

Text of Honey Research, Promotion, and Consumer Information Order (Order). Includes proposed changes contained in the proposed rule to amend the Order, which was published in the *Federal Register* on February 28, 2000 (65 FR 10600-10618). Additions are marked in ***bold italics*** and deletions are marked by strikeout line [~~strikeout~~]

PART 1240 -- HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION
[ORDER]

SUBPART A--HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

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Authority: Honey Research, Promotion, and Consumer Information Act, as amended 7 U.S.C. 4601 - [~~4612~~] **4613; Commodity Promotion and Evaluation, 7 U.S.C. 7401.**

Note: Subpart - General Rules and Regulations (§ 1240.100 through § 1240.125) and Subpart - Procedure for the Conduct of Referenda in Connection With the Honey Research, Promotion,

and Consumer Information Order (§ 1240.200 through § 1240.207) are not included.

Definitions

§1240.1 [~~Secretary~~] *Act*.

~~[Secretary means the Secretary of Agriculture of the United States, or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his/her stead.]~~

Act means the Honey Research, Promotion, and Consumer Information Act (Pub. L. 98-590) and any amendments thereto.

§1240.2 [~~Act~~] *Board*.

~~[Act means the Honey Research, Promotion, and Consumer Information Act (Pub. L. 98-590) and any amendments thereto.]~~

[Honey] Board or ~~[the]~~ *National Honey Board* means *Honey Board*, the administrative body established pursuant to §1240.30.

§1240.3 [~~Person~~] *Committee*.

~~[Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.]~~

Committee means ~~[or the]~~ the National Honey Nominations Committee ~~[means the Committee]~~ established pursuant to §1240.32.

§1240.4 [~~Honey~~] *Consumer education*.

~~[Honey means the nectar and saccharine exudations of plants which are gathered, modified, and stored in the comb by honey bees.]~~

Consumer education means the act of providing information to the public on the usage and care of honey and honey products.

§1240.5 [~~Honey products~~] *Department.*

~~[Honey products means products wherein honey is a principal ingredient.]~~

Department means the United States Department of Agriculture.

§1240.6 [~~Producer~~] *Exporter.*

~~[Producer means any person who produces honey in any State for sale in commerce.]~~

Exporter means any person who exports honey or honey products from the United States.

§1240.7 [~~Handle~~] *Fiscal period and marketing year.*

~~[Handle means to process, package, sell, transport, purchase or in any other way place honey or honey products, or cause them to be placed, in the current of commerce. Such term shall include selling unprocessed honey that will be consumed without further processing or packaging. Such term shall not include the transportation of unprocessed honey by the producer to a handler or transportation by a commercial carrier of honey, whether processed or unprocessed for the account of the handler or producer.]~~

Fiscal period and marketing year means the 12-month period ending on December 31 or such other consecutive 12-month period as shall be recommended by the Board and approved by the Secretary.

§1240.8 [~~Handler~~] *Handle.*

~~[Handler means any person who handles honey or honey products.]~~

Handle means to process, package, sell, transport, purchase or in any other way place honey or honey products, or cause them to be placed, in the current of commerce. ~~[Such]~~ ***This*** term shall include selling unprocessed honey that will be consumed without further processing or packaging. ~~[Such]~~ ***This*** term shall not include the transportation of unprocessed honey by ~~[the]~~ ***a*** producer to a handler or transportation by a commercial carrier of honey, whether processed or unprocessed, for the account of the handler or producer. ***This term shall not include the purchase of honey or a honey product by a consumer or other end-user of the honey or honey product.***

§1240.9 [~~Producer-packer~~] *Handler*.

~~[Producer-packer means any person who is both a producer and handler of honey or honey products.]~~

Handler means any person who handles honey or honey products.

§1240.10 [~~Importer~~] *Honey*.

~~[Importer means any person who imports honey or honey products into the United States as principal or as an agent, broker, or consignee for any person who produces honey outside of the United States for sale in the United States, and who is listed in the import records as the importer of record for such honey or honey products.]~~

Honey means the nectar and saccharine exudations of plants which are gathered, modified, and stored in the comb by honey bees, ***including comb honey***.

§1240.11 [~~Exporter~~] *Honey production*.

~~[Exporter means any person who exports honey or honey products from the United States.]~~

Honey production means all beekeeping operations related to managing honey bee colonies to produce honey, harvesting honey from the colonies, extracting honey from the honeycombs, and preparing honey for sale and further processing.

§1240.12 [~~Promotion~~] *Honey products*.

~~[Promotion means any action, including paid advertising and public relations, to present a favorable image for honey or honey products to the public with the express intent of improving the competitive position and stimulating sales of honey or honey products.]~~

Honey products means products wherein honey is a principal ingredient.

§1240.13 [~~Research~~] *Importer*.

~~[Research means any type of systematic study or investigation, and/or the evaluation of any study or investigation designed to advance the image, desirability, usage, marketability, production, or quality of honey or honey products.]~~

Importer means any person who imports honey or honey products into the United States as principal or as an agent, broker, or consignee for any person who produces honey ***or honey***

§1240.13 [~~Research~~] *Importer (continued).*

products outside of the United States for sale in the United States, and who is listed in the import records as the importer of record for such honey or honey products.

§1240.14 [~~Consumer education~~] *Industry information.*

~~[Consumer education means the act of providing information to the public on the usage and care of honey and honey products.]~~

***Industry information* means information or a program that will lead to the development of new domestic and foreign markets, new marketing strategies, or increased efficiency for the honey industry, or an activity to enhance the image of honey and honey products and of the honey industry.**

§1240.15 Marketing.

Marketing means the sale or other disposition in commerce of honey or honey products.

