

rules and regulations

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Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 28—COTTON CLASSING, TESTING AND STANDARDS

Revision in Fee

STATEMENT OF CONSIDERATION

Pursuant to the statutory authorities cited below, the fee relating to cotton classing, is hereby amended to reflect increased costs since the last adjustment in fee including the increase in Federal employees' salaries authorized by the Federal Employees Salary Act of 1970 (Pub. L. 91-231).

§ 28.910 [Amended]

Section 28.910 paragraph (b) is amended by changing the fee in the last sentence to \$1.35 per sheet.

(Sec. 10, 42 Stat. 1519, Sec. 3c, 50 Stat. 62; 7 U.S.C. 61, 473c.)

The need for this increased fee and the amount thereof are dependent upon facts within the knowledge of the Agricultural Marketing Service. Therefore, under the provisions of 5 U.S.C. 553, it is found that notice and other procedure with respect to these revisions are impracticable and unnecessary.

The conduct of all services and the licensing of inspection/grading/sampling personnel under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

Effective Date: This revision shall become effective July 1, 1976.

Dated: June 3, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc. 76-16585 Filed 6-7-76; 8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amtd. 22]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Child Nutrition Programs; Correction

In FR Doc. 76-13122 appearing on page 18426, in the issue for May 4, 1976, second column, second paragraph, the first sentence is revised to read as follows:

The provision in § 210.8(f) concerning a school participating in the Program

serving children from another school is deleted.

Effective date: This amendment shall become effective on April 30, 1976.

Dated: May 27, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc. 76-16451 Filed 6-7-76; 8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

PART 1250—EGG RESEARCH AND PROMOTION

Rules and Regulations

Under authority contained in the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) and the Egg Research and Promotion Order (40 FR 59190), the United States Department of Agriculture hereby issues rules and regulations to implement the terms and provisions of the Order.

STATEMENT OF CONSIDERATION

Notice of rulemaking regarding the rules and regulations for the Egg Research and Promotion Order was published in the April 13, 1976, Federal Register (41 FR 15418). The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining to the proposal not later than May 13, 1976.

Six letters containing comments on the proposal were filed with the Hearing Clerk, three of which offered general support for the proposed rules. One of the supporting letters requested a minor change. The three additional letters contained numerous comments in opposition to various provisions contained in the proposal and requested that certain changes be made in the proposed rules and regulations. These comments have been carefully reviewed and adopted in part as discussed below.

The purpose of these rules and regulations is to provide detailed provisions governing: (1) The rate of assessment and effective date; (2) the designation of collecting handlers; (3) the payment of U.S. Department of Agriculture administrative costs; (4) the content and submission of collecting handler reports; (5) the method to be used for obtaining producer refunds; and (6) the content and submission of producer and handler reports and records.

One comment suggested that the definition of "Egg products," § 1250.500(j), might allow for the promotion of products that are, in part, made of substitutes for components of a natural egg. The definition used in these rules and regulations is the same definition as used in section 2(n) of the enabling legislation approved by Congress. Further, the authority in the Act to provide for research, advertising, sales promotion, and consumer education programs to be undertaken by the Board is limited to increasing the general demand for eggs, egg products, spent fowl, and products of spent fowl, and does not authorize the use of assessment funds for the promotion of any other products.

Section 1250.514, Levy of assessment, establishes the rate of assessment and the initial date collection of assessment will begin. The section designates which eggs are assessable and exempt under the Order. One correspondent expressed concern that under this section owners of large flocks of breeder hens, whose production of eggs is primarily utilized for the hatching of baby chicks, would pay no assessment. The Egg Research and Consumer Information Act, in section 12(b), authorizes the exemption from payment of assessments of any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks. The Egg Research and Promotion Order specifically grants the exemption as authorized in the Act. Accordingly, the comment is denied since the regulations are to implement the Order provisions and cannot be used to change them. While the comment regarding § 1250.514 has been denied, the language in subsection (b) thereof has been modified slightly to clarify that the exemption applies only to eggs, of a producer, produced by a flock of breeding hens primarily for hatching purposes and does not apply to eggs produced for use as human food by other flocks of hens owned by the same producer. The words "producer owning a" were deleted from § 1250.514(b).

One comment received from a national egg association suggested § 1250.516(b) be broadened to cover the entire rules and regulations. It is the intent of § 1250.516(b) to provide that the successors to producers who die, go into bankruptcy, become incapacitated, or go into receivership assume the producer's liability under the Order and these rules. Therefore, the comment is adopted and the term "subpart" substituted in place of the specific section numbers previously cited.

