that describes the policies, procedures, and processes used for harvesting, processing, segregating, and tracking beef product meeting beef program or natural beef program requirements;

~~(44)~~ (42) "Processor," a meat processing establishment regularly engaged in the harvesting of live cattle or preparation or processing of beef product and that is either licensed by the meat inspection program or undergoes inspections conducted by the USDA Food Safety Inspection Service, as described in 9 C.F.R. Ch. III (January 1, 2005);

~~(45)~~ (43) "Processor license," the nonexclusive, nontransferable permission granted to a processor via a license agreement authorizing the use of the certification mark;

~~(46)~~ (44) "Producer," a person who raises, owns, feeds, or finishes cattle;

~~(47)~~ (45) "Producer license," the nonexclusive, nontransferable permission granted to a producer via a license agreement to use the "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM trademark;

~~(48)~~ (46) "Product sample," a sample of beef product collected and submitted for testing pursuant to this article and a license agreement;

~~(49)~~ (47) "Program," any of the programs specified in subdivision (49) of this section;

~~(50)~~ (48) "Programs," the beef program, enrolled cattle program, natural beef program, and natural enrolled cattle programs, collectively;

~~(51)~~ (49) "Proprietary right," the certification mark and any other service mark, trademark, certification mark, copyrights, know-how, trade secrets, or other intellectual property rights owned by the State of South Dakota and authorized for use in conjunction with any program;

~~(52)~~ (50) "Ribeye area," the area of longissimus muscle only between the twelfth and thirteenth rib of a beef carcass;

~~(53)~~ (51) "Secretary," the secretary of the Department of Agriculture or the secretary's designee;

~~(54)~~ (52) "*SOUTH DAKOTA CERTIFIED*TM beef," tier one or tier two packaged beef products from certified finished cattle processed within the State of South Dakota in conformity with the requirements of the beef program and the license agreement;

~~(55)~~ (53) "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM natural program," the requirements governing the production and management of certified natural feeder cattle and certified natural finished cattle as specified in this article;

~~(56)~~ ~~(54)~~ "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM program," the requirements governing the production and management of certified feeder cattle and certified finished cattle as specified in this article;

~~(57)~~ (55) "*SOUTH DAKOTA CERTIFIED*TM natural beef," tier one or tier two packaged beef products from certified natural finished cattle processed within the State of South Dakota in conformity with the requirements of § 12:79:10:03 and the license agreement;

~~(58)~~ (56) "Steer," male bovine that has been neutered before reaching eight months of age;

~~(59)~~ (57) "Trained producer," a producer who is in the process of becoming a licensed producer and has attended a BQA/CMP certificate session conducted by a SDSU livestock educator where producers learn proper BQA cattle handling practices and receive a CMP form upon completion of the training;

~~(60)~~ (58) "USDA," the United States Department of Agriculture; and

(59) "Verifiable address" an identifiable physical location in South Dakota that represents a unique and describable geographic where activity affecting the health or the traceability of livestock may occur;

~~(61)~~ (60) "Yield grade," the indicated yield of closely trimmed (½ inch fat or less), boneless retail cuts expected to be derived from the major wholesale cuts (round, sirloin, short loin, rib, and square-cut chuck) of a carcass.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007; 35 SDR 187, effective February 10, 2009.

General Authority: SDCL 39-24-6(1) to (5), inclusive.

Law Implemented: SDCL 39-24-1 to 39-24-10, inclusive.

Note: "Meat processing establishment" is defined in SDCL 39-5-6(17).

References: "South Dakota Beef Quality Assurance/Critical Management Plan Program," South Dakota Animal Industry Board, revised through ~~February 2006~~ ~~April 1, 2005~~, distributed by the South Dakota Beef Industry Council. ~~Cattlemen's Association, 435 Chapelle Street, Pierre, SD.~~
~~The cost of this publication is \$25.~~

"Food Standards and Labeling Policy Book," revised for web publication August, 2005, published by the USDA Food Safety Inspection Service. Copies may be obtained by internet from http://www.fsis.usda.gov/OPPDE/larc/Policies/Labeling_Policy_Book_082005.pdf. There is no charge for the publication.

CHAPTER 12:79:02

APPLICATION AND LICENSE AGREEMENT

Section

- 12:79:02:01 Application.
- 12:79:02:02 Form of license agreement.
- 12:79:02:03 Denial of application.

12:79:02:01. Application. Any person desiring to participate in any program shall submit an application to the department and participate in an in-person evaluation as a part of the license application process as requested by the department.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3).

Law Implemented: SDCL 39-24-3.