§1240.16 [~~Committee~~] *National honey marketing cooperative.*

~~[Committee means or the National Honey Nominations Committee means the Committee established pursuant to §1240.32.]~~

***National honey marketing cooperative* means a cooperative that markets its products in at least two of the following four regions of the United States, as determined by the Secretary: (a) The Atlantic Coast, including the District of Columbia and the Commonwealth of Puerto Rico; (b) The Mideast; (c) The Midwest; and (d) The Pacific, including the states of Alaska and Hawaii.**

§1240.17 [~~State association~~] *Part and subpart.*

~~[State association or association means that organization of beekeepers in a State which is generally recognized as representing the beekeepers of that State.]~~

Part means the Honey Research, Promotion, and Consumer Information Order and all rules, regulations, and supplemental orders issued thereunder, and the order shall be a "subpart" of such part.

§1240.18 [~~Honey Board~~] *Person*.

~~[Honey Board or the Board means the administrative body established pursuant to §1240.30.]~~

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

§1240.19 [~~State~~] *Plans and projects*.

~~[State means any of the fifty States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.]~~

Plans and projects means those research, promotion, *industry information*, and consumer education plans, studies, or projects established pursuant to §§1240.38 and 1240.39.

§1240.20 [~~Fiscal period and marketing year~~] *Producer*.

~~[Fiscal period and marketing year means the 12-month period ending on December 31 or such other consecutive 12-month period as shall be recommended by the Board and approved by the Secretary.]~~

Producer means any person who produces honey in any State for sale in commerce.

§1240.21 [~~Plans and projects~~] *Producer-packer*.

~~[Plans and projects means those research, promotion, and consumer education plans, studies, or projects established pursuant to §§1240.38 and 1240.39.]~~

Producer-packer means any person who is both a producer and handler of honey or honey products.

§1240.22 [~~Part and subpart~~] *Promotion*.

~~[Part means the Honey Research, Promotion, and Consumer Information Order and all rules, regulations, and supplemental orders issued thereunder, and the order shall be a "subpart" of such part.]~~

Promotion means any action, including paid advertising and public relations, to present a favorable image for honey or honey products to the public with the express intent of improving the competitive position and stimulating sales of honey or honey products.

1240.23 *Qualified national organization representing handler interests.*

Qualified national organization representing handler interests means an organization that the Secretary certifies as being eligible to recommend nominations to the Committee for handler, handler-importer, alternate handler, and alternate handler-importer members of the Board under § 1240.32.

1240.24 *Qualified national organization representing importer interests.*

Qualified national organization representing importer interests means an organization that the Secretary certifies as being eligible to recommend nominations to the Committee for importer, handler-importer, alternate importer, and alternate handler-importer members of the Board under § 1240.32.

§1240.25 *Research.*

Research means any type of systematic study or investigation, **including studies testing the effectiveness of market development and promotion efforts**, and/or the evaluation of any study or investigation designed to advance the image, desirability, usage, marketability, production, or quality of honey or honey products. **Such term shall also include studies on bees to advance the cost effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping, honey production, and honey bees.**

§1240.26 *Secretary.*

Secretary means the Secretary of Agriculture of the United States, or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his/her stead.

§1240.27 *State.*

State means any of the fifty States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§1240.28 *State association.*

State association or association means that organization of beekeepers in a State which is generally recognized as representing the beekeepers of that State.

Honey Board

§1240.30 Establishment and membership.

A Honey Board [~~hereinafter~~] *elsewhere in this part called the Board* is [hereby] established to administer the terms and provisions of this part. The Board shall consist of [~~thirteen (13)~~] *fourteen (14)* members, each of whom shall have an alternate. Seven members and seven alternates shall be honey producers; two members and two alternates shall be honey handlers; [~~two members and two alternates shall be either honey importers or exporters of which at least one member and alternate shall be an importer~~] *two members and two alternates shall be honey importers; two members and two alternates shall be handlers of honey who are also importers; and* one member and one alternate shall be an officer, *director*, or employee of a *national* honey marketing cooperative[; and, ~~one member and one alternate shall be selected to represent the general public~~]. The Board shall be appointed by the Secretary from nominations submitted by the Committee, pursuant to §1240.32. *Notwithstanding any other provision of this part, at least 50 percent of the members of the Board shall be honey producers.*

§1240.31 Term of office.

The members of the Board and their alternates shall serve for terms of three years, except [~~the members of the initial Board shall be designated for, and shall serve terms as follows: Four members and alternates shall serve for one year terms; four shall serve for two year terms; and five shall serve for three year terms~~] *that terms may be staggered periodically as recommended by the Board and as determined by the Secretary or as determined by the Secretary alone.* No member or alternate shall serve more than two consecutive *three-year* terms [~~Provided, That those members and alternates serving the initial term of one year may serve two additional consecutive three year terms~~]. The term of office [~~for the initial Board shall begin immediately on appointment by the Secretary. In subsequent years, the term of office~~] shall begin on April 1. Each *Board* member and alternate member shall continue to serve until [~~his/her~~] *the member or alternate's* successor [~~is selected and has accepted~~] *meets all qualifications and is appointed by the Secretary.*

§1240.32 Nominations.

All nominations to the Board authorized under §1240.30 herein shall be made in the following manner.

(a) Establishment of National Honey Nominations Committee. (1) There is [hereby] established a National Honey Nominations Committee [~~hereinafter called the Committee,~~] which shall consist of not more than one member from each State, appointed by the Secretary from nominations submitted by each State Association. Wherever there is more than one eligible association within a State, the Secretary shall designate the association most representative of the

§1240.32 Nominations (continued).

honey producers, handlers, *and* importers [~~and exporters~~] not exempt under sections 1240.42 (a) and (b) to make nominations for that State.

(2) If a State Association does not submit a nomination for the Committee, the Secretary may select a member of the honey industry from that State to represent that State on the Committee. However, if a State which is not one of the top twenty honey producing States (as determined by the Secretary) does not submit a nomination, such State shall not be represented on the Committee.