Comments from two correspondents, both egg processors, referred to § 1250.517(a) suggesting that it is unfair to require the collecting handler to remit the assessment to the Egg Board prior to actual collection of the payment from the egg producer. One processor proposed that this section be stricken from the rules and further proposed that egg producers not paying assessments be penalized.

Section 8(e) of the Egg Research and Consumer Information Act establishes the egg handler as the person responsible for collecting the assessment from the producer and remitting the assessment to the Egg Board. The collecting handler, however, is not without recourse in the collection of the assessment. Under § 1250.516(c), the collecting handler has the authority to deduct the assessments from proceeds or payments due the producer or to collect the assessments directly from the producer. Further, § 1250.515(b) of the rules and regulations obligates eligible producers to pay the assessment to the collecting handler on or before the date of final settlement. In addition, section 15 of the Act authorizes legal action against egg producers as well as collecting handlers to enforce the provisions of the Act, including the obligation of producers to pay assessments and to penalize egg producers and other persons for willful violations of the Act. For these reasons, the requests to delete § 1250.517(a) or to add penalty provisions to these rules and regulations are not adopted.

The second correspondent stated a general opposition to various other sections of the rules dealing with collecting handlers, in particular: § 1250.516, Collecting handlers and collection; § 1250.518, Receipts for payment of assessments; § 1250.535, Retention of records; and § 1250.537, Confidentiality. The egg processor cited these sections as burdensome and costly for the collecting handler to administer, and requested that the rules be amended to defray the administrative costs incurred by the collecting handler. This comment is not adopted.

To the extent that records of a collecting handler are available for review by the Egg Board or its agents or representatives, the confidentiality of the information contained therein is well protected by the Act which provides criminal penalties for the unauthorized release of such information.

With respect to the sections challenged regarding collecting of assessments, receipts and retention of records, the rules and regulations do no more than implement procedures, set forth in the Act and Order, which are necessary to the operation of the program. While certain costs may be incurred by collecting handlers in performing their required responsibilities, such egg handlers are also likely to benefit from the program if egg consumption increases. Thus, the costs incurred could be offset, at least in part. Finally, the Order does not contemplate the reimbursement of collecting handler costs; therefore, to the extent such costs are incurred, the rules and regulations

cannot provide for their reimbursement.

The correspondent opposed § 1250.509, USDA costs, stating both taxpayers' money and Egg Research and Promotion money would support the program. One other correspondent expressed concern that these costs would not be made public. The intent of section 8 (e) of the Act is that USDA costs for the administration of this program will be covered by producers, not from taxpayers' funds. Additionally, paragraph (g) of § 1250.336, Duties, provides for an annual public accounting of funds received and expended by the Egg Board, including USDA administrative expenses. Accordingly, both comments are not adopted.

Producers exempt from the payment of the assessment are required to file with their egg handlers certificates reporting their name and type of exemptions in § 1250.530. One correspondent opposed this section because of costs involved in the printing and approval of certificates. It was intended that these exempt certificates be drafted and printed by the Egg Board and not by the collecting handlers. The collecting handler will get the certificates from the Egg Board and provide them to the exempt producers. To clarify this situation, the second sentence of this section has been changed. Also, to insure prompt notification to collecting handlers of the loss of exemption, the words "within 10 days" were added to the last sentence of this section.

One correspondent proposed that a section be added to the regulations prohibiting members, alternate members, employees, or agents of the Board from engaging in "conflict of interest" activities. Such activities, however, were left undefined. This proposal is not adopted.

The Order program is designed for the benefit of egg producers through the promotion of eggs, egg products, spent fowl, and products of spent fowl. Therefore, all egg producers including those who serve as Egg Board members and alternates will necessarily benefit from the programs undertaken by the Egg Board pursuant to the Order provisions. In addition, all proposed projects to be undertaken by the Egg Board are subject to review and approval by the Secretary of Agriculture. Approval by the Secretary will not be forthcoming if it is determined that a particular project would not be in the best interest of egg producers. Finally, all Egg Board members and alternates are appointed by the Secretary. Accordingly, if there is any reason to believe that a particular individual will not serve in the best interest of egg producers, the Secretary would consider this when reviewing the qualifications of this potential Board member.

In addition to the changes discussed above, the definition of "Egg breaker," § 1250.500(aa), has been modified by the inclusion of a reference to the Egg Products Inspection Act. This change is of a clarifying nature and is made to insure that persons considered to be egg breakers in these regulations are limited to persons subject to the provisions of the Egg Products Inspection Act. Addition-

ally, a new definition has been added for "Nest run eggs" to clarify the term as used in connection with provisions relating to the collecting handler. The definition states that eggs packed as they come from the production facilities, not sized and/or candled for quality, washed or unwashed, are "nest run," and is substantially the same as the definition for nest run eggs in 7 CFR Part 56, Regulations Governing the Grading of Shell Eggs and United States Standards, Grades, and Weight Classes for Shell Eggs.