12:79:02:02. Form of license agreement. If an application for participation in any program is approved, the secretary shall issue a nonexclusive, nontransferable license to use the applicable proprietary rights. The secretary shall establish the terms and conditions included in the license agreement consistent with SDCL 39-24 and this article. A license agreement shall include, but is not limited to, the following requirements:

(1) The licensee shall agree not to use any proprietary rights of any program except as allowed by law or pursuant to the terms of the license agreement and this article;

(2) The licensee shall agree to follow all applicable program procedures and shall agree to keep detailed records showing full compliance with requirements of any program as applicable;

(3) The licensee shall agree to pay all fees and costs;

(4) The licensee shall agree to submit to all inspections and audits, and to allow or provide for access by the secretary to the licensee's facility, certified enrolled cattle, beef product, and records during regular business hours for such purposes;

(5) If a processor, the licensee shall agree to comply with any applicable meat inspection laws, regulations, and policies;

(6) The licensee shall represent that the applicable requirements set forth in this article for the animal or beef product at each applicable stage of production or processing will be met for the animal or beef product within the licensee's physical possession;

(7) The licensee shall agree to comply with all applicable state, federal, and local laws, rules, and ordinances;

(8) The licensee shall agree that the licensed rights may be suspended or terminated by the secretary as provided in this article or in the license agreement; and

(9) If a producer, the licensee shall have a current and valid Beef Quality Assurance/Critical Management Plan certification card issued by the South Dakota Cattlemen's Association.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007; 35 SDR 187, effective February 10, 2009.

General Authority: SDCL 39-24-6(1),(3).

Law Implemented: SDCL 39-24-3.

Reference: "South Dakota Beef Quality Assurance/Critical Management Plan Program," South Dakota Animal Industry Board, revised through April 1, 2005, published by the South Dakota Animal Industry Board, ~~411 S. Fort Street, Pierre, SD. The cost of this publication is \$25.~~

12:79:02:03. Denial of application. The secretary may deny an application if the secretary determines that issuing the license will put the integrity of any program at risk. In determining whether granting an application may put the integrity of any program at risk, the secretary may consider the following:

(1) Whether the applicant has the ability to comply with the applicable program requirements;

(2) Whether the applicant is willing to comply with the applicable program requirements;

(3) Whether the applicant has a criminal history;

(4) Whether the applicant is subject to the jurisdiction of any program;

(5) Whether the livestock to be enrolled will be subject to the jurisdiction of any program;

(6) Whether the licensed ~~premises~~ verifiable address are subject to the jurisdiction of any program;

(7) Whether the applicant has in the past failed to meet any requirements of any program;

and

(8) Whether the applicant has done anything to jeopardize the integrity of any program.

Source: 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3).

Law Implemented: SDCL 39-24-3.

CHAPTER 12:79:03

SOUTH DAKOTA CERTIFIED ENROLLED CATTLE™ AND SOUTH DAKOTA CERTIFIED™ BEEF PROGRAM REQUIREMENTS

Section

- 12:79:03:01 Enrollment.
- 12:79:03:02 Ear tags.
- 12:79:03:03 Transfer procedure.
- 12:79:03:04 Sex, breed, and age requirements.
- 12:79:03:05 Beef quality assurance requirements.
- 12:79:03:06 Ruminant feed.
- 12:79:03:07 Certified Feeder Cattle.
- 12:79:03:08 Certified Finished Cattle.
- 12:79:03:09 Licensed processor requirements.
- 12:79:03:10 Licensed marketer requirements.

12:79:03:01. Enrollment. To enroll an animal in the enrolled cattle program or natural enrolled cattle program, a licensed producer shall submit the required data to the data management system. The data shall be in an electronic form or in other forms as ~~required~~ allowed by the secretary. Licensed producers shall:

(1) Confirm that the animal to be enrolled was born within the State of South Dakota in the physical possession of a licensed or trained producer, that the animal has continuously since birth been in South Dakota in the physical possession of the original licensed or trained producer, and that the animal has remained in South Dakota in the physical possession of the original licensed or trained producer seeking enrollment of the animal.

(2) Have a ~~valid premises identification number~~ verifiable address;

(3) Except when an animal is temporarily located at a veterinary facility or at a licensed livestock sales facility licensed by the Animal Industry Board for the purpose of sale, confirm that the animal will be in the physical possession of a licensed producer who meets the requirements of § 12:79:03:05, and that the licensed producer will raise the animal in accordance with the requirements of that section;

(4) Confirm that the licensed producer seeking enrollment of the animal is the first person in physical possession of the animal for which enrollment is sought;

(5) Agree that removing the animal from the State of South Dakota automatically terminates the animal's enrollment and participation in the enrolled cattle program and the natural enrolled cattle program and that the licensee will not use the "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM" trademark in reference to any animal that has at any time before or after enrollment been removed from the State of South Dakota;

(6) Confirm that the animal conforms to the sex, breed, and age requirements of § 12:79:03:04 at the time of enrollment;

(7) Confirm that the animal was enrolled in the enrolled cattle program or the natural enrolled cattle program before the earlier of removal of the animal from the ~~premises~~ verifiable address of its birth or before commingling steers and heifers that are eligible for enrollment with steers and heifers that originate off premise;

(8) If the licensed producer is not a natural person, provide the signature of each natural person owning a ten percent or greater interest in the licensee; and

(9) Enroll eligible cattle no less than seven days before any transfer from the original ~~premises~~ verifiable address of birth.

(10) Upon completion of enrollment the producer will receive from the department the Transfer Warranty Certificate for that enrolment that will be used by producer at the time of physical transfer of possession of the enrolled cattle.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007; 35 SDR 187, effective February 10, 2009.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3.