(3) Members of the Committee shall serve for three-year terms, except [~~members of the initial Committee shall serve for terms as follows: One third of such members shall serve one year terms; one third shall serve two year terms; and one third shall serve three year terms. No member shall serve more than two consecutive three year terms: Provided, That those members serving the initial term of one year may serve two additional consecutive three year terms. The term of office for the initial Committee shall begin immediately on appointment by the Secretary~~] ***that the term of appointments to the Committee may be staggered periodically, as determined by the Secretary.*** [~~In subsequent years, the term of office shall begin on January 1~~] ***The term of office shall begin on July 1.***

(4) The Committee shall select its Chairperson by a majority vote.

(5) The members of the Committee shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in performing their duties as members of the Committee and approved by the Board. Such expenses shall be paid from funds collected by the Board pursuant to §1240.41.

(b) Nominations to the Board. (1) [~~Except for the member and alternate who represent the general public, the Committee shall nominate the members and alternate members of the Honey Board and submit such nominations promptly to the Secretary for approval. The Committee shall also submit a list of candidates to the Secretary for the public member and alternate public member position. The Secretary may choose from that list of names or, at his/her discretion, choose other candidates to fill the public member and alternate position~~] ***The Committee shall nominate the members and alternate members of the Board and submit such nominations promptly to the Secretary for approval.***

(2) [~~After the first meeting, t~~] ***The Committee shall meet annually to make such nominations, or at the determination of the Chairperson, the Committee may conduct its business by mail ballot in lieu of an annual meeting.***

(3) A majority of the Committee shall constitute a quorum for voting at an annual meeting. In the event of a mail ballot, votes must be received from a majority of the Committee to constitute a quorum.

§1240.32 Nominations (continued).

(4) At least 50 percent of the members from the twenty leading honey-producing states must vote in any nomination of members to the Board.

(5) For the purpose of nominating producer members to the Board, the Secretary shall establish seven regions on the basis of the production of honey. For the purpose of facilitating initial nominations to the Honey Board, the following regions shall be the initial regions: Region 1: Washington, Oregon, Idaho, California, Nevada, Utah, Alaska, and Hawaii. Region 2: Montana, Wyoming, Nebraska, Kansas, Colorado, Arizona, and New Mexico. Region 3: North Dakota and South Dakota. Region 4: Minnesota, Iowa, Wisconsin, and Michigan. Region 5: Texas, Oklahoma, Missouri, Arkansas, Tennessee, Louisiana, Mississippi, and Alabama. Region 6: Florida, Georgia, and Puerto Rico. Region 7: Illinois, Indiana, Ohio, Kentucky, Virginia, North Carolina, South Carolina, West Virginia, Maryland, District of Columbia, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, and Maine.

~~[(6) Every five years, the Board shall review the regions to determine whether new regions should be established. In making such review, it shall give consideration to:~~

- ~~(i) The average quantity of honey produced during the most recent three years;~~
- ~~(ii) Shifts and trends in quantities of honey produced;~~
- ~~(iii) The equitable relationship of Board membership and districts; and~~
- ~~(iv) Other relevant factors.]~~

~~[As a result of this review, the Board may recommend for the Secretary's approval the reestablishment of such regions. Any such reestablishment of regions shall be made at least six months prior to the date on which terms of office of the Board begin each year and shall become effective at least 30 days prior to such date.]~~

~~[(7)] (6) In nominating producer members to the Board, no producer-packer who, during any three of the preceding five years, purchased for resale more honey than such producer-packer produced shall be eligible for nomination or appointment to the [Honey] Board as a producer or as an alternate to [such] a producer.~~

(7) In nominating importer members to the Board, no importer who, during any three of the preceding five years, did not receive at least 75 percent of the gross income generated by the sale of honey and honey products from the sale of imported honey and honey products shall be eligible for nomination or appointment to the Board as an importer or as an alternate to such importer.

~~[(8) The initial Committee shall within 90 days of the announcement of issuance of this order, or such other period as prescribed by the Secretary, submit in a manner prescribed by the~~

§1240.32 Nominations (continued).

Secretary the following nominations:

~~(i) One producer member and one alternate producer member from each of the seven regions established by the Secretary;~~

~~(ii) Two handler members and two alternate handler members from recommendations made by industry organizations representing handler interests;~~

~~(iii) Two importer members or one importer and one exporter member, and two alternate importer members or one importer and one exporter alternate member from recommendations made by industry organizations representing importer and/or exporter interests; and~~

~~(iv) One member and one alternate who are officers or employee of honey marketing cooperatives.~~

~~(v) For subsequent years, the Committee shall submit its nominations to the Secretary one month before the new Board terms begin.]~~

(8) In nominating handler-importers to the Board, no handler who, during any three of the preceding five years, was not an importer of record of at least 40,000 pounds of honey shall be eligible for nomination or appointment to the Board as a handler-importer or as an alternate to a handler-importer.

(9) Six months before the new Board term begins, the Committee shall submit to the Secretary nominations for positions on the Board. The number of nominations will directly correspond to the number of producer, handler, importer, handler-importer, and cooperative member positions due to become vacant. Selection of nominees by the Committee will be pursuant to the following:

(i) Nominations for producer members and alternate producer members will be from one of the seven regions established by the Secretary in which a vacancy will occur;

(ii) Nominations for handler members and alternate handler members will be based on recommendations made by qualified national organizations representing handler interests, or, if the Secretary determines that there is not a qualified national organization representing handler interests, by individual handlers who have paid assessments to the Board on honey or honey products handled;

(iii) Nominations for importer members and alternate importer members will be based on recommendations made by qualified national organizations representing importer interests, or, if the Secretary determines that there is not a qualified national organization representing importer interests, by individual importers who have paid assessments to the Board on imported honey or honey products;

§1240.32 Nominations (continued).

(iv) Nominations for handler members and alternate handler members who are also importers (i.e., handler-importers) will be based on recommendations made by qualified national organizations representing importer interests or qualified national organizations representing handler interests: Provided, That, if the Secretary determines that there is not a qualified national organization representing handler or importer interests, then the Committee shall nominate members and alternate members from individual handlers or importers who have paid assessments to the Board on imported honey or honey products; and

(v) Nominations for a member and alternate member who are officers, directors, or employees of national honey marketing cooperatives will be based on recommendations made by qualified national honey marketing cooperatives.