To encourage the submission of only a single refund application by any producer for all assessments paid during a month and to facilitate prompt processing of requests by the Board, the wording of requests by the Board, the wording of the last phrase of the second sentence of § 1250.523(a)(6) was changed to read "... but only a single refund request should be made for all assessments paid within a single calendar month."

The Act and the Order contain specific requirements that refund provisions be provided for those egg producers not desiring to participate in the program. To clarify the last date refund applications may be submitted, the word "submitted" in § 1250.523(b) was changed to "mailed," thereby enabling the egg producer the full 90 days for submission of refund applications.

To provide for the use of patents, copyrights, trademarks, and information accruing from plans or projects undertaken by the Board, § 1250.542 was modified to include the words "copyrights, trademarks, and information," which had been inadvertently omitted. To conform the language of the patents section to these additions, reference to the "Presidential Statement of Government Patent Policy, 36 FR 16887, August 26, 1971," which refers only to patents, was deleted.

After consideration of all relevant matters, including the proposal set forth in the notice of rulemaking and the comments received in response thereto, the rules and regulations are hereby adopted as published in the notice except to the extent that certain modifications have been made in accordance with the comments adopted above and other clarifying and minor editorial changes.

Part 1250 subpart Rules and Regulations is amended to read as set forth below:

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REFUNDS

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1250.528 Registration of collecting handlers.
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RECORDS

- 1250.535 Retention of records.
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PATENTS, COPYRIGHTS, TRADEMARKS, AND INFORMATION

- 1250.542 Patents, copyrights, trademarks, and information.

PERSONAL LIABILITY

- 1250.547 Personal liability.

RIGHT OF THE SECRETARY

- 1250.552 Right of the Secretary.

AUTHORITY: Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.).

Subpart—Rules and Regulations

DEFINITIONS

§ 1250.500 Terms defined.

Unless otherwise defined in this subpart, definitions of terms used in this subpart shall be those definitions of terms defined in the Egg Research and Consumer Information Act, hereinafter called the Act, and the Egg Research and Promotion Order, hereinafter called the Order.

(a) Act. "Act" means the Egg Research and Consumer Information Act as it may be amended (Pub. L. 93-428).

(b) Secretary. "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.

(c) Egg Board or Board. "Egg Board" or "Board" or other designatory term adopted by such Board, with the approval of the Secretary, means the administrative body established pursuant to § 1250.326.

(d) Fiscal period. "Fiscal period" means the calendar year unless the Egg Board, with the approval of the Secretary, selects some other budgetary period.

(e) Egg producer or producer. "Egg producer" or "producer" means any person who either:

(1) Is an egg farmer who acquires and owns laying hens, chicks, and/or started pullets for the purpose of and is engaged in the production of commercial eggs; or

(2) Is a person who supplied or supplies laying hens, chicks, and/or started pullets to an egg farmer for the purpose of producing commercial eggs pursuant to an oral or written contractual agreement for the production of commercial eggs. Such person is deemed to be the owner of such laying hens unless it is established in writing, to the satisfaction of the Secretary or the Egg Board, that actual ownership of the laying hens is in some other party to the

contract. In the event the party to an oral contract who supplied or supplies the laying hens cannot be readily identified by the Secretary or the Egg Board, the person who has immediate possession and control over the laying hens at the egg production facility shall be deemed to be the owner of such hens unless written notice is provided to the Secretary or the Egg Board, signed by the parties to said oral contract, clearly stating that the eggs are being produced under a contractual agreement and identifying the party (or parties) under said contract who is the owner of the hens.

(f) Commercial eggs or eggs. "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.

(g) Person. "Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(h) Handle. "Handle" means to grade, carton, process, transport, purchase, or in any way place eggs or cause eggs to be placed in the current of commerce. Such term shall not include the washing, the packing in cases, or the delivery by the producer of his own nest run eggs.

(i) Handler. "Handler" means any person 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.

(j) Egg products. "Egg products" means products produced, in whole or in part, from eggs.

(k) Cooperating agency. "Cooperating agency" means any person with which the Egg Board has entered into an agreement pursuant to § 1250.517(c).

(l) Case. "Case" means the standard shipping package containing 30-dozen eggs or the equivalent thereof.

(m) Plans and projects. "Plans" and "projects" mean those research, consumer and producer education, advertising, marketing, product development, and promotion plans, studies, or projects pursuant to § 1250.341.

(n) Representative of a producer. "Representative of a producer" means the owner, officer, or an employee of a producer who has been duly authorized to act in the place and stead of the producer.

