

Agricultural Marketing Service, USDA

§ 1250.516

otherwise utilize funds allocated by the Egg Board shall be subject to the provisions of this subpart.

§ 1250.508 Procedure.

The organization of the Egg Board and the procedure for conducting meetings of the Board shall be in accordance with the By-Laws of the Board.

§ 1250.509 USDA costs.

Pursuant to §1250.347 of the Order, the Board shall pay those administrative costs incurred by the U.S. Department of Agriculture for the conduct of its duties under the Order as determined periodically by the Secretary. Payment shall be due promptly after the billing for such costs.

§ 1250.510 Determination of Board Membership.

(a) Pursuant to §1250.328 (d) and (e) of the Order, the 48 contiguous States of the United States shall be grouped into 6 geographic areas, as follows: Area 1 (North Atlantic States)—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; Area 2 (South Atlantic States)—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina; Area 3 (East North Central States)—Kentucky, Michigan, Missouri, Ohio, Tennessee; Area 4 (West North Central States)—Colorado, Idaho, Illinois, Indiana, Minnesota, Montana, North Dakota, South Dakota, Wisconsin, Wyoming; Area 5 (South Central States)—Iowa, Kansas, Nebraska; Area 6 (Western States)—Arizona, California, Nevada, New Mexico, Oregon, Texas, Utah, and Washington.

(b) Board representation among the 6 geographic areas is apportioned to reflect the percentages of United States egg production in each area times 18 (total Board membership). The distribution of members of the Board is:

Area 1-3, Area 2-3, Area 3-3, Area 4-3, Area 5-3, and Area 6-3. Each member will have an alternate appointed from the same area.

[71 FR 41727, July 24, 2006]

ASSESSMENTS, COLLECTIONS, AND REMITTANCES

§ 1250.514 Levy of assessments.

An assessment rate of 10 cents per case of commercial eggs is levied on each case of commercial eggs handled for the account of each producer. Each case of commercial eggs shall be subject to assessment only once. Producers meeting the requirements of §1250.348 are exempt from the provisions of the Act including this section.

[55 FR 6974, Feb. 28, 1990, as amended at 59 FR 64560, Dec. 15, 1994]

§ 1250.515 Reporting period and payment.

(a) For the purpose of the payment of assessments, either a calendar month or a 4-week accounting period shall be considered the reporting period; however, other accounting periods may be used when approved by the Board on an individual basis. Each collecting handler shall register his reporting period with the Board. All changes in reporting periods shall be requested in writing and subject to approval by the Board.

(b) Each producer shall pay the required assessment on his commercial eggs pursuant to §1250.514 to the collecting handler designated in §1250.516 on or before the date of final settlement between the producer and the collecting handler for the eggs received by the collecting handler during each reporting period.

§ 1250.516 Collecting handlers and collection.

(a) Handlers responsible for collecting the assessments shall be any of the following:

(1) The first person to whom eggs are sold, consigned, or delivered by producers and who grades, cartons, or breaks such eggs. Such shell egg breaker or egg packer must collect and remit to the Board the assessments on all eggs handled except eggs for which there is a certification of exemption or eggs for which there is a statement indicating that an assessment has already been paid;

(2) A person who buys or receives nest run eggs from a producer and who does not grade, carton, or break such

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eggs. Such person shall collect the assessment from the producer and remit to the Egg Board on all such eggs, except for which there is a certification of exemption or eggs for which there is a statement indicating that an assessment has already been paid;

(3) Except as otherwise provided in paragraph (a)(4) of this section, a producer who grades, cartons, or breaks eggs of his own production shall be responsible for remitting the assessment to the Board on all eggs produced. This would include the eggs which he grades, cartons, or breaks as well as the nest run eggs which are graded, cartoned, or broken by another handler. Such a producer who remits the assessment on nest run eggs to the Board shall provide the handler specified in paragraph (a) (1) or (2) of this section with a written statement that the assessment has already been paid on the nest run eggs; or

(4) Upon approval of the Board, any person who handles eggs for a producer under a written contract that includes express provisions that said handler will remit the assessment on such eggs to the Board shall be the collecting handler notwithstanding the fact that the producer may have graded, cartoned, or otherwise processed the eggs.

Following are some examples to aid in identification of collecting handlers:

(i) Producer sells, assigns, consigns, or otherwise delivers nest run eggs of his own production to a shell egg packer or breaker for preparation for market—the shell egg packer or breaker is the collecting handler and is responsible for remitting to the Egg Board;

(ii) Producer grades, cartons, breaks, or otherwise prepares for marketing a portion of the eggs of his own production and delivers the remaining portion of his nest run eggs to a shell egg packer or breaker—the producer is the collecting handler and shall remit the assessment on his total production to the Board;

(iii) Producer sells all or a portion of his eggs in nest run form to a handler who is not a shell egg packer or breaker—the handler is responsible for collecting the assessment and remitting it to the Egg Board except for eggs cov-

ered by a statement indicating that an assessment has already been paid;

(iv) A shell egg packer or breaker who buys or receives nest run eggs from a handler who is not a shell egg packer or breaker—the handler is the collecting handler and shall remit such assessment to the Board;

(v) A shell egg packer or egg breaker buys nest run or graded eggs including undergrade eggs from another shell egg packer or egg breaker—the first shell egg packer or breaker is the collecting handler and shall remit such assessments to the Board.

(b) In the event of a producer's death, bankruptcy, receivership, or incapacity to act, the representative of the producer or his estate, or the person acting on behalf of creditors, shall be considered the producer of the eggs for the purpose of this subpart.

(c) The collecting handler may collect the assessment directly from the producer or deduct the assessment from the proceeds due or paid to the producer on whose eggs the assessment is made.

[41 FR 22925, June 8, 1976, as amended at 42 FR 60724, Nov. 29, 1977]

§ 1250.517 Remittance to Egg Board.

(a) The collecting handler responsible for remittance of assessments to the Board is not relieved of this obligation as a result of his failure to collect payment of the assessment from the egg producer(s).

(b) Each collecting handler required to remit the assessments on the eggs handled during each reporting period, specified in § 1250.515(a), shall remit the assessments directly to the Egg Board by check, draft, or money order payable to the Egg Board on or before the 15th day after the end of said reporting period together with a report pursuant to § 1250.529. The assessment for each reporting period shall be calculated on the basis of the gross volume of eggs subject to assessment received by the collecting handler during each reporting period.

(c) Remittance through cooperating agency.

(1) In any State or specified geographic area the Egg Board, with the approval of the Secretary, may designate by agreement a cooperating