(10) Qualified national organization representing handler interests. To be certified by the Secretary as a qualified national organization representing handler interests, an association or organization must meet the following criteria, as evidenced in a factual report submitted by the association or organization to the Secretary:

(i) The organization's membership is comprised primarily of honey handlers;

(ii) The organization represents a substantial number of handlers who handle a substantial volume of honey in at least 20 states;

(iii) The organization has a history of stability and permanency;

(iv) A primary or overriding purpose of the organization is to promote the economic welfare of honey handlers;

(v) A portion of the operating funds of the organization are derived from handlers; and

(vi) The organization demonstrates the ability and willingness to further the purposes of the Act.

(11) Qualified national organization representing importer interests. To be certified as a qualified national organization representing importer interests, an association or organization must meet the following criteria, as evidenced in a factual report submitted by the association or organization to the Secretary:

(i) The organization's total paid membership is comprised of a significant number of importers or the organization's total paid membership represents at least a majority of the volume of honey imported into the United States;

(ii) The organization has a history of stability and permanency;

(iii) A primary or overriding purpose of the organization is to promote the economic

§1240.32 Nominations (continued).

welfare of honey importers;

(iv) Geographic territory is covered by the active membership of the organization;

(v) A portion of the operating funds of the organization are derived from importers;
and

(vi) The organization demonstrates the ability and willingness to further the purposes of the Act.

(12) As a condition of certification by the Secretary as a qualified national organization representing handler or importer interests, an organization shall agree to:

(i) Notify nonmembers of the organization of Board nomination opportunities for which the organization is certified to make recommendations to the Committee; and

(ii) Consider the nomination of nonmembers when making the nominations of the organization to the Committee, if nonmembers indicate an interest in serving on the Board.

(13) A certification determination by the Secretary of a qualified organization representing handler or importer interests shall be final.

§ 1240.33. Board reconstitution.

(a) Every five years, the Board shall review the geographic distribution of the quantities of domestically produced honey assessed under this subpart and the changes in the annual average percentage of assessments owed by importers under this subpart relative to assessments owed by producers and handlers of domestic honey, including whether any changes in assessments owed on imported quantities are owed by importers or handler-importers. The Board shall conduct the initial review required by this paragraph prior to the initial continuance referendum conducted pursuant to the Act.

(b)(1) If warranted as a result of this review, the Board shall recommend for the Secretary's approval:

(i) Changes in the regional representation of honey producers;

(ii) The reallocation of handler-importer member positions as handler member positions;

(iii) The reallocation of importer member positions as handler-importer positions;

(iv) The reallocation of handler-importer member positions as importer member

§ 1240.33. Board reconstitution (continued).

positions; and/or

(v) The addition of Board members.

(2) If such allocations are necessary to reflect changes in the proportion of domestic and imported honey assessed under this subpart or the source of assessments on imported honey or honey products, the Board may not recommend a reallocation or addition of members pursuant to paragraphs (b)(1)(ii), (iii), (iv), and (v) of this section unless:

(i) The proportion of assessments owed by handler-importers compared with the proportion of assessments owed by importers changed by more than 6 percent from the base period proportion determined in accordance with paragraph (d) of this section; or

(ii) The proportion of assessments owed by importers compared with the proportion of assessments owed on domestic honey by producers and handlers changed by more than 6 percent from the base period proportion determined in accordance with paragraph (d).

(c) Except as provided in paragraph (d), recommendations made under paragraph (b) of this section shall be based on:

(1) The 5-year average annual assessments, excluding the 2 years containing the highest and lowest disparity between the proportion of assessments owed from imported and domestic honey or honey products, determined pursuant to the review that is conducted under paragraph (a) of this section; and

(2) Whether any change in the average annual assessments is from the assessments owed by importers or the assessments owed by handler-importers.

(d) The base period proportions for determining the magnitude of change under paragraph (c) of this section shall be the proportions determined during the prior review conducted under this section. In the case of the initial review, the base period proportions shall be the proportions determined by the Board for fiscal year 1996.

(e) Notwithstanding any other provision of this section, at least 50 percent of the members of the Board shall be honey producers.

(f) Any such reallocation or addition of members shall be made at least six months prior to the date on which terms of office of the Board begin each year and shall become effective at least 30 days prior to such date.

§1240.34 Vacancies.

(a) In the event any member of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such position shall automatically become vacant~~[, except]~~ : ***Provided***, ~~[t]~~That if, as a result of ~~[the adjustment of the boundaries of the regions in accordance with §1240.32(b)(6)]~~ ***Board reconstitution pursuant to § 1240.33***, a producer member or alternate is no longer from the region from which such person was appointed, ***or if a member, whose position is based on their status as a handler, importer, or handler-importer is subject to reallocation by the Board***, ~~[such]~~ ***the affected*** member ***and/or*** alternate may serve out the term for which such person was appointed.

(b) If a member of the Board consistently refuses to perform the duties of a member of the Board, or if a member of the Board engages in acts of dishonesty or willful misconduct, the Board may recommend to the Secretary that he/she be removed from office. If the Secretary finds the recommendation of the Board shows adequate cause, he/she shall remove such member from office.

(c) Should any member position become vacant, the alternate of that member shall automatically assume the position of said member. At its next meeting, the Honey Nominations Committee shall nominate a replacement for said alternate. Should the positions of both a member and such member's alternate become vacant, successors for the unexpired terms of such member and alternate shall be nominated and appointed in the manner specified in §§1240.30 and 1240.32, except that said nomination and replacement shall not be required if said unexpired terms are less than six months.

§1240.35 Procedure.