12:79:03:02. Ear tags. The producer in physical possession of the animal at the time of birth shall place an electronic ear tag on the left ear of the animal before the enrollment of the animal. The electronic ear tag must be manufactured according to the International Organization for Standardization (ISO) standard numbers 11784 and 11785 for tamper-resistant radio frequency identification electronic ear tags. The electronic ear tag must remain on the enrolled animal for as long as the animal is enrolled. If an electronic ear tag is lost or nonfunctioning and the licensed producer seeks to continue enrollment for that animal, the licensed producer shall provide an affidavit to the department showing that identification of the animal has been maintained through an alternative identification method unique to that animal and acceptable to the secretary, and that the animal was subsequently tagged with a replacement electronic ear tag.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3.

References: "International Standard: Radio-frequency Identification of Animals-Code Structure," ISO 11784, revised through November 23, 2004, published by the International Organization for Standardization, Case Postale 56, CH-1211 Geneva 20, Switzerland. Copies may be obtained by internet from <http://www.iso.org/iso/en/ISOOnline.frontpage> or by contacting the **ISO Central Secretariat**, International Organization for Standardization (ISO) 1, rue de Varembé, Case postale 56, CH-1211 Geneva 20, Switzerland. The cost for this publication is 75,00 CHF (Swiss francs).

"International Standard: Radio-frequency Identification of Animals-Technical Concept," ISO 11785, 1996, published by the International Organization for Standardization, Case Postale 56, CH-1211 Geneva 20, Switzerland. Copies may be obtained by internet from <http://www.iso.org/iso/en/ISOOnline.frontpage> or by contacting the **ISO Central Secretariat**, International Organization for Standardization (ISO) 1, rue de Varembé, Case postale 56, CH-1211 Geneva 20, Switzerland. The cost for this publication is 16,00 CHF (Swiss francs).

12:79:03:03. Transfer procedure. To retain eligibility in the enrolled cattle program or the natural program, the transfer of certified enrolled cattle shall be made as follows:

(1) Every licensee who transfers physical possession of certified enrolled cattle to another licensee shall warrant that the certified enrolled cattle are on the date of the transfer in full compliance with all requirements of the applicable program. The warranty shall be in writing on a form required by the secretary, and shall be provided to the transferee before or at the time of transfer;

(2) Any transfer of physical possession of certified enrolled cattle from a licensed producer shall be only to another licensed producer or a licensed processor. This requirement does not apply if certified enrolled cattle are temporarily transferred to a veterinary facility or to a livestock auction market licensed by the Animal Industry Board for the purpose of sale;

(3) The transfer of certified enrolled cattle from one ~~premises~~ licensed producer to another shall be reported ~~to the secretary using the data management system as follows:~~ on the Transfer Warranty Certificate that is kept as a record to document the receiving, shipping, and disposition of enrolled cattle within seven calendar days after the transfer.

~~(a) If certified enrolled cattle are transferred from a licensed producer to another licensee, the transferor shall electronically report the transfer to the data management system before or at the time of the transfer;~~

~~(b) A licensee who physically receives certified enrolled cattle must also report the transfer and shall file a copy of the warranty required under § 12:79:03:03(1) with the department within seven calendar days after the transfer;~~

(4) The ~~transfer~~ treatment or disqualification and subsequent removal of cattle from the natural enrolled cattle program to the enrolled cattle program must be ~~reported to the secretary using the data management system~~ recorded in the producers treatment records and on the Transfer Warranty Certificate with the Department within seven calendar days of the change;

(5) Any transfer other than as expressly provided for in these rules automatically terminates the enrollment of the animal in the enrolled cattle program and natural program unless specifically exempted by the secretary.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3.

12:79:03:04. Sex, breed, and age requirements. No animal may be enrolled in the enrolled cattle program or natural enrolled cattle program unless it is:

(1) A heifer or steer. ~~A bull calf may be enrolled before or upon weaning, but not after it reaches the age of eight months. Enrollment for a bull calf expires after it reaches the age of eight months unless the bull calf is neutered and the licensed producer in physical possession of the~~

~~animal reports the neutering to the data management system on or before the date the bull calf reaches the age of eight months;~~ except that bull calves are to be neutered before eight months of age to remain eligible to be enrolled as a steer.

(2) A breed other than *Bos indicus* breeds or other breeds with Brahman influence; and

(3) Not more than twenty-four months of age. When certified enrolled cattle reach twenty-four months of age, their enrollment authority expires and certification is no longer effective for that animal.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-2, 39-24-3.

12:79:03:05. Beef quality assurance requirements. Certified enrolled cattle shall be raised, fed, and finished in the physical possession of a licensed producer who has a valid BQA/CMP certificate. This requirement does not apply when certified enrolled cattle are temporarily transferred to a veterinary facility or to a livestock auction market licensed by the Animal Industry Board for purpose of sale.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3.

12:79:03:06. Ruminant feed. Certified enrolled cattle may not be fed any feed products containing:

(1) Food processing waste, restaurant food waste, dried poultry waste, dried poultry litter, dried ruminant waste, dried swine waste, undried processed animal waste products, or processed animal waste derivative as these products are defined on pages 326 and 334-336 of the 2005 Official Publication of Association of Animal Feed Control Officials Incorporated; or

(2) Any material prohibited from use in ruminant livestock feeds pursuant to the Code of Federal Regulations, 21 C.F.R. 589.2000, as amended to April 1, 2004.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(1),(3).

