

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.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2712 of this title.

§ 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.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2712 of this title.

§ 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) of this section.

(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) of this section, 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.

(2) Stock or beneficial interests

For purposes of paragraph (1)(C), stock or other beneficial interest in an entity that is held by—

(A) members of the producer's family described in paragraph (1)(A);

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

(C) the partners or equity participants in an entity of the type described in subparagraph (B); or

(D) 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,

shall be considered as held by the producer.

(Pub. L. 93-428, §12, Oct. 1, 1974, 88 Stat. 1176; Pub. L. 101-220, §3(a), Dec. 12, 1989, 103 Stat. 1877; Pub. L. 103-188, §4, Dec. 14, 1993, 107 Stat. 2257.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103-188 substituted “75,000” for “30,000”.

1989—Pub. L. 101-220 amended section generally. Prior to amendment, section read as follows: “The following may be exempt from specific provisions of this chapter under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

“(a) Any egg producer whose aggregate number of laying hens at any time during a three-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded three thousand laying hens.

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

EGG PROMOTION AND RESEARCH ORDER

Section 3(b) of Pub. L. 101-220 provided that:

“(1) AMENDMENT.—The Secretary of Agriculture shall issue an amendment to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this section [amending this section]. Such amendment shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue a proposed amendment to such order not later than 30 days after the date of enactment of this Act [Dec. 12, 1989].

“(2) EFFECTIVE DATE.—The amendment to the egg promotion and research order required by paragraph (1) shall become effective no later than March 1, 1990, and shall not be subject to a referendum under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.).”

§ 2712. Refund of assessment from Egg Board

(a) Procedures

Notwithstanding any other provisions of this chapter except as provided in subsection (b) of this section, any egg producer against whose