(a) ~~[Seven]~~ ***Eight*** members, including alternates acting in place of members of the Board, shall constitute a quorum~~[;]~~ : ***Provided***, That such alternates shall serve only whenever the member is absent from a meeting or is disqualified. Any action of the Board shall require the concurring votes of a majority of those present and voting. At assembled meetings, all votes shall be cast in person.

(b) In matters of an emergency nature when there is not enough time to call an assembled meeting of the Board, the Board may act upon the concurring votes of a majority of its members by mail, telephone, telegraph, or by other means of communication: ***Provided***, That each proposition is explained accurately, fully, and substantially identically to each member. All telephone votes shall be promptly confirmed in writing and recorded in the Board minutes.

§1240.36 Attendance.

Members of the Board and the members of any special panels shall be reimbursed for reasonable out-of-pocket expenses incurred when performing Board business. The Board shall have the authority to request the attendance of alternates ~~[of]~~ **at** any or all meetings, notwithstanding the expected or actual presence of the respective members.

§1240.37 Powers.

The Board shall have the following powers subject to §1240.61:

- (a) To administer this subpart in accordance with its terms and provisions of the Act;
- (b) To make rules and regulations to effectuate the terms and conditions of this subpart;
- (c) To require its employees to receive, investigate, and report to the Secretary complaints of violations of this part; and
- (d) To recommend to the Secretary amendments to this part.

§1240.38 Duties.

The Board shall have, among other things, the following duties:

- (a) To meet and organize and to select from among its members a chairperson and such other officers as may be necessary; to select committees and subcommittees from its membership and consultants; to adopt such rules, regulations, and by-laws for the conduct of its business as it may deem advisable.
- (b) To employ such persons as it may deem necessary and to determine the compensation and define the duties of each; and to protect the handling of Board funds through fidelity bonds;
- (c) To prepare and submit to the Secretary for ~~[his/her]~~ approval **60 days in advance of the beginning of a fiscal period**, a budget ~~[on a fiscal period basis]~~ of its anticipated expenses in the administration of this part including the probable costs of all programs ~~[or projects]~~ **and plans** and to recommend a rate of assessment with respect thereto;
- (d) To investigate violations of ~~[the order]~~ **this part** and report the results of such investigations to the Secretary for appropriate action to enforce the provisions of ~~[the order.]~~ **this part;**
- (e) To develop programs and ~~[projects]~~ **plans** and to enter into contracts or agreements with the approval of the Secretary for the development and carrying out of programs ~~[or projects]~~

§1240.38 Duties (continued).

and plans of research, [development] *promotion*, advertising, [~~promotion, or~~] *consumer education, or industry information* and the payment of the costs thereof with funds collected pursuant to this part;

(f) To maintain minutes, books, and records and prepare and submit to the Secretary such reports from time to time as may be required for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it;

(g) To periodically prepare and make public and to make available to producers, *handlers, producer-packers*, and importers, reports of its activities carried out, and at least once each fiscal period to make public an accounting of funds received and expended;

(h) To cause its books to be audited by a certified public accountant at the end of each fiscal period and to submit a copy of each audit to the Secretary;

(i) To give to the Secretary the same notice of meetings of the Board and subcommittees as is given to members in order that representatives of the Secretary may attend such meetings;

(j) To submit to the Secretary such information pertaining to this subpart as he/she may request;

(k) To notify honey producers, producer-packers, handlers, importers, and exporters of all Board meetings through press releases or other means;

(l) To appoint and convene, from time to time, working committees [~~drawn from~~] *which may include* producers, [~~honey~~] handlers, *producer-packers*, importers, exporters, members of [~~the~~] wholesale or retail outlets for honey, or other members of the public to assist in the development of research, promotion, *advertising*, [~~and~~] consumer education, *and industry information* programs for honey; and

(m) To develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of [~~projects~~] *plans* or activities to effectuate the declared purpose of the Act.

Research, Promotion, and Consumer Education

§1240.39 Research, promotion, ~~and~~ consumer education, and industry information.

(a) ***Scope of activities.*** The Board shall develop and submit to the Secretary for approval any plans, ***programs***, or projects authorized in this section. Such plans, ***programs***, ~~and~~ and projects shall provide for:

~~(a)~~ (1) The establishment, issuance, effectuation and administration of appropriate plans, ***programs***, or projects for consumer education, ***industry information***, advertising, and promotion of honey and honey products designed to strengthen the position of the honey industry in the marketplace and to maintain, develop, and expand markets for honey and honey products;

~~(b)~~ (2) The establishment and conduct of marketing research and development projects to the end that the acquisition of knowledge pertaining to honey and honey products or their consumption and use may be encouraged or expanded, or to the end that the marketing and utilization of honey and honey products may be encouraged, expanded, improved or made more efficient: Provided, That quality control, grade standards, supply management programs, or other programs that would otherwise limit the right of the individual honey producer to produce honey shall not be conducted under, or as a part of, this subpart;

~~(c)~~ (3) The development and expansion of honey and honey product sales in foreign markets;

~~(d)~~ (4) A prohibition on advertising or other promotion programs that make any false or unwarranted claims on behalf of honey or its products or false or unwarranted statements with respect to the attributes or use of any competing product;

(5) ***The sponsorship of research designed to advance the cost-effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping, honey production, and honey bees;***

(6) ***The conduct of activities which may lead to the development of new markets or marketing strategies for honey or honey products. In addition, the Board may conduct activities designed to increase the efficiency of the honey industry or activities to enhance the image of honey and honey products and the honey industry;***

(7) ***Activities and procedures for monitoring the purity of honey and honey products being sold for domestic consumption, or for export from the United States, including programs or activities for identification of adulterated honey;***

~~(e)~~ (8) Periodic evaluation by the Board of each plan, ***program***, or project authorized under this part to insure that each plan, ***program***, or project contributes to an effective and coordinated program of research, ***promotion, consumer*** education, and ~~promotion~~ ***industry information*** and submit such evaluation to the Secretary. If the Board or the Secretary finds that

§1240.39 Research, promotion, ~~and~~ consumer education, and industry information (continued).

a plan, *program*, or project does not further the purposes of the Act, then the Board shall terminate such plan, *program*, or project; and

~~[(f)]~~ (9) The Board to enter into contracts or make agreements for the development and carrying out of research, promotion, ~~and~~ consumer education, *and industry information programs*, and pay for the costs of such contracts or agreements with funds ~~collected pursuant to §1240.41~~ *received by the Board*.