Law Implemented: SDCL 39-24-3.

Reference: "2005 Official Publication Association of American Feed Control Officials Incorporated," 2005, published by the Association of American Feed Control Officials Incorporated. Copies may be obtained from the Association of American Feed Control Officials, P.O. Box 478, Oxford, IN 47971. The cost for this publication is \$50.

12:79:03:07. Certified Feeder Cattle. A licensed producer who enrolls cattle and raises them in compliance with the requirements of §§ 12:79:03:01 to 12:79:03:06, inclusive, may by contract be granted permission to use the mark "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM" in connection with qualifying enrolled cattle, if the licensed producer complies with SDCL chapter 38-24, this article, and the producer license. The licensed producer shall keep detailed electronic or written records of:

(1) ~~The birth date and premises of birth~~ The Transfer Warranty Certificate that includes for each enrolled animal;

(2) Transfers of physical possession of certified enrolled cattle, including a record of the date ~~and the person who reported the transfers to the data management system~~ of receiving the enrolled cattle, pen or pasture location, alternate forms of identification used on cattle, disposal of animals while in possession, shipment dates, and numbers shipped. ;

~~(3) Transfers of cattle to the enrolled cattle program from the natural enrolled cattle program, including a record of the date and the person who reported the transfers to the data management system;~~

~~(4)~~ (3) Compliance with the BQA/CMP certificate requirement for the certified enrolled cattle fed under the licensee's physical possession;

~~(5)~~ (4) Temporary transfers as referenced in § 12:79:03:03; and

~~(6)~~ (5) Lost or destroyed electronic ear tags as referenced in § 12:79:03:02.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-2, 39-24-3.

12:79:03:08. Certified Finished Cattle. Certified finished cattle are cattle that are produced in conformity with the requirements of §§ 12:79:03:01 to 12:79:03:07, inclusive, and are in conformity with the following requirements:

(1) The animal is finished on a ration that is at least fifty percent by weight, on a dry matter basis, in any combination of: grain products (such as corn, grain sorghum, oats, wheat, and barley) as defined on page 272 section 22.3 of the 2008 Official Publication of the Association of Animal Feed Controls Officials Incorporated, or distiller products as defined on pages 276-277 section 27.4-27.8 of the same publication, or an a ration that has been preapproved by the South Dakota Secretary of Agriculture to meet a high starch finishing requirement, for a period of time of at least one hundred consecutive days, ending within five days before slaughter;

(2) Detailed written records or electronic data and invoices are available for inspection to verify the duration of feeding and the ration content;

(3) The licensed producer provides a copy of the BQA/CMP certificate issued to the producer;

(4) The licensed producer complies with SDCL chapter 39-24, article 12:79, and the license agreement; and

(5) The animal is a steer or heifer.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 35 SDR 187, effective February 10, 2009.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-2, 39-24-3.

Reference: "2008 Official Publication Association of American Feed Control Officials Incorporated," 2008, published by the Association of American Feed Control Officials Incorporated. Copies may be obtained from the Association of American Feed Control Officials, PO Box 478, Oxford, IN 47971. The cost of the publication is \$50.

12:79:03:09. Licensed processor requirements. Each licensed processor shall meet the following requirements:

(1) A licensed processor shall be located in, and all processing of the beef products shall be done within the borders of, the State of South Dakota;

(2) All packaged beef products leaving the licensed processor's facility bearing the certification mark shall be traceable from the package back to the **premises** [verifiable address](#) or animal of origin;

(3) Beef products bearing the certification mark may only be derived from certified finished cattle or certified natural finished cattle;

(4) A licensed processor shall have a valid license from the meat inspection program or shall be subject to inspection authorized or conducted by the USDA Food Safety Inspection Service, 9 C.F.R. Ch. III (January 1, 2005);

(5) The beef product shall originate from live animals handled and harvested in conformity with the requirements of the meat inspection program as authorized under 9 C.F.R. 321.1 (January 1, 2005), or with the USDA Food Safety Inspection Service requirements as listed in 9 C.F.R. Ch. III (January 1, 2005);

(6) Beef product processed from dark cutters, borderline dark cutters, and carcasses with excessive blood splashes are ineligible to carry the certification mark;

(7) Beef products processed under the beef program or the natural beef program shall be segregated from other beef products during harvesting and processing in order to carry the certification mark. Harvested tissue shall be traceable to the live animal of origin throughout harvesting and processing;

(8) Ground, comminuted, or marinated products shall be traceable to a "lot" or "batch" of beef product under the traceability program described in the processor procedures manual. All packaged beef product leaving the licensed processor's facility bearing the certification mark, including commingled or value-added beef product, must be made exclusively of beef product eligible to carry the certification mark and traceable back to the animal of origin;

(9) The licensed processor shall develop, implement, and maintain a processing procedures manual to comply with beef program or natural beef program requirements and submit it to the secretary for approval. The processing procedures manual must include a traceability program. The approval does not change or abrogate any meat processing standards for HACCP plans required by the Food Safety Inspection Service or the meat inspection program; and

(10) The licensed processor shall record, at a minimum, the following carcass data into the State's data management system for individual animals:

- (a) Hot carcass weight;
- (b) Ribeye area;
- (c) Backfat thickness;
- (d) Yield grade;
- (e) Carcass defects;
- (f) Marbling score;

- (g) Harvest date;
- (h) Processor identification; and
- (i) Electronic identification number.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-2, 39-24-3.