(o) Hen or laying hen. "Hen" or "laying hen" means a domesticated female chicken 20 weeks of age or over, raised primarily for the production of commercial eggs.

(p) Hatching eggs. "Hatching eggs" means eggs intended for use by hatcheries for the production of baby chicks.

(q) United States. "United States" means the 48 contiguous States of the United States of America and the District of Columbia.

(r) Promotion. "Promotion" means any action, including paid advertising, to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(s) Research. "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, or the evaluation of such research.

(t) Consumer education. "Consumer education" means any action to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl.

(u) Marketing. "Marketing" means the sale or other disposition of commercial eggs, egg products, spent fowl, or products of spent fowl, in any channel of commerce.

(v) Commerce. "Commerce" means interstate, foreign, or intrastate commerce.

(w) Spent fowl. "Spent fowl" means hens which have been in production of commercial eggs and have been removed from such production for slaughter.

(x) Products of spent fowl. "Products of spent fowl" means commercial products produced from spent fowl.

(y) Started pullet. "Started pullet" means a hen less than 20 weeks of age.

(z) Shell egg packer. "Shell egg packer" means any person grading eggs into their various qualities.

(aa) Egg breaker. "Egg breaker" means any person subject to the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) engaged in the breaking of shell eggs or otherwise involved in preparing shell eggs for use as egg products.

(bb) Nest run eggs. "Nest run eggs" means eggs which are packed as they come from the production facilities without having been sized and/or candled with the exception that some checks, dirties, or obvious undergrades may have been removed and provided further that the eggs may have been washed.

GENERAL

§ 1250.505 Communications.

Communications in connection with the Order shall be addressed to the Egg Board at its business address.

§ 1250.506 Policy and objective.

(a) It shall be the policy of the Egg Board to carry out an effective and continuous coordinated program of research, consumer and producer education, advertising, 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.

(b) It shall be the objective of the Egg Board to carry out programs and projects which will provide maximum benefit to the egg industry and no undue preference shall be given to any of the various industry segments.

§ 1250.507 Contracts.

The Egg Board, with the approval of the Secretary, may enter into contracts with persons for the development and submission to it of plans or projects authorized by the Order and for carrying out of such plans or projects. Contractors shall agree to comply with the pro-

visions of the Order, this subpart, and applicable provisions of the U.S. Code relative to contracting with the U.S. Department of Agriculture. Subcontractors who enter into contracts or agreements with a primary contractor and who receive or 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.

ASSESSMENTS, COLLECTIONS, AND REMITTANCES

§ 1250.514 Levy of assessments.

An assessment of 5 cents per case of commercial eggs, or such lesser amount as set by the Board and approved by the Secretary, hereinafter called the assessment, is hereby levied on each case of commercial eggs handled for the account of each producer on and after August 1, 1976; except that the following shall be exempt from the provisions of this section: (a) any egg producer whose aggregate number of laying hens at any time during the 3-consecutive-month period immediately prior to the month in which assessments are due and payable has not exceeded 3,000 laying hens, and (b) any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks. Each case of commercial eggs shall be subject to assessment only once.

§ 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 eggs. Such person shall collect the assessment from the producer and remit to the Egg Board;

(3) Except as otherwise provided in paragraph (4) of this section, a producer who grades, cartons, or breaks eggs of his own production. Such producer shall be responsible for remitting the assessment to the Board on that portion of his eggs which he grades, cartons, or breaks. For the remaining nest run eggs, the handler specified in (1) or (2) is the collecting handler; 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: (a) 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; (b) 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 for that portion of the eggs he grades himself and the shell egg packer or breaker receiving the other portion of his nest run eggs is the collecting handler for that portion of the eggs he receives; (c) 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; (d) 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; (e) 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.

§ 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 agency to collect the assessments in its behalf. Every collecting handler within such a State or geographic area shall remit the assessments for each reporting period, specified in § 1250.515(a), to the designated cooperating agency by check, draft, or money order payable to said cooperating agency on or before the 15th day after the end of said reporting period together with a report pursuant to § 1250.529.

(2) On or before the 20th day after the end of each reporting period, each designated cooperating agency shall remit to the Egg Board the total amount of all assessments received from collecting handlers for said reporting period together with all collecting handler reports. In addition, each designated cooperating agency shall submit to the Egg Board such information as is required by the designation agreement with the Egg Board.

§ 1250.518 Receipts for payment of assessments.

(a) Each collecting handler shall give each producer whose eggs are subject to assessment a receipt for the commercial eggs handled by said collecting handler showing payment of the assessment. This receipt may be on a separate receipt form or included as part of the invoice or settlement sheet for the eggs, but in either event shall contain the following information:

(1) Name, address, and identification number of the collecting handler;

(2) Name and address of the producer who paid the assessment;

(3) Number of cases of eggs on which assessment was paid and the total amount of the assessment; and

(4) Date on which assessment was paid by producer.