(b) Independent evaluation. In addition to any evaluation that may be carried out pursuant to paragraph (a)(8) of this section, the Board shall, not less often than every five years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of this subpart and other plans, programs, and projects conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under paragraph (b) of this section.

Expenses and Assessments

§1240.40 Budget and expenses.

(a) ~~At the~~ *Sixty days in advance of the* beginning of each fiscal period, or as may be necessary thereafter, the Board shall prepare and recommend a budget on a fiscal period basis of its anticipated expenses and disbursements in the administration of ~~the Order~~ *this subpart*, including expenses of the Committee and probable costs of research, promotion, ~~and~~ consumer education, *and industry information*.

(b) The Board is authorized to incur expenses for: research, promotion, ~~and~~ consumer education, *and industry information*; such other expenses for the administration, maintenance, and functioning of the Board and the Committee as may be authorized by the Secretary~~;~~ ; any operating reserve established pursuant to ~~§1240.44~~ *§1240.43*~~;~~ ; and those administrative costs incurred by the Department specified in paragraph ~~(e)~~ (d) of this section. The funds to cover such expenses shall be paid from assessments collected pursuant to §1240.41, donations from any person not subject to assessments under this ~~order~~ *subpart*, and other funds available to the Board including those collected pursuant to §1240.67 and subject to the limitations contained ~~therein~~ *in that section*.

(c) The Board shall reserve at least 8 percent of all assessments collected during a year for expenditure on approved research projects designed to advance the cost-effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping, honey production, and honey bees. If any of the funds reserved under this

§1240.40 Budget and expenses (continued).

paragraph are not allocated to approved research projects in a year, the remaining reserved funds shall be carried forward for allocation and expenditure in subsequent years to be used on projects described in this paragraph.

~~[(e)]~~ (d) The Board shall reimburse the Department from assessments for administrative costs incurred by the Department with respect to this order after its promulgation. The Department shall also be reimbursed for administrative expenses incurred by it for the conduct of referenda.

§1240.41 Assessments.

~~(a) Each producer and importer shall pay to the Board, upon demand, his/her pro rata share of such expenses as may be approved by the Secretary pursuant to §1240.40. Such pro rata share shall be the amount established by the Secretary pursuant to paragraph (c) of this section.~~

~~(b) Except as provided in §1240.42 and in paragraphs (e), (f), and (g) of this section, the first handler shall be responsible for the collection of such assessment from the producer and payment thereof to the Board. The first handler shall maintain separate records for each producer's honey handled, including honey produced by said handler.~~

~~(c) The assessment on honey shall be levied at a rate fixed by the Secretary which shall be \$0.01 per pound of honey or honey used in honey products.~~

~~(d) Should a deficit occur during any fiscal period, funds to cover the deficit may be obtained by increasing the rate of assessment subject to the limitations in paragraph (c) of this section. The increased rate of assessment shall be applied to all honey and the honey used in products wherein honey is the primary ingredient sold in the States during that particular fiscal period so that the total payments by each person during each fiscal period will be proportional to the total value of the honey and honey products sold during that period.~~

~~(e) The importer of imported honey and honey products shall pay the assessment to the Board at the time of entry of such honey and honey products into any State.]~~

(a) Domestic honey and honey products. (1) The assessment rate to producers and producer-packers on honey produced by them in the U.S. and handled shall be \$0.0075 per pound of honey produced.

(2) The assessment rate to handlers, including producer-packers in their capacity as handlers, on U.S. produced honey or honey products shall be \$0.0075 per pound of honey or honey products handled.

§1240.41 Assessments (continued).

(b) Imported honey and honey products. The assessment rate on honey or honey products imported into the United States shall be \$0.015 per pound of honey or honey products imported, which equals the combined rate at which domestic honey produced in the U.S. and handled is assessed. Of this \$0.015 total, \$0.0075 per pound represents the assessment due from the importer and \$0.0075 represents the assessment due from the handler and paid by the importer on behalf of the handler. The importer of imported honey and honey products shall pay the assessment of \$0.015 per pound to the Board through the U.S. Customs Service at the time of entry of such honey and honey products into the United States.

(c) Except as provided in § 1240.42 and in paragraphs (b), (d), and (k) of this section, the first handler shall be responsible for the collection of such assessment from the producer and from the handler and payment thereof to the Board. The first handler shall maintain separate records for each producer's honey handled, including honey produced by said handler.

[~~(f)~~] (d) Producer-packers shall pay to the Board the assessment on [~~the~~] all honey or honey products for which they act as first handler, in addition to the assessment owed on honey they produce.

[~~(h)~~] (e) Should a first handler [~~or the Secretary~~] fail to collect an assessment from a producer, the producer shall be responsible for the payment of the assessment to the Board.

[~~(i)~~] (f) Assessments shall be paid to the Board at such time and in such manner as the Board, with the Secretary's approval, directs pursuant to [~~regulations issued hereunder~~] **this part**. Such regulations may provide for different handler, importer, **producer**, or producer-packer payment schedules so as to recognize differences in marketing or purchasing practices and procedures.

[~~(j)~~] (g) There shall be a late payment charge imposed on any handler, importer, **producer**, or producer-packer who fails to remit to the Board the total amount for which any such handler, importer, **producer**, or producer-packer is liable on or before the payment due date established by the Board under paragraph [~~(h)~~] (f) of this section. The amount of the late payment charge shall be set by the Board subject to approval by the Secretary.