12:79:03:10. Licensed marketer requirements. Each licensed marketer shall meet the following requirements:

(1) All beef product marketed by the licensed marketer that bears the certification mark must comply with all beef program or natural beef program requirements;

(2) If the licensed marketer is also the producer of the cattle to be enrolled in the enrolled cattle program or natural enrolled cattle program, the licensed marketer must also be a licensed producer;

(3) The licensed marketer shall maintain a written contract with all producers who raise, feed, or finish cattle for the licensed marketer which the marketer intends to market using proprietary rights;

(4) The licensed marketer shall maintain a written contract with all processors who process certified enrolled cattle or beef product which the licensed marketer intends to market using proprietary rights;

(5) At the time of application and thereafter as necessary, the marketer shall provide the secretary with a true and correct copy of the contracts described in subdivisions (3) and (4) of this section;

(6) The licensed marketer shall at the time of transfer of the animal to the licensed processor ensure that the requirements of § 12:79:03:03 have been met; and

(7) Any label or packaging used by or on behalf of the licensed marketer that bears the certification mark must be approved by the secretary before use.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-2, 39-24-3.

CHAPTER 12:79:04

STANDARDS FOR BEEF PRODUCT

Section

12:79:04:01 Marbling.

12:79:04:02 Quality enhancement techniques.

12:79:04:01. Marbling. Beef product bearing the certification mark may be certified as either tier one or tier two. Once beef product qualifies for certification as either tier one or tier two, it may bear the certification mark and be identified with tradenames identified with tier one beef or tier two beef product as specified in the license agreement. Tier one and tier two beef products are determined as follows:

(1) To be certified as tier one, a beef carcass shall earn a minimum marbling score of "Modest 0" under the USDA Quality Grading System as prescribed in United States Standards for Grades of Carcass Beef, effective January 31, 1997, as published by the Livestock and Seed Program of the Agricultural Marketing Service, USDA, or by an equivalent system for determining marbling as approved in advance in writing by the secretary;

(2) To be certified as tier two, a beef carcass shall earn a minimum marbling score of "Slight 0" under the USDA Quality Grading System as prescribed in United State Standards for Grades of Carcass Beef, effective January 31, 1997, as published by the Livestock and Seed Program of the

Agricultural Marketing Service, USDA, or by an equivalent system for determining marbling as approved in advance in writing by the secretary.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(1),(3).

Law Implemented: SDCL 39-24-2, 39-24-3.

Reference: "United States Standards for Grades of Carcass Beef," January 31, 1997. Published by the Livestock and Seed Division, Agricultural Marketing Service, United States Department of Agriculture. This publication is available on the internet at <http://www.ams.usda.gov/lsg/stand/standards/beef-car.pdf> or from USDA, Agricultural Marketing Service LS, MGC Stop 0248, Room 2628-S, P.O. Box 96456, Washington, DC 20090-6456. This publication is available free of charge.

12:79:04:02. Quality enhancement techniques. Each licensed processor shall employ at least one of the following enhancement techniques on all beef product certified as tier one or tier two:

(1) A minimum of 14 days aging on rib and loin cuts, and a minimum 7 days aging on chuck and round cuts. Wet or dry aging methods are acceptable;

(2) Flash freezing and a minimum of 7 days aging on rib and loin cuts. Wet or dry aging methods are acceptable;

(3) Electrical stimulation;

(4) TenderCut™; or

(5) Blade tenderization.

The processor shall maintain a record of enhancement technique used.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(1),(3).

Law Implemented: SDCL 39-24-2, 39-24-3.

CHAPTER 12:79:05

RECORD KEEPING

Section

12:79:05:01 General.

12:79:05:02 Records retention.

12:79:05:01. General. The licensee shall, as applicable, maintain a record of audits, corrective actions, inspections, product sample, required licenses and permits, suspensions and terminations, a copy of the licensee's BQA/CMP certificate and BQA/CMP Manual, a copy of the processing procedures manual, a copy of the contract between the licensed marketer and licensed producer or licensed processor, a color copy of labels used by or on behalf of a licensed marketer, and any other records required by the secretary.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006.

General Authority: SDCL 39-24-6(3),(4).

Law Implemented: SDCL 39-24-3.

12:79:05:02. Records retention. Records shall be kept on forms prescribed or approved by, and contain all information required by, the secretary. Records shall be available for inspection during normal business hours by the department or its authorized agents, the Animal Industry Board or its authorized agents, and law enforcement agents. The records required by this chapter shall be kept for five years after the records were last utilized by the licensee. This records retention requirement survives the termination of the license agreement, whether voluntary or otherwise.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(3),(4).

Law Implemented: SDCL 39-24-3.