(b) All eggs sold, consigned, or delivered from a collecting handler to another handler, excluding cartoned eggs

and loose graded eggs sold to bakeries, restaurants, and institutions, shall be accompanied with the collecting handler's written statement that the assessment on the lot of eggs covered by the invoice has been paid or that lot of eggs or portion thereof is exempt from assessment under provisions of § 1250.514.

REFUNDS

§ 1250.523 Procedure for obtaining refunds.

Each egg producer against whose eggs an assessment was levied and collected may obtain a refund of the assessment amount for any calendar month in the following manner:

(a) Every refund request must be made by submitting to the Egg Board a completed Egg Board refund application form. The refund application form shall be obtained by written request to the Egg Board and shall require the following information:

- (1) Producer's name and address;
- (2) Collecting handler's names, addresses, and identification numbers;
- (3) Number of cases of eggs on which refund is requested and the total amount of refund requested;
- (4) Dates or inclusive dates on which assessments were paid;
- (5) The producer's signature or witnessed mark; and
- (6) The receipt given to the producer by the collecting handler pursuant to § 1250.518, or a copy thereof, or such other evidence of payment as is satisfactory to the Egg Board.

Separate refund applications must be filed for assessments paid in different calendar months, but only a single refund request should be made for all assessments paid within a single calendar month.

(b) Every refund application must be mailed to the Egg Board within 90 days after the end of the calendar month during which the assessment obligation was paid.

(c) Within 60 days following the date of receipt by the Egg Board of each properly executed refund application, and proof of payment of the assessment, the Egg Board shall remit the refund.

REGISTRATION, CERTIFICATION, AND REPORTS

§ 1250.528 Registration of collecting handlers.

All collecting handlers shall, prior to August 1, 1976, register with the Egg Board by filing a registration statement. Registered collecting handlers will receive an identification number which must appear on all required reports and official communications with the Egg Board. New businesses subject to this subpart beginning after August 1, 1976, shall register with the Egg Board within 30 days following the beginning of operations. The statement of registration shall include:

- (a) Name and complete address of the collecting handler;
- (b) Name of individual(s) responsible for filing reports with the Egg Board; and

(c) Type of reporting period desired.

§ 1250.529 Reports.

(a) Collecting handler reports.

(1) Each collecting handler shall make reports on forms made available or approved by the Egg Board. Each collecting handler shall prepare a separate report form each reporting period. Each report shall be mailed to the Egg Board within 15 days after the close of the reporting period and shall contain the following information:

- (i) Date of report;
- (ii) Reporting period covered by the report;
- (iii) Name and address of collecting handler and identification number;
- (iv) Total number of cases of eggs handled, total number of cases of eggs subject to collection of assessment, total number of cases of eggs exempt under § 1250.514 from collection of assessment, total number of cases of imported eggs handled, and total number of cases of eggs received from another handler and on which an assessment was already collected;
- (v) The names and addresses of producers subject to assessment supplying eggs to the handlers and number of cases of eggs received from each producer;
- (vi) Total amount of assessment due for eggs handled during the reporting period and remitted with the report; and
- (vii) Such other information as may be required by the Board.

(2) Collecting handler reports shall be filed each reporting period following registration until such time as the Egg Board is notified in writing that the collecting handler has ceased to do business. During reporting periods in which the collecting handler does not handle any eggs, his report form shall state "No Eggs Handled."

(b) The Egg Board may require all persons subject to section 7(c) of the Act to make reports as needed for the enforcement and administration of the Order and as approved by the Secretary.

§ 1250.530 Certification of exempt producers.

Egg producers not subject to the provisions of § 1250.514 shall file with all handlers to whom they sell eggs a statement certifying their exemption from the provisions of § 1250.514. Certification shall be made on forms approved and provided by the Egg Board to collecting handlers for use by exempt producers. The certification form shall be filed with each handler within 10 days after the first sale of eggs to such handler after August 1, 1976, and annually thereafter on or before January 1 as long as the producer continues to do business with the handler. A copy of the certificate of exemption shall be forwarded to the Egg Board by the handler within 30 days of receipt by him. The certificate shall list the following:

- (a) The name and address of the producer;
- (b) Basis for producer exemption; and
- (c) The signature of the producer.

If the exempt producer becomes subject to assessment pursuant to § 1250.514, he shall notify, within 10 days all handlers with whom he has filed a certificate of exemption.

RECORDS

§ 1250.535 Retention of records.

