

Public Law 93-428

AN ACT

October 1, 1974
[H. R. 12000]

To enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this Act shall be known as the "Egg Research and Consumer Information Act."

Egg Research
and Consumer In-
formation Act.
7 USC 2701
note.

LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

7 USC 2701.

SEC. 2. Eggs constitute one of the basic, natural foods in the diet. They are produced by many individual egg producers throughout the United States. Egg products, spent fowl, and products of spent fowl are derivatives of egg production. These products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of these products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of egg producers and those concerned with marketing, using, and processing eggs as well as the general economy of the Nation. The production and marketing of these products by numerous individual egg producers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary for the maintenance of markets and the development of new products of, and markets for, eggs, egg products, spent fowl, and products of spent fowl. Without an effective and coordinated method for assuring cooperative and collective action in providing for and financing such programs, individual egg producers are unable to provide, obtain, or carry out the research, consumer and producer information, and promotion necessary to maintain and improve markets for any or all of these products.

It has long been recognized that it is in the public interest to provide an adequate, steady supply of fresh eggs readily available to the consumers of the Nation. Maintenance of markets and the development of new markets, both domestic and foreign, are essential to the egg industry if the consumers of eggs, egg products, spent fowl, or products of spent fowl are to be assured of an adequate, steady supply of such products.

It is therefore declared to be the policy of the Congress and the purpose of this Act that it is essential and in the public interest, through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development and the financing through an adequate assessment, an effective and continuous coordinated program of research, consumer and producer education, and promotion designed to strengthen the egg industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for eggs, egg products, spent fowl, and products of spent fowl of the United States. Nothing in this Act shall be construed to mean, or provide for, control of production or otherwise limit the right of individual egg producers to produce commercial eggs.

DEFINITIONS

7 USC 2702.

SEC. 3. As used in this Act—

(a) The term "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(c) The term "commercial eggs" "or eggs" means eggs from domesticated chickens which are sold for human consumption either in shell egg form or for further processing into egg products.

(d) The term "hen" or "laying hen" means a domesticated female chicken twenty weeks of age or over, raised primarily for the production of commercial eggs.

(e) The term "egg producer" means the person owning laying hens engaged in the production of commercial eggs.

(f) The term "case" means a standard shipping package containing thirty dozen eggs.

(g) The term "hatching eggs" means eggs intended for use by hatcheries for the production of baby chicks.

(h) The term "United States" means the forty-eight contiguous States of the United States of America and the District of Columbia.

(i) The term "promotion" means any action, including paid advertising, to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(j) The term "research" means any type of research to advance the image, desirability, marketability, production, or quality of eggs, egg products, spent fowl, or products of spent fowl.

(k) The term "consumer education" means any action to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(l) The term "marketing" means the sale or other disposition of commercial eggs, egg products, spent fowl, or products of spent fowl, in any channel of commerce.

(m) The term "commerce" means interstate, foreign, or intrastate commerce.

(n) The term "egg products" means products produced, in whole or in part, from eggs.

(o) The term "spent fowl" means hens which have been in production of commercial eggs and have been removed from such production for slaughter.

(p) The term "products of spent fowl" means commercial products produced from spent fowl.

(q) The term "hatchery operator" means any person engaged in the production of egg-type baby chicks.

(r) The term "started pullet" means a hen less than twenty weeks of age.

(s) The term "started pullet dealer" means any person engaged in the sale of started pullets.

(t) The term "handler" means any person, specified in the order or the rules and regulations issued thereunder, who receives or otherwise acquires eggs from an egg producer, and processes, prepares for marketing, or markets, such eggs, including eggs of his own production.

EGG RESEARCH AND PROMOTION ORDERS

7 USC 2703.

SEC. 4. To effectuate the declared policy of this Act, the Secretary shall, subject to the provisions of this Act, issue and from time to time amend, orders applicable to persons engaged in the hatching and/or

sale of egg-type baby chicks and started pullets, persons engaged in the production of commercial eggs and persons who receive or otherwise acquire eggs from such persons and who process, prepare for market, or market such eggs, including eggs of their own production, and persons engaged in the purchase, sale or processing of spent fowl. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

NOTICE AND HEARING

SEC. 5. Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this Act, he shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 16 of this Act, or by any interested person affected by the provisions of this Act, including the Secretary.

7 USC 2704.

FINDING AND ISSUANCE OF AN ORDER

SEC. 6. After notice and opportunity for hearing as provided in section 5, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this Act.