CHAPTER 12:79:06

INSPECTIONS AND AUDITS

Section

12:79:06:01 Inspections and audits.

12:79:06:02 Sampling.

12:79:06:03 Inspectors and auditors.

12:79:06:04 Feed sampling.

12:79:06:01. Inspections and audits. The licensee shall submit to ~~premises~~ verifiable address and records inspections and audits to insure compliance with applicable program requirements, including any random, follow-up, unannounced or other inspection or audit, as required by the secretary. The secretary shall approve an audit plan of licensees for each state fiscal year. At least ten percent of all licensed producers shall be randomly audited each state fiscal year. All licensed marketers and licensed processors shall be audited at least once each state fiscal year. Results of all inspections and audits shall be reported to the secretary. The secretary may release the number of inspections and audits conducted, the type and number of violations, and the type and number of remedial actions required in each county. All other data and information received and made during inspections and audits constitutes business information and shall remain confidential. Inspection and audit results shall be preserved by the department for a period of five years.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(3),(4),(5).

Law Implemented: SDCL 39-24-3, 39-24-5.

12:79:06:02. Sampling. At least quarterly, beef product samples will be collected by the secretary and tested for compliance with the requirements of this article and the license agreement.

Sampling frequency will be determined by the secretary. The samples shall be tested for tenderness and marbling score.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(3),(4).

Law Implemented: SDCL 39-24-3.

12:79:06:03. Inspectors and auditors. Inspectors and auditors may have no financial interest in any licensee, the certified enrolled cattle, or beef product to which their inspections or audits apply. Auditors may not audit their own work.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(4).

Law Implemented: SDCL 39-24-3.

12:79:06:04. Feed sampling. Feed samples may be collected to determine whether cattle enrolled in the natural enrolled cattle program are being fed in conformity with the rules of that program. Sampling frequency is determined by the secretary.

Source: 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(3),(4).

Law Implemented: SDCL 39-24-3.

CHAPTER 12:79:07

FEES AND COSTS

Section

- 12:79:07:01 License fee.
- 12:79:07:02 Cost of inspection.
- 12:79:07:03 Cost of audit.
- 12:79:07:04 Product sampling fee.
- 12:79:07:05 Other corrective action costs.

12:79:07:06 Cost of enrollment.

12:79:07:07 Transfer fee.

12:79:07:08 Harvest fee.

12:79:07:09 Fees paid into fund.

12:79:07:01. License fee. License fees shall be paid annually by the licensee as follows:

(1) The initial licensing fee shall be paid at the time the license agreement is signed. The initial licensing fee for marketers is \$0; the initial licensing fee for producers is \$100 effective October 1, 2005; the initial licensing fee for processors is \$0;

(2) The fee for the annual renewal of the license agreement shall be paid at the time the license agreement is renewed. The annual fee for producers is \$100. The annual fee for marketers and processors is \$100.

Nothing in this section creates any right or expectation of renewal.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006.

General Authority: SDCL 39-24-6(2).

Law Implemented: SDCL 39-24-3, 39-24-6(2).

12:79:07:02. Cost of inspection. There is no charge for the initial inspection for marketers, producers, and processors. There is no fee for each subsequent inspection of a producer. The fee for each subsequent inspection of a marketer or processor is \$300. If a person is both a marketer and a producer, the inspection fee for a marketer will apply and be collected. There is no separate charge for expenses, such as mileage, meals, or lodging.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(2),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(2),(4).

12:79:07:03. Cost of audit. There is no charge for one audit per year of licensed marketers, producers, and processors. There is no charge for more than one audit per year for producers. For

each additional audit per year of a licensed marketer or licensed processor, the marketer or processor shall pay a fee of \$300. If a person is both a marketer and a producer, the audit fee for a marketer will apply and be collected. There is no separate charge for expenses, such as mileage, meals, or lodging.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(2),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(2),(4).

12:79:07:04. Product sampling fee. The licensee shall pay a product sampling fee of \$15 per sample to the secretary at the time the sample results are made available to the licensee. The licensed processor is not entitled to reimbursement for the cost of the beef product to be sampled. The secretary may waive the fee if the cost of sampling is paid from another source.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(2),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(2),(4).

12:79:07:05. Other corrective action costs. The licensee shall pay the costs of any training, equipment, testing, or other corrective actions required by the secretary to the provider or supplier of services.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(2),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(2),(4).

12:79:07:06. Cost of enrollment. The administrative fee for the cost of enrolling eligible cattle into the data management system is \$.50 per head.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006

General Authority: SDCL 39-24-6(2),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(2),(4).

12:79:07:07. Transfer fee. The fee for reporting the transfer of physical possession of enrolled cattle within the data management system is \$.50 per head, to be paid by the transferee.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006.

General Authority: SDCL 39-24-6(2),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(2),(4).

12:79:07:08. Harvest fee. Each licensed processor ~~will shall~~ remit ~~monthly at least semiannually a~~ harvest fee of ~~one-dollar~~ \$1 per processed carcass if the carcass or any processed products of the carcass will be marketed or sold as *SOUTH DAKOTA CERTIFIED*TM beef or *SOUTH DAKOTA CERTIFIED*TM natural beef products.