[~~(k)~~] (h) There shall also be imposed on any handler, importer, **producer**, or producer-packer subject to a late payment charge, an additional charge in the form of interest on the outstanding portion of any amount for which the handler, importer, **producer**, or producer-packer is liable. The rate of [~~such~~] interest shall be prescribed [~~by the Board subject to approval by the Secretary, but shall not exceed the maximum legal rate of interest, if any, as established by Congress~~] **in regulations issued by the Secretary.**

(i) Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

§1240.41 Assessments (continued).

(j) Should the U.S. Customs Service fail to collect an assessment from an importer, the importer shall be responsible for the payment of the assessment to the Board.

~~[(g)]~~ *(k) Whenever a loan is made on honey under [the Honey Loan Price Support Program] an USDA loan program, the Secretary shall provide that the assessment be deducted from the proceeds of the loan or the loan deficiency payment, if applicable, and that the amount of such assessment shall be forwarded to the Board, except that the assessment shall not be deducted by the Secretary in the case of a honey marketing cooperative [that has already deducted the assessment] approved by the USDA Commodity Credit Corporation that deducts the assessment from its member producers.* As soon as practicable after the assessment is deducted from the loan funds or loan deficiency payment, the Secretary shall provide the producer with proof of payment of the assessment.

(l) The Board is ~~hereby~~ authorized to accept advance payment of assessments by handlers, importers, or producer-packers that shall be credited toward any amount for which the handlers, importers or producer-packers may become liable. The Board is not obligated to pay interest on any advance payment.

(m) The Board is ~~hereby~~ authorized to borrow money for the payment of expenses subject to the same fiscal, budget, and audit controls as other funds of the Board.

§1240.42 Exemption from assessment.

(a) A producer who produces less than 6,000 pounds of honey per year, ~~or~~ a producer-packer who produces and handles less than 6,000 pounds of honey *or honey products* per year, ~~or~~ an importer who imports less than 6,000 pounds of honey *or honey products* per year, *or a handler who handles less than 6,000 pounds of honey or honey products per year shall be exempt from assessment* ~~[on honey which such person distributes]~~ *provided such honey or honey products are distributed* directly through local retail outlets such as roadside stands, farmers markets, groceries, or other outlets as otherwise determined by the Secretary~~]~~ during such year.

(b) A producer or importer who consumes honey at home or donates honey to a nonprofit, government, or other entity, as determined appropriate by the Secretary, rather than sell such honey, shall be exempt from the assessment on that honey so consumed or donated, except for honey donated that is later sold in a commercial outlet by a donee or donee's assignee.

~~[(c) To claim such exemption, a producer, producer packer, or importer shall submit an application to the Board stating the basis on which the person claims the exemption for such year.]~~

§1240.42 Exemption from assessment (continued).

~~[(d)]~~ (c) If, after a person ~~[claims an exemption]~~ *has been exempt* from *paying* assessments for any year under this ~~[subparagraph]~~ *section*, and such person no longer meets the requirements of this ~~[subparagraph]~~ *section* for an exemption, such person shall file a report with the Board in the form and manner prescribed by the Board and pay an assessment on or before March 15 of the subsequent year on all honey *or honey products* produced, *handled*, or imported by such person during the year for which the person claimed the exemption.

~~[(e)]~~ (d) The Board may recommend to the Secretary that honey exported from the *United States* be exempted from the provisions of this ~~[order,]~~ *subpart* and include procedures for the refund of assessments on such honey and such safeguards as may be necessary to prevent improper use of this exemption.

~~[(f)]~~ The Board shall determine those States that are operating a program with objectives comparable to the objectives of the Act and recommend to the Secretary that they be exempted from a portion of the assessments collected by the Federal program. The amount of such assessments subject to exemption shall not exceed the amount authorized by the State plan on January 1, 1985, unless a State provides evidence that it was in the process of promulgating a different assessment level on January 1, 1985, then the new assessment level promulgated will be exempt upon approval of the honey producers in that State. Producers having an exemption from a portion of the assessments under this order, due to payment of assessments to a State plan, shall be required to furnish evidence to the Board that the assessments to the State plan have been paid.]

~~[§1240.43 State assessment plan refund.]~~

~~[Any State authority operating pursuant to a State assessment plan satisfying the conditions of paragraph (a) of this section may obtain a refund of assessments collected by the Board on honey and/or honey products produced in that State except as provided in paragraph (b) of this section.~~

~~(a) Refunds shall be paid only if the Secretary certifies that the State assessment plan:~~

~~(1) Is comparable to the program established under the Act and this part; and~~

~~(2) Was in existence and in operation on January 1, 1985.~~

~~(b) Refunds shall be made directly to States, and in no event shall exceed the amount collected by the Board on honey produced in the requesting State, and the amount of any refund shall be limited in accordance with the provisions of this subpart.]~~

[§1240.44] §1240.43 Operating reserve.

The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established: Provided, That the funds in the reserve shall not exceed one fiscal period's budget. Subject to approval by the Secretary, such reserve funds may be used to defray any expenses authorized under this part.

§1240.44 Inspection and monitoring system.

(a) The Board is authorized to develop and recommend to the Secretary, and the Secretary shall have the authority to approve or disapprove, a system or program for monitoring the purity of honey and honey products being sold for domestic consumption in, or for export from, the United States. Such system or program may include inspection and testing procedures to monitor the purity of honey or to detect adulterated honey.

(b) The Board may recommend and the Secretary may issue rules and regulations as are necessary to implement such system or program as authorized by the Act.

§1240.45 Voluntary quality assurance program.

(a) The Board is authorized to develop and carry out a voluntary quality assurance program concerning purity standards for honey and honey products. The Secretary shall have the authority to approve or disapprove such program.

(b) The program may include the following components:

(1) The establishment of an official Board seal of approval to be displayed on honey and honey products which meet such standards of purity as are established under the program;

(2) Actions to encourage producers, handlers, and importers to participate in the program;

(3) Actions to encourage consumers to purchase honey and honey products bearing the official seal of approval; and

(4) Periodic inspections by the Secretary, or other parties approved by the Secretary, of honey and honey products of persons who participate in the program.