(a) Each person required to make reports pursuant to this subpart shall maintain and retain for at least 2 years beyond the fiscal period of their applicability:

- (1) One copy of each report submitted to the Egg Board;
- (2) Records of all exempt producers including certification of exemption as necessary to verify the address of each exempt producer; and
- (3) Such other records as are necessary to verify reports submitted to the Egg Board.

(b) Egg producers subject to § 1250.514 shall maintain and retain for at least 2 years beyond the fiscal period of their applicability:

- (1) Receipts, or copies thereof, for payment of assessments; and
- (2) Such records as are necessary to verify monthly levels of egg production.

§ 1250.536 Availability of records.

Each handler and egg producer subject to this subpart and all persons subject to section 7(c) of the Act shall make available for inspection and copying by authorized employees of the Egg Board and/or the Secretary during regular business hours, such information as is appropriate and necessary to verify compliance with this subpart.

§ 1250.537 Confidentiality.

All information obtained by officers and employees of the Department of Agriculture, the Egg Board, or any person under contract by the Egg Board or otherwise acting on behalf of the Egg Board from the books, records, and reports of persons subject to this subpart, and all information with respect to refunds of assessments made to individual producers, shall be kept confidential in the manner and to the extent provided in § 1250.353 of the Order.

PATENTS, COPYRIGHTS, TRADEMARKS, AND INFORMATION

§ 1250.542 Patents, copyrights, trademarks, and information.

Patents, copyrights, trademarks, and information accruing from work pursuant to any plan or project undertaken by any person on behalf of the Egg Board, financed by assessment funds or other revenues of the Egg Board, shall become property of the U.S. Government as represented by the Egg Board; and such patents, copyrights, trademarks, and information may be licensed subject to approval by the Secretary of Agriculture. Upon termination of the Order, the Egg Board shall transfer custody of all such patents, copyrights, trademarks, and information to the Secretary of Agriculture pursuant to the procedure provided for in § 1250.358 who shall utilize them in a manner that he deter-

mines to be in the best interest of egg producers. Funds generated from the use of patents, copyrights, trademarks, and information by the Egg Board will be considered income subject to the same fiscal budget, and audit control as the other funds of the Egg Board. Ownership of inventions made by employees of the Board shall be determined in accordance with Executive Order 10096.

PERSONAL LIABILITY

§ 1250.547 Personal liability.

No member, alternate member, employee, or agent of the Board in the performance of his duties with the Board shall be held personally responsible either individually or jointly with others, in anyway whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, by such member, alternate member, employee, or agent, except for acts of dishonesty or willful misconduct.

RIGHT OF THE SECRETARY

§ 1250.552 Right of the Secretary.

All fiscal matters, programs or projects, rules or regulations, reports, or other substantive action proposed and prepared by the Board shall be submitted to the Secretary for his approval.

It is hereby certified that the economic and inflationary effects of these rules have been carefully evaluated in accordance with Executive Order No. 11821.

Signed at Washington, D.C., on this 3rd day of June 1976, to become effective August 1, 1976.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc. 76-16586 Filed 6-7-76; 8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 2006—MANAGEMENT

Operations Review

There is hereby established under Chapter XVIII, Title 7, a new Subchapter Q—"Administration," Part 2006, "Management," Subparts A through S, in the Code of Federal Regulations. Subpart M, "Operations Review," of this new Part is being added to this Chapter XVIII to prescribe the general policies and procedures for performing evaluation of the Farmers Home Administration (FmHA) field operations in the administration of its program and training needs.

Inasmuch as this Subpart involves only internal departmental regulations entirely administrative in nature, public notice and procedure thereon is unnecessary. Accordingly, new Subpart M of Part 2006 is added as set forth below.

Subpart M—Operations Review

Sec.	
2006.601	General.
2006.602	Purposes of operations review.
2006.603	Responsibilities.
2006.604	Conducting operations reviews.

2006.605	Selection for case folders for review.
2006.606	Examination of other files.
2006.607	Preparation of Form FmHA 401-1, "Operations Review Questionnaire."
2006.608	Summary discussion with county office personnel.
2006.609	State summary report.
2006.610-2006.650	[Reserved].

Exhibit A—Table of Random Numbers.

AUTHORITY: (5 U.S.C. 301, delegation of authority by the Secretary of Agriculture; 7 CFR 2.23, delegation of authority by Assistant Secretary for Rural Development, 7 CFR 2.70)

Subpart M—Operations Review

§ 2006.601 General.

This Instruction prescribes general policies and procedures for performing reviews of Farmers Home Administration (FmHA) operations in State and County Offices.

(a) *Review by National Office teams.* A review team of 4-8 selected individuals under the direction of the National Office Operations Review Staff will make an annual review in each State.

(b) *Review by State Office staff.* State Office program personnel, Office Management Assistants (OMA), and District Directors, as assigned by the State Director, will make annual reviews in each district.