7 USC 2705.

PERMISSIVE TERMS IN ORDERS

SEC. 7. Orders issued pursuant to this Act shall contain one or more of the following terms and conditions, and except as provided in section 8, no others.

7 USC 2706.

(a) Providing for the establishment, issuance, effectuation, and administration of appropriate plans 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, and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such plan or project shall be directed toward increasing the general demand for eggs, egg products, spent fowl, or products of spent fowl. No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against eggs, egg products, spent fowl, or products of spent fowl of other persons: *And provided further,* That no such advertising, consumer education, or sales promotion programs shall make use of unfair or deceptive acts or practices in behalf of eggs, egg products, spent fowl, or products of spent fowl or unfair or deceptive acts or practices with respect to quality, value, or use of any competing product.

Advertising, sales projects, and consumer education, plans.

Private brand or trade name, prohibition of use.

Unfair or deceptive acts.

(b) Providing for, establishing, and carrying on 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, 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 and for the disbursement of necessary funds for such purposes.

Research, marketing, and development projects.

(c) Providing that hatchery operators, persons engaged in the sale of egg-type baby chicks and started pullet dealers, persons engaged in the production of commercial eggs and persons who receive or otherwise acquire eggs from such persons and who process, prepare

Recordkeeping, availability of data.

Confidential
information.

Violation, pen-
alty.

Terms and con-
ditions.

7 USC 2707.
Egg Board,
Establishment,
membership.

Terms.

for market, or market such eggs, including eggs of their own production, and persons engaged in the purchase, sale, or processing of spent fowl, maintain and make available for the inspection such books and records as may be required by any order issued pursuant to this Act and for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data shall be made available to the Egg Board and to the Secretary which is appropriate or necessary to the effectuation, administration or enforcement of the Act, or of any order or regulation issued pursuant to this Act: *Provided, however,* That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture, the Egg Board, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by direction of the Secretary, of general statements relating to refunds made by the Egg Board during any specific period, or (3) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provision of this subsection shall, upon conviction, be subjected to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and if an officer or employee of the Egg Board or Department of Agriculture shall be removed from office.

(d) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this Act and necessary to effectuate the other provisions of such order.

REQUIRED TERMS IN ORDERS

SEC. 8. Orders issued pursuant to this Act shall contain the following conditions: (a) Providing for the establishment and appointment, by the Secretary, of an Egg Board which shall consist of not more than eighteen members, and alternates therefor, and defining its powers and duties which shall include only the powers (1) to administer such order in accordance with its terms and provisions, (2) to make rules and regulations to effectuate the terms and provisions of such order, (3) to receive, investigate and report to the Secretary complaints of violations of such order, and (4) to recommend to the Secretary amendments to such order. The term of an appointment to the Egg Board shall be for two years with no member serving more than three consecutive terms, except that initial appointment shall be proportionately for two-year and three-year terms.

(b) Providing that the Egg Board, and alternates therefor, shall be composed of egg producers or representatives of egg producers appointed by the Secretary from nominations submitted by eligible organizations, associations, or cooperatives, and certified pursuant to section 16, or, if the Secretary determines that a substantial number of egg producers are not members of or their interests are not represented by any such eligible organizations, associations or cooperatives, then from nominations made by such egg producers in the manner

authorized by the Secretary, so that the representation of egg producers on the Board shall reflect, to the extent practicable, the proportion of eggs produced in each geographic area of the United States as defined by the Secretary: *Provided, however*, That each such egg producing geographic area shall be entitled to at least one representative on the Egg Board.

(c) Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising, sales promotion, consumer education, research, and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

Plans or projects, submittal to Secretary.

(d) Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising, promotion, consumer education, research, and development projects.

Budgets, submittal to Secretary.

(e) Providing that each egg producer shall pay to the handler of eggs designated by the order of the Egg Board pursuant to regulations issued under the order, an assessment based upon the number of cases of commercial eggs handled for the account of such producer, in the manner as prescribed by the order, for such expenses and expenditures—including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this Act—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. The rate of assessment prescribed by the order shall not exceed 5 cents per case of commercial eggs or the equivalent thereof. 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.

Assessment payments to egg handlers.

Rate limitation.

(f) 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.

Recordkeeping; reports to Secretary.

(g) 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 7 (a) and (b) 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.

Contracts or agreements.

Recordkeeping reports to Egg Board.

Collected funds,
use restriction.

(h) 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.

Expenses, re-
imbursement.

(i) Providing 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.

REQUIREMENT OF REFERENDUM AND EGG PRODUCER APPROVAL

7 USC 2708.

SEC. 9. 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 Act 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.

