

## Agricultural Marketing Service, USDA

## § 1250.341

approval by the Secretary. Any such contract or agreement shall also provide that the contractor shall keep accurate records of all of its transactions and make periodic reports to the Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require;

(e) To review and submit to the Secretary any plans or projects which have been developed and submitted to it by the prospective contractor, together with its recommendations with respect to the approval thereof by the Secretary;

(f) To maintain such books and records and prepare and submit such reports from time to time to the Secretary as he may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g)-(h) [Reserved]

(i) To prepare and make public, at least annually, a report of activities carried out and an accounting for funds received and expended;

(j) To cause its books to be audited by a certified public accountant at least once each fiscal period and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(k) To give the Secretary the same notice of meetings of the Board as is given to members in order that he or his representative may attend such meetings;

(l) To act as an intermediary between the Secretary and any producer or handler; and

(m) To submit to the Secretary such information pursuant to this subpart as he may request.

[40 FR 59190, Dec. 22, 1975, as amended at 54 FR 99, Jan. 4, 1989, and 54 FR 11493, Mar. 21, 1989; 54 FR 12310, Mar. 24, 1989; 59 FR 38876, Aug. 1, 1994; 60 FR 66861, Dec. 27, 1995]

### RESEARCH, EDUCATION, AND PROMOTION

#### § 1250.341 **Research, education, and promotion.**

The Board shall develop and submit to the Secretary for approval any programs or projects authorized in this section. Such programs or projects shall provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for advertising, sales promotion, and consumer education with respect to the use of eggs, egg products, spent fowl, and products of spent fowl: *Provided, however,* That any such program or project shall be directed towards increasing the general demand for eggs, egg products, spent fowl, or products of spent fowl;

(b) The establishment and carrying on of research, marketing, and development projects and studies with respect to sale, distribution, marketing, utilization, or production of eggs, egg products, spent fowl, and products of spent fowl, and the creation of new products thereof in accordance with section 7(b) of the act, to the end that the marketing and utilization of eggs, egg products, spent fowl, and products of spent fowl may be encouraged, expanded, improved, or made more acceptable, and the data collected by such activities may be disseminated;

(c) The development and expansion of foreign markets and uses for eggs, egg products, spent fowl, and products of spent fowl;

(d) Each program or project authorized under paragraphs (a), (b), and (c) of this section shall be periodically reviewed or evaluated by the Board to insure that each such program or project contributes to a coordinated national program of research, education, and promotion contributing to the maintenance of markets and for the development of new markets for and of new products from eggs, egg products, spent fowl, and products of spent fowl. If it is found by the Board that any such program or project does not further the national purpose of the act, then the Board shall terminate such program or project; and

(e) No advertising or promotion programs shall use false or unwarranted claims or make any reference to private brand names of eggs, egg products, spent fowl, and products of spent fowl or use unfair or deceptive acts or practices with respect to quality, value, or use of any competing product.

## § 1250.346

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### EXPENSES AND ASSESSMENTS

#### § 1250.346 Expenses.

The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. The total costs incurred by the Board for a fiscal period in collecting producer assessments and having an administrative staff shall not exceed an amount of the projected total assessments to be collected by the Board for such fiscal period that the Secretary determines to be reasonable. The funds to cover such expenses shall be paid from assessments received pursuant to § 1250.347.

[40 FR 59190, Dec. 22, 1975, as amended at 54 FR 100, Jan. 4, 1989, and 54 FR 11493, Mar. 21, 1989]

#### § 1250.347 Assessments.

Each handler designated in § 1250.349 and pursuant to regulations issued by the Board shall collect from each producer, except for those producers specifically exempted in § 1250.348, and shall pay to the Board at such times and in such manner as prescribed by regulations issued by the Board an assessment at a rate not to exceed 10 cents per 30-dozen case of eggs, or the equivalent thereof, for such expenses and expenditures, including provisions for a reasonable reserve and those administrative costs incurred by the Department of Agriculture after this subpart is effective, as the Secretary finds are reasonable and likely to be incurred by the Board and the Secretary under this subpart, except that no more than one such assessment shall be made on any case of eggs.

[59 FR 64560, Dec. 15, 1994]

#### § 1250.348 Exemptions.

The following shall be exempt from the specific provisions of the Act:

(a) 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. The aggregate

number of laying hens owned by a trust or similar entity shall be considered ownership by the beneficiaries of the trust or other entity. Ownership of laying hens by an egg producer also shall include the following:

(1) 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;

(2) 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

(3) 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. Stock or other beneficial interest in an entity that is held by the following shall be considered as held by the producer:

(i) Members of the producer's family described in paragraph (a)(1);

(ii) A general partnership or similar entity in which the producer is a partner or equity participant;

(iii) The partners or equity participants in an entity of the type described in (a)(3)(ii); or

(iv) A corporation, joint stock company, association, cooperative, limited partnership, or other similar entity in which the producer holds 50 percent or more of the stock or other beneficial interests.

(b) Any egg producer owning a flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.

(c) In order to qualify for exemption from the provisions of the Act under this section, producers claiming such exemption must comply with § 1250.530 regarding certification of exempt producers and other such regulations as may be prescribed by the Secretary as a condition to exemption from the provisions of the Act under this section.

[55 FR 6973, Feb. 28, 1990, as amended at 59 FR 38876, Aug. 1, 1994]