(c) *Review by District Directors.* District Directors will review annually one-third of the County Offices under their jurisdiction.

§ 2006.602 Purposes of operations review.

The operations review will be used as an aid to effective management of FmHA programs. Primary purposes are to:

- Determine the extent of compliance with basic loanmaking and servicing policies.
- Indicate existing or potential program deficiencies or irregularities.
- Help determine training needs.
- Indicate counties or program operations needing special attention by District, State, and National Office personnel.

(e) Identify the activities of effective County Office personnel to incorporate their methods into State and District training activities.

(f) Evaluate the efficiency of program administration in State, District, and County Offices.

§ 2006.603 Responsibilities.

(a) National Office Operations Review Staff will: (1) Plan and direct reviews of each State Office annually.

(2) Analyze state summary reports.

(3) Coordinate activities of various review groups.

(b) The State Director will insure that:

- Operations reviews are planned, conducted, and reported in an effective manner in the State in accordance with the provisions of this regulation.
- Each State Office plan of work includes plans for making the necessary operations reviews by the District Direc-

tors and State Office personnel annually.

(3) The results of reviews are considered during the annual evaluation discussions.

(4) Information obtained from operations reviews is analyzed and used to improve FmHA programs in the County, District, and State Offices.

(5) Necessary corrective actions are taken promptly on operational weaknesses disclosed by the operations reviews.

(c) District Directors will: (1) Perform an annual in-depth review in one-third of the County Offices in their district by completing Form FmHA 401-1, "Operations Review Questionnaire."

(2) Report serious problems immediately to the State Director.

(3) Hold a summary discussion with County Office personnel at the end of the review.

§ 2006.604 Conducting operations reviews.

(a) *Review by National Office teams.* (1) Schedules will be prepared by the Operations Review Staff and mailed to the State Director at least 2 months in advance, indicating the date of the review and tentative personnel allocations to assist in other reviews.

(2) Selection of the team leader and team members will be confirmed 1 month in advance. Substitute team leaders and team members will be confirmed as early as possible.

(3) Team leaders will be responsible for directing teams in conducting appropriate reviews and will prepare a written report for the Administrator.

(b) *Review by State Office Staff.* (1) The State Director will assign appropriate program specialists, OMA's, and District Directors to review a minimum of one County Office in each district for each program area; for example, County Office #1, Farmers Program; County Office #2, Housing Program; County Office #3, program management; etc. The County Office selections should be coordinated with the District Director.

(2) Form FmHA 401-1 will be completed by the assigned personnel for all applicable questions relating to their program area responsibility or assignment.

(3) Selection of case folders and County Office files will be as outlined in §§ 2006.605 and 2006.606. If a significant weakness is indicated, a larger sample should be examined.

(4) The reviews will necessitate only minimal onsite evaluation by State Office personnel of appraisals performed by County Supervisors.

(5) The results of the operations reviews will be compared with the reviews submitted by the District Director. The comparison results will be discussed with the District Director.

(6) A State regulation may be issued supplementing this regulation, and incorporating the guide for previous program reviews in States where it is considered desirable.

(c) Review by District Directors. (1) Individual borrower case folders may be

reviewed throughout the year on regularly scheduled visits. The results of these reviews will be reported annually on Form FmHA 401-1.

(2) The District Director will interview selected borrowers to determine the effectiveness of County Office personnel in explaining borrower responsibility.

(3) The District Director should be aware, through public contacts, of the effectiveness of the County Office in meeting the needs of the county.

(4) Form FmHA 401-1 will be completed for all applicable questions.

(5) A random method of selection will be used in selecting the sample case folders, as outlined in § 2006.605(c).

§ 2006.605 Selection of case folders for review.

(a) *Sample groups of case folders.* The selection of case folders for review should be made as follows: (1) The first sample of case folders should be drawn from those loans closed within the past year. Selection can be made by reviewing Form FmHA 405-4, "Application and Processing Card—Individual," and Form FmHA 405-11, "Application and Processing Card—Association." These case folders will be used for responding to questions in the application and processing section of Form FmHA 401-1—(part 1 for Farmer Program loans; part 3 for Farmer Program Association loans; part 4 for Single Family Housing loans; part 5 for Multihousing program; questions 1-5, part 6, for Community Program loans; and questions 1 and 5, part 7 for Business and Industrial loans).

(2) The second sample will be obtained from all active Farmers Program, community Program, Multihousing Program, and Business and Industrial Program loans. This sample will be used in responding to the supervision and servicing section of Form FmHA 401-1 (part 2 for Farmer Program loans; and questions 5-8 of part 3; questions 4-6 of part 5; questions 6-9 of part 6; and questions 2-4 of part 7).

