

(B) The change in the assessment rate shall become effective if the change is approved or favored by—

(i) not less than two-thirds of the producers voting in the referendum; or

(ii) a majority of the producers voting in the referendum, if the majority produced not less than two-thirds of all the commercial eggs produced by the producers voting during a representative period defined by the Secretary.

(3)(A) In the case of the order in effect on December 14, 1993, the Egg Board shall determine under paragraph (1), as soon as practicable after December 14, 1993, whether to request that the Secretary conduct a referendum under paragraph (2).

(B) If the Egg Board makes such a request on the basis of competent evidence, as provided in paragraph (1), the Secretary shall conduct the referendum as soon as practicable, but not later than—

(i) 120 days after receipt of the request from the Egg Board; or

(ii) if the Director of the Office of Management and Budget determines that the change in the assessment rate is a significant action that requires review by the Director, 170 days after receipt of the request from the Egg Board.

(4) Notwithstanding any other provision of this chapter, if an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum conducted under this subsection, the Secretary shall amend the order to reflect the vote of the producers. The amendment to the order shall become effective on the date of issuance of the amendment.

**(c) Nonapproval of amendments as not invalidating order**

The failure of egg producers to approve an amendment to any Egg Research and Promotion Order shall not be deemed to invalidate such order.

(Pub. L. 93-428, § 9, Oct. 1, 1974, 88 Stat. 1176; Pub. L. 96-276, § 5, June 17, 1980, 94 Stat. 541; Pub. L. 103-188, § 2(b), Dec. 14, 1993, 107 Stat. 2256.)

AMENDMENTS

1993—Pub. L. 103-188 designated first and second sentences of existing provisions as subsec. (a), added subsec. (b), and designated last sentence of existing provisions as subsec. (c).

1980—Pub. L. 96-276 provided that failure of egg producers to approve an amendment to any Egg Research and Promotion Order shall not be deemed to invalidate the order.

**§ 2709. Termination or suspension of orders**

**(a) Authority of Secretary**

The Secretary shall, whenever he finds that any order issued under this chapter, or any provisions thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provisions thereof.

**(b) Referendum to terminate or suspend; eligible voters; requirements for approval; termination or suspension date**

The Secretary may conduct a referendum at any time, and shall hold a referendum on re-

quest of 10 per centum or more of the number of egg producers voting in the referendum approving the order, to determine whether such producers favor the termination or suspension of the order, and he shall suspend or terminate such order six months after he determines that suspension or termination of the order is approved or favored by a majority of the egg producers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, and who produced more than 50 per centum of the volume of eggs produced by the egg producers voting in the referendum.

**(c) Termination or suspension not to be considered as order**

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 93-428, § 10, Oct. 1, 1974, 88 Stat. 1176.)

**§ 2710. Applicability of provisions to amendments to orders**

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 93-428, § 11, Oct. 1, 1974, 88 Stat. 1176.)

**§ 2711. Exempted egg producers and breeding hen flocks; conditions and procedures**

**(a) In general**

The following shall be exempt from the specific provisions of this chapter under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

(1) Any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded 75,000 laying hens, as determined under subsection (b).

(2) Any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.

**(b) Number of laying hens**

**(1) In general**

For purposes of subsection (a)(1), the aggregate number of laying hens owned by an egg producer shall include—

(A) in cases in which the producer is an individual, laying hens owned by such producer or members of such producer's family that are effectively under the control of such producer, as determined by the Secretary;

(B) in cases in which the producer is a general partnership or similar entity, laying hens owned by the entity and all partners or equity participants in the entity; and

(C) in cases in which the producer holds 50 percent or more of the stock or other beneficial interest in a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity, laying hens owned by the entity.

Ownership of laying hens by a trust or similar entity shall be considered ownership by the beneficiaries of the trust or other entity.