(c) To be eligible to display the official seal of approval under paragraph (b)(1) of this section on a honey or honey product, a producer, handler, or importer shall participate in the voluntary program described in paragraph (a) of this section.

(d) Any program and related rules and regulations for establishing and carrying out a

§1240.45 Voluntary quality assurance program (continued).

voluntary quality assurance program may be in addition to or independent of any program, rule, or regulation involving an inspection and monitoring system under §1240.44.

§1240.46 Minimum purity standards.

The Board is authorized to develop and recommend to the Secretary and the Secretary shall have the authority to approve or disapprove the establishment of minimum purity standards and related rules and regulations for honey and honey products designed to maintain a positive and wholesome marketing image for honey and honey products.

Reports, Books, and Records

§1240.50 Reports.

Each handler, importer, *producer*, or producer-packer subject to this part shall be required to report to the employees of the Board, at such time[s] and in such manner as it may prescribe, such information as may be necessary for the Board to perform its duties. Such reports shall include, but shall not be limited to the following:

(a) For producer or producer-packers: the quantity of honey produced and the total number of bee colonies maintained.

~~[(a)]~~ *(b) For handlers or producer-packers[7] : the total quantity of honey acquired during the reporting period; the total quantity of honey and honey products handled during such period; the amount of honey acquired from each producer, giving name and address of each producer; the assessments collected [or collectible] during the reporting period; the quantity of honey processed for sale from producer-packer's own production; and a record of each transaction for honey on which assessment had already been paid, including a statement from the seller that the assessment had been paid.*

~~[(b)]~~ *(c) For importers[7] : the total quantity of honey and honey products imported during the reporting period and a record of each importation of honey and honey products during such period, giving the quantity, date, country of origin, and port of entry.*

~~[(c)]~~ *(d) For persons who have an exemption from assessments under §1240.42 (a) and (b), such information as deemed necessary by the Board, and approved by the Secretary, concerning the exemption including disposition of exempted honey.*

§1240.51 Books and records.

Each handler, importer, *producer*, producer-packer, or any person who ~~[receives an exemption]~~ *is exempt* from assessments shall maintain and during normal business hours make available for inspection by employees *or agents* of the Board or the Secretary, such books and records as are necessary to carry out the provisions of this ~~[subpart and the regulations issued thereunder]~~ *part*, including such records as are necessary to verify any required reports. *A member or alternate member of the Board is prohibited from conducting such inspections.* Such *books and* records shall be maintained for two years beyond the first period of their applicability.

§1240.52 Confidential treatment.

All information obtained from the books, records, or reports required to be maintained under §§1240.50 and 1240.51 shall be kept confidential *by all employees and agents of the Board and all officers and employees of the Department* and shall not be disclosed to the public ~~[by any person]~~. Only such information as the Secretary deems relevant shall be disclosed to the public and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart: Except that nothing in this subpart shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of a number of handlers or importers subject to ~~[any order]~~ *this subpart*, if such statements do not identify the information furnished by any person;

(b) The publication by direction of the Secretary, of the name of any person convicted of violating this subpart, together with a statement of the particular provisions of ~~[the Order]~~ *this subpart* violated by such person.

~~[(c) Any disclosure of any confidential information by any employee of the Board shall be considered willful misconduct.]~~

Miscellaneous

§1240.60 Influencing governmental action.

No funds collected by the Board under this order shall in any manner be used for the purpose of influencing governmental policy or action, except for making recommendations to the Secretary as provided for in this subpart.

§1240.61 Right of the Secretary.

All fiscal matters, programs or ~~[projects]~~ *plans*, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§1240.62 Suspension or termination.

(a) The Secretary shall, whenever he/she finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provisions thereof.

(b) Except as otherwise provided in paragraph (c) of this section, five (5) years from the date the Secretary issues an order authorizing the collection of assessments on honey under provisions of this subpart, and every five (5) years thereafter, the Secretary shall conduct a referendum to determine if honey producers, *handlers, producer-packers*, and importers *subject to assessment* favor the termination or suspension of this subpart.

~~[(c) In lieu of the first referendum otherwise required to be conducted under paragraph (b) of this section for the order in effect, the Secretary shall conduct a referendum to determine if honey producers and importers favor:~~

~~(1) Continuation of the order; and~~

~~(2) Termination of the authority for producers and importers to obtain a refund of assessments under §§1240.43 (a) and (b).]~~

~~[(d)]~~ (c) The Secretary shall hold a referendum on the request of the Board, or when petitioned by 10 percent or more of the honey producers, *handlers, producer-packers*, and importers *subject to assessment under this subpart* to determine if the honey producers, *handlers, producer-packers*, and importers favor termination or suspension of this subpart. *A referendum under this paragraph may not be held more than once every two (2) years. If the Secretary determines, through a referendum conducted pursuant to this paragraph, that continuation of this subpart is approved, any referendum otherwise required to be conducted under paragraph (b) of this section shall not be held less than five (5) years after the date the referendum was conducted under this paragraph.*

§1240.63 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend to the Secretary not more than five of its members to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all funds and property then in possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

§1240.63 Proceedings after termination (continued).

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to §1240.38;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and

(4) Upon the direction of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations as imposed upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be returned to the persons who contributed such funds, or paid assessments, or if not practicable, shall be turned over to the Department to be utilized, to the extent practicable, in the interest of continuing one or more of the honey research or education programs hitherto authorized.

§1240.64 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued thereunder, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or of any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of any person, with respect to any such violation.

§1240.65 Personal liability.

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

§1240.66 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart, or the applicability thereof to other persons or circumstances shall not be affected thereby.

§1240.67 Patents, copyrights, inventions, product formulations, and publications.

Except for a reasonable royalty paid by the Board to the inventor of a patented invention, any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the Honey Board. Funds generated by such patents, copyrights, inventions, product formulations, or publications shall inure to the benefit of the Board and shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board.