Source: 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(2),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(2),(4).

12:79:07:09. Fees paid into fund. All fees paid to the secretary by licensees shall be deposited into the fund.

Source: 33 SDR 10, effective August 3, 2006.

General Authority: SDCL 39-24-6(2),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(2),(4).

CHAPTER 12:79:08

REMEDIES

Section

12:79:08:01 Corrective action.

12:79:08:02 Removal of animal from database.

12:79:08:03 Suspension of use of certification mark or marks.

12:79:08:04 Grounds for suspension of license.

12:79:08:05 Grounds for termination of license.

- 12:79:08:06 Procedure for suspension or termination.
- 12:79:08:07 Summary suspension.
- 12:79:08:08 Procedure after summary suspension.
- 12:79:08:09 Other remedies available.

12:79:08:01. Corrective action. The secretary may require the licensee to take corrective action within the time specified by the secretary.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(4).

12:79:08:02. Removal of animal from database. The secretary may remove certified enrolled cattle from any program if the secretary finds that the animal is not in compliance with the applicable standards and requirements of the program. An animal removed from a program by the secretary shall be marked in the data management system as "ineligible," and the "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM" trademark may not be used in connection with that animal.

An animal removed from the natural enrolled cattle program by the secretary shall be marked in the data management system as "ineligible," for the natural enrolled cattle program, and the "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM" trademark may not be used in conjunction with that animal insofar as the natural enrolled cattle program is involved. If cattle are ineligible for the natural enrolled cattle program, they may be eligible for the *SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM program if they otherwise meet the criteria under this article.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6 (1),(3),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(4).

12:79:08:03. Suspension of use of certification mark or marks. The secretary may suspend the right to place or use the certification mark or any other proprietary marks belonging to the State of South Dakota on or in connection with one or more particular products identified individually or by lot in a notice of suspension if the secretary finds that the product or products do not conform to the standards and requirements of the applicable program and the license agreement. A notice of suspension shall be given by the secretary by telephone or in person and followed forthwith by a written notice sent via first class mail and facsimile transmission if the licensed processor has the capability to receive such transmissions.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(4), 39-24-8.

12:79:08:04. Grounds for suspension of license. The secretary may suspend a license for cause, including:

- (1) Failure to maintain records as required by this article;
- (2) Failure to allow or provide for access for the secretary to the licensee's **premises** verifiable address or records that does not rise to the level of refusal;
- (3) Implementation of material or repeated changes to the processor procedures manual without prior written approval from the secretary;
- (4) Failure to comply with applicable federal, state, or local law;
- (5) Failure of more than one tenderness or marbling test during a twelve month period, for which correction actions have not been implemented to the reasonable satisfaction of the secretary;
- (6) Failure to pay fees or correction action costs when due;
- (7) Any other violations of SDCL chapter 39-24, this article, or the license agreement; or

(8) The Secretary is presented with credible evidence that the licensee did not meet the eligibility requirements set forth in this chapter at the time the license was issued.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(4), 39-24-8.

12:79:08:05. Grounds for termination of license. The secretary may terminate a license for cause, including:

(1) Failure to complete a corrective action within the time specified in writing by the secretary;

(2) Failure to comply with any lawful directive of the secretary;

(3) Refusal to allow or provide for access for the secretary to the licensee's **premises** verifiable address or records;

(4) The deliberate, reckless, or repeated misrepresentation of an animal as being eligible for enrollment;

(5) The deliberate, reckless, or repeated misrepresentation of beef product as meeting the requirements to carry the certification mark or to be labeled as tier one or tier two;

(6) Failure to pay fees when due and after any grace period established by the secretary;

(7) Failure to pay corrective action costs when due and after any grace period established by the secretary. Nothing in this section establishes any obligation on the part of the secretary to collect corrective action costs owed to third parties;

(8) Failure to correct a cause for suspension within the time specified in writing by the secretary, whether the license is suspended or not;

(9) Misapplication, misuse, or dilution of the proprietary rights;

(10) Any violation of SDCL chapter 39-24, this article, or the license agreement that puts the integrity of any program or the public health, safety, or welfare at material risk of imminent harm; or

(11) The secretary is presented with credible evidence that the licensee did not meet the eligibility requirements set forth in this article at the time the license was issued.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3, 39-24-6(4), 39-24-8.

12:79:08:06. Procedure for suspension or termination. If the secretary determines that cause exists to suspend or terminate a license, the secretary may serve upon the licensee a notice of intent to take such action and allow the licensee the opportunity to contest the notice and request a hearing under SDCL chapter 1-26. The notice shall comply with SDCL chapter 1-26.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3, 39-24-8.

12:79:08:07. Summary suspension. If the secretary finds that the acts or omissions of the licensee in violation of the act, this article, or the licensing agreement have put the integrity of any program or the public health, safety, or welfare at material risk of imminent harm, the secretary may enter an order summarily and immediately suspending the license. The order shall:

- (1) State the grounds for suspension of the license;
- (2) Include a finding that the acts or omissions of the licensee in violation of SDCL chapter 39-24, this article, or the licensing agreement have put the integrity of any program or the public health, safety, or welfare at material risk of imminent harm; and
- (3) State the effective date of the suspension.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3, 39-24-8.

