

able reserve and those administrative costs incurred by the Department after an order has been promulgated under this chapter—as the Secretary finds are reasonable and likely to be incurred by the Egg Board under the order during any period specified by him. Such handler shall collect such assessment from the producer and shall pay the same to the Egg Board in the manner as prescribed by the order.

(2)(A) The assessment rate shall be prescribed by the order. The rate shall not exceed 20 cents per case (or the equivalent of a case) of commercial eggs.

(B) The order may be amended to increase the rate of assessment if the increase is recommended by the Egg Board and approved by egg producers in a referendum conducted under section 2708(b) of this title.

(C) The order may be amended to decrease the assessment rate after public notice and opportunity for comment in accordance with section 553 of title 5 and without regard to sections 556 and 557 of such title.

(3) To facilitate the collection of such assessments, the order of the Egg Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(f) Recordkeeping and reporting requirements; accounting by Board

Providing that the Egg Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Egg Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Contracts or agreements by Board for implementation of orders and payment of costs; required provisions

Providing that the Egg Board, with the approval of the Secretary, may enter into contracts or agreements for development and carrying out of the activities authorized under the order pursuant to section 2706(a) and (b) of this title and for the payment of the cost thereof with funds collected pursuant to the order. Any such contract or agreement shall provide that such contractors shall develop and submit to the Egg Board a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Egg Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Restriction on use of funds collected by Board for political purposes

Providing that no funds collected by the Egg Board under the order shall in any manner be

used for the purpose of influencing governmental policy or action, except as provided by subsection (a)(4) of this section.

(i) Compensation and expenses of members of Board

Providing that the Board members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(j) Reasonable costs limitation for collection of assessments and for an administrative staff

Providing that the total costs incurred by the Egg Board for a fiscal year in collecting producer assessments and having an administrative staff shall not exceed an amount of the projected total assessments to be collected by the Egg Board for such fiscal year that the Secretary determines to be reasonable.

(Pub. L. 93-428, § 8, Oct. 1, 1974, 88 Stat. 1174; Pub. L. 96-276, §§ 2-4, June 17, 1980, 94 Stat. 541; Pub. L. 100-575, § 2, Oct. 31, 1988, 102 Stat. 2895; Pub. L. 103-188, §§ 2(a), 3, Dec. 14, 1993, 107 Stat. 2256, 2257.)

Editorial Notes

AMENDMENTS

1993—Subsec. (d). Pub. L. 103-188, § 3, inserted at end “In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this chapter that is comparable to the proportion of funds that were allocated for research projects under this chapter in the budget of the Egg Board for fiscal year 1993.”

Subsec. (e). Pub. L. 103-188, § 2(a), designated first and second sentences of existing provisions as par. (1), added par. (2) and struck out third and fourth sentences of existing provisions which read as follows: “For fiscal year 1981, the rate of assessment prescribed by the order shall not exceed 7½ cents per case of commercial eggs or the equivalent thereof. For each fiscal year thereafter, the rate of assessment may be increased by no more than three-quarters of a cent per case of commercial eggs or the equivalent thereof: *Provided*, That the rate of assessment shall not exceed 10 cents per case of commercial eggs or the equivalent thereof.”, and designated fifth and sixth sentences of existing provisions as par. (3).

1988—Subsec. (j). Pub. L. 100-575 added subsec. (j).

1980—Subsec. (a). Pub. L. 96-276, § 2, substituted “twenty” for “eighteen”.

Subsec. (b). Pub. L. 96-276, § 3, extended membership on the Egg Board to two consumers or representatives of consumers, and their alternates, when approved by egg producers voting in a referendum on an amendment to the order, to be appointed by the Secretary from nominations submitted by eligible organizations or otherwise when necessary to properly represent the interest of consumers, the consumer members to be voting members.

Subsec. (e). Pub. L. 96-276, § 4, substituted rate of assessment provisions prescribing for fiscal year 1981 a rate not exceeding 7½ cents per case of commercial eggs or its equivalent, authorizing increases of three-quarters of a cent per case for each fiscal year thereafter, but limiting maximum rate to 10 cents per case for prior limitation of the rate of assessment to 5 cents per case.

§ 2708. Referendum among egg producers

(a) Producer approval of order

The Secretary shall conduct a referendum among egg producers not exempt hereunder who,

during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by a majority of the producers voting in such referendum if such majority produced not less than two-thirds of the commercial eggs produced during a representative period defined by the Secretary.

(b) Request by Egg Board for referendum

(1) If the Egg Board determines, based on a scientific study, marketing analysis, or other similar competent evidence, that an increase in the assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the policy declared in section 2701 of this title, the Egg Board may request that the Secretary conduct a referendum, as provided in paragraph (2).

(2)(A) If the Egg Board requests the Secretary to conduct a referendum under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt from this chapter who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the producers approve the change in the assessment rate proposed by the Egg Board.

(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.)

Editorial Notes

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 request 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.)