(3) A third sample will be drawn from the cases in which liquidation or debt settlement action or a problem case report was completed in the past year. This sample will be used for responding to related questions about program management in part 10.

(b) *Percent of case folders to sample.* The recommended sample is about 10 percent of the loans closed the past year for each major loan type for the sample described in paragraph (a)(1) of this section and about 5 percent of the total caseload in each loan program for the sample described in paragraph (a)(2) of this section and about 20 percent of the liquidations, debt settlement, and problem cases reported in the past year for the sample described in paragraph (a)(3) of this section.

(1) For programs with few loans, a representative sample should be larger than 10 percent.

(2) If an indication of weakness exists, the sample should be extended to 20 percent.

(3) When the program activity is large (over 100 cases), the folders reviewed may be reduced to less than 10 percent provided at least 10 folders are reviewed.

(c) *Random selection.* A random method of selection should be used in selecting sample folders to eliminate preference from the selection process. Use the Table of Random Numbers, Exhibit A, to determine the first folder to be selected.

§ 2006.606 Examination of other files.

The review requires the examination of other County Office files in addition to borrower case folders; for example, review of "application pending" and "applications withdrawn or rejected" files, graduation of borrowers, delinquent borrower report, and collection-only accounts to cover applicable questions in part 10 of Form FmHA 401-1. These samples should be about 10 percent. Files relating to property management will be reviewed to respond to part 9 of Form FmHA 401-1.

§ 2006.607 Preparation of Form FmHA 401-1.

Form FmHA 401-1 will be completed as indicated in the instructions for preparation at the beginning of the questionnaire.

§ 2006.608 Summary discussion with County Office personnel.

(a) On completing the review a discussion with the County Office staff will be held to: (1) Recognize commendable performance and effective methods used by County Office staff.

(2) Emphasize facts relating to the effectiveness of FmHA assistance in the community and the extent basic objectives of the program are being accomplished.

(3) Emphasize compliance with loan-making and management assistance policies.

(4) Discuss items which need improvement.

(5) Establish corrective actions and/or followup training necessary to resolve problems.

(b) A written summary of the major findings will be given to the County Office staff.

§ 2006.609 State summary report.

(a) On completion of the District and State Office operations reviews and before January 1, the State Director or his designee will analyze the reviews and prepare a summary report. The report should:

(1) Include a composite tally of findings reported on the operations review questionnaire and a listing of County Offices reviewed, including district designation. The tally may be recorded on a copy of Form FmHA 401-1 in the appropriate blocks.

(2) Include an evaluation of the program weaknesses indicated in each section of Form FmHA 401-1.

(3) Identify and list actions taken or contemplated to correct program weaknesses.

(4) Distinguish between old and new problems.

(5) Identify any program weaknesses that require the attention of the National Office.

(6) Include any recommendations for National Office consideration to strengthen program operations nationwide.

(b) The summary report will be submitted to the National Office, Attention: Director, Operations Review Staff. The State Director will establish the date for submission of the report which may be any date before January 1 of each year.

EXHIBIT A—TABLE OF RANDOM NUMBERS

Year ending in:	First case folder selected
0	4
1	8
2	7
3	2
4	8
5	3
6	9
7	7
8	5
9	8

FOR EXAMPLE: During 1976, selection of the 10 percent sample of case folders to be examined for questions on Rural Housing will be made by choosing the ninth name listed as closed on Form FmHA 405-4, "Application and Processing Card—Individual," and every tenth name thereafter listed as closed; that is, 19, 29, 39 and so forth.

The same method will be used for Farm Ownership Loans, Operating Loans, and so forth.

Effective date: This regulation shall become effective June 8, 1976.

Dated: May 28, 1976.

FRANK B. ELLIOTT,

Administrator,

Farmers Home Administration.

[FR Doc. 76-16580 Filed 6-7-76; 2:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION) DEPARTMENT OF AGRICULTURE

PART 325—TRANSPORTATION

FD&C Violet No. 1

● *Purpose:* The purpose of this document is to remove FD&C violet No. 1 coloring as an approved denaturant for use on carcasses, parts thereof, and meat and meat food products. ●

Statement of Considerations: The Department of Agriculture has determined that the use of FD&C violet No. 1 coloring on carcasses, parts thereof, and meat and meat food products would cause such articles to become adulterated within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*). Therefore, on April 10, 1973, the Department amended the Federal meat inspection regulations to prohibit the use of any ink containing FD&C violet No. 1 coloring for applying the official marks to inspected livestock carcasses (9 CFR 316.5, 38 FR 9088). However, § 325.13(a)(2) of the Federal meat inspection regulations (9 CFR 325.13(a)(2)) lists FD&C violet