12:79:08:08. Procedure after summary suspension. Upon entry of an order for summary suspension, proceedings for suspension or termination pursuant to this chapter shall be promptly instituted and determined.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3, 39-24-8.

12:79:08:09. Other remedies available. The commencement of suspension or termination proceedings under this chapter does not preclude the secretary from pursuing other or different remedies, including the commencement of a civil proceeding in the circuit court for injunctive or other relief or the referral of the matter for criminal prosecution.

Source: 32 SDR 31, effective August 29, 2005.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-3, 39-24-7.

CHAPTER 12:79:09

GRIEVANCE PROCEDURE

Section

12:79:09:01 Petition.

12:79:09:01. Petition. A licensee aggrieved by the action of the secretary to require corrective action, to remove an animal from any program, or to prohibit use of the proprietary rights for the transfer, sale, or distribution of animals or beef products that are not in compliance with the standards and requirements of any program, which action was required or taken by the secretary without a prior hearing, may within 20 days following date of the notice of the action file

a petition with the secretary requesting a hearing to review the matter. The petition shall state the action complained of, the reason the licensee believes the action taken or required by the secretary is improper, and the relief sought. Within 30 days following the date of the receipt of the petition the secretary shall schedule a hearing on the petition. The petition shall be heard and determined as a contested case pursuant to SDCL chapter 1-26. This section does not apply if the action taken by the secretary was filing an action in court.

Source: 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4)

Law Implemented: SDCL 39-24-3, 39-24-6(4).

CHAPTER 12:79:10

***SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM NATURAL AND *SOUTH DAKOTA CERTIFIED*TM NATURAL BEEF REQUIREMENTS**

Section

- 12:79:10:01 Certified natural feeder cattle.
- 12:79:10:02 Certified natural finished cattle.
- 12:79:10:03 Natural beef product standards.

12:79:10:01. Certified natural feeder cattle. A licensed producer who enrolls cattle and raises them in compliance with the requirements of §§ 12:79:03:01 to 12:79:03:06, inclusive, may by contract be granted permission to use the mark "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM" in connection with qualifying enrolled cattle, if the licensed producer complies with SDCL chapter 39-24, this article and the license agreement. The term "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*TM NATURAL" may also be used in connection with the qualifying enrolled cattle if, in addition to meeting the standards for the enrolled cattle program, the following criteria are met:

(1) The producer confirms that, with the exception of milk and milk products, the enrolled cattle will not be fed any feed ingredients that contain animal products, animal fats, or marine products as defined on pages 257-263 and 285 and 294-296 of the 2007 Official Publication of Association of Animal Feed Control Officials Incorporated;

(2) The producer confirms that the cattle enrolled in the natural enrolled cattle program will not be administered with any hormones during their lifetime;

(3) The producer confirms that the cattle enrolled in the natural enrolled cattle program will not be treated with antibiotic drugs of any kind during their lifetime;

(4) The producer agrees to follow the transfer procedure in § 12:79:03:03 for any enrolled cattle that become disqualified from the natural enrolled cattle program;

(5) The producer understands that failure to meet the natural enrolled cattle program requirements automatically terminates the animal's enrollment and participation in the natural enrolled cattle program and that the licensee may not use the "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*"TM trademark in conjunction with the term "natural" or "natural program" in reference to any animal not produced in conformity with the natural program rules.

Source: 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-2, 39-24-3.

Reference: "**2007 Official Publication Association of American Feed Control Officials Incorporated,**" **2007**, published by the Association of American Feed Control Officials Incorporated. Copies may be obtained from the Association of American Feed Control Officials, P.O. Box 478, Oxford, IN 47971. The cost for this publication is \$50.

12:79:10:02. Certified natural finished cattle. Certified natural finished cattle are cattle that are produced in conformity with the requirements of §§ 12:79:03:01 to 12:79:03:08, inclusive, and also adhere to the natural program requirements as described in § 12:79:10:01.

Source: 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-2, 39-24-3.

12:79:10:03. Natural beef product standards. In addition to meeting the standards for beef product in chapter 12:79:04, beef products may be certified as natural under the beef program if they also meet the following criteria:

(1) The beef product is derived from certified natural finished cattle and has met the criteria in this chapter for the natural program;

(2) Flavoring for beef or beef products is limited to that defined as "natural flavor" or "natural flavoring" in 21 CFR 101.22(a)(3), as amended to January 1, 2007;

(3) Regardless of whether the beef otherwise conforms with USDA criteria for labeling, the beef or beef products do not contain any "artificial flavor," or "artificial flavoring," as defined in 21 CFR 101.22(a)(1), as amended to January 1, 2007;

(4) Regardless of whether the beef otherwise conforms with USDA criteria for labeling, the beef or beef products do not contain any "artificial color" or "artificial coloring" as defined in 21 CFR 101.70.3(f), as amended to January 1, 2007, and 21 CFR 101.22(a)(4), as amended to January 1, 2007.

Source: 33 SDR 188, effective May 10, 2007.

General Authority: SDCL 39-24-6(1),(3),(4).

Law Implemented: SDCL 39-24-2, 39-24-3.