SUSPENSION AND TERMINATION OF ORDERS

7 USC 2709.

SEC. 10. (a) The Secretary shall, whenever he finds that any order issued under this Act, or any provisions thereof, obstructs or does not tend to effectuate the declared policy of this Act, terminate or suspend

States and may be recovered in a civil suit brought by the United States: *Provided*, That (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies provided now or hereafter existing at law or in equity.

CERTIFICATION OF ORGANIZATIONS

7 USC 2715.

SEC. 16. The eligibility of any organization to represent commercial egg producers of any egg producing area of the United States to request the issuance of an order under section 5, and to participate in the making of nominations under section 8(b) shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

Report.

(a) Geographic territory covered by the organization's active membership,

(b) Nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of commercial eggs, a chart showing the egg production by State in which the organization has members, and the volume of commercial eggs produced by the organization's active membership in each such State,

(c) The extent to which the commercial egg producer membership of such organization is represented in setting the organization's policies,

(d) Evidence of stability and permanency of the organization,

(e) Sources from which the organization's operating funds are

PRODUCER REFUND

SEC. 13. Notwithstanding any other provisions of this Act, any egg producer against whose commercial eggs any assessment is made and collected from him under authority of this Act and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Egg Board a refund of such assessment: *Provided*, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than ninety days after the end of the month in which the assessments are due and collectable, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

7 USC 2712.

PETITION AND REVIEW

SEC. 14. (a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provisions of such order or any obligations imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

7 USC 2713.

Hearing.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 15(a) of this Act.

Jurisdiction.

ENFORCEMENT

SEC. 15. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this Act. Any civil action authorized to be brought under this Act shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this Act shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this Act whenever he believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

7 USC 2714.

Civil action,
referral to At-
torney General.

(b) Any egg producer or other person who willfully violates any provision of any order issued by the Secretary under this Act, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not more than \$1,000 for each such offense which shall accrue to the United

Violation,
penalty.

States and may be recovered in a civil suit brought by the United States: *Provided*, That (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies provided now or hereafter existing at law or in equity.

CERTIFICATION OF ORGANIZATIONS

7 USC 2715.

Report.

SEC. 16. The eligibility of any organization to represent commercial egg producers of any egg producing area of the United States to request the issuance of an order under section 5, and to participate in the making of nominations under section 8(b) shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) Geographic territory covered by the organization's active membership,

(b) Nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of commercial eggs, a chart showing the egg production by State in which the organization has members, and the volume of commercial eggs produced by the organization's active membership in each such State,

(c) The extent to which the commercial egg producer membership of such organization is represented in setting the organization's policies,

(d) Evidence of stability and permanency of the organization,

(e) Sources from which the organization's operating funds are derived,

(f) Functions of the organization, and

(g) The organization's ability and willingness to further the aims and objectives of this Act: *Provided, however*, That the primary consideration in determining the eligibility of an organization shall be whether its commercial egg producer membership consists of a substantial number of egg producers who produce a substantial volume of commercial eggs. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final. Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 8(b).

REGULATIONS

7 USC 2716.

SEC. 17. The Secretary is authorized to make regulations with force and effect of law, as may be necessary to carry out the provisions of this Act and the powers vested in him by this Act.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

7 USC 2717.

SEC. 18. The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this Act or to determine whether an egg producer, processor, or other seller of commercial eggs or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this Act, or of any order, or rule or regulation issued under this Act. For the purpose of such investigation,

the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, including an egg producer, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

SEPARABILITY

SEC. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

7 USC 2701
note.

AUTHORIZATION

SEC. 20. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Egg Board in administering any provisions of any order issued pursuant to the terms of this Act.

7-USC 2718.

Expense pay-
ments to Egg
Board, prohibi-
tion.

EFFECTIVE DATE

SEC. 21. This Act shall take effect upon enactment.
Approved October 1, 1974.

7 USC 2701
note.

Public Law 93-429

AN ACT

To designate certain lands in the Okefenokee National Wildlife Refuge, Georgia, as wilderness.

October 1, 1974
[H. R. 6395]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892), certain lands in the Okefenokee National Wildlife Refuge, Georgia, which comprise about three hundred forty-three thousand eight hundred and fifty acres and which are depicted on a map entitled "Okefenokee Wilderness Proposal" dated October 1967, revised March 1971, are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of United States Fish and Wildlife Service, Department of the Interior.

Okefenokee
Wilderness, Ga.
Designation.
16 USC 1132.