

PRESIDENT:
Mark Brady
3307 Sanger Creek Way
Waxahachie, TX 75165
(972) 937-2022 Phone & Fax
beeman52@sbcglobal.net or
pegbrady55@sbcglobal.net
Best call at (214) 356-6791 Cell

VICE PRESIDENT:
Kenneth Haff
604 3rd Avenue SE
Mandan, ND 58554
(701) 663-8993 Phone and Fax
beehaff@bis.midco.net

EXECUTIVE SECRETARY:
Jerry Brown
428 Kent St
Haddam, KS 66944
(785) 778-2002 Phone
brownhoneyfarms@hotmail.com
or 423 Chickory Wood CT
Pearland, TX 77584
(713) 436-7802 Phone
(713) 436-7805 Fax

TREASURER:
Carrie S. Jensen, C.P.A.
PO Box 158
Power, MT 59468

EXECUTIVE COMMITTEE:
Richard Adee
PO Box 368
Bruce, SD 57220
(605) 627-5621 Phone
(605) 627-5622 Fax
richardadee@adeehoneyfarms.com

Dale Althoff
16965 Co Rd 12
Mooreton, ND 58061
(701) 274-8878 Phone
(701) 274-8902 Fax
althoffhoneyfarms@hotmail.com

Mark Jensen
PO Box 162
Power, MT 59468
(406) 463-2227 Phone
(406) 463-2583 Fax
beegu4jensen@yahoo.com

Ray Olivarez Jr.
930 Trinity St
Orland, CA 95963
(530) 865-0298 Phone
(530) 865-9488 Fax
ray@ohbees.com

Randy Verhoek
225 CR 402
Danbury, TX 77534
or 2500 Berkshire Dr.
Bismark, ND 58503
(701) 258-5674 Phone
r.verhoek@harvesthoneyinc.com

PAST PRESIDENT:
Steve Park
11226 Deschutes Rd.
Palo Cedro, CA 96073
(530) 549-3500 Phone
(530) 549-5250 Fax
or PO Box 526
Harlowtown, MT 59036
(406) 632-4446
stevepark@frontiernet.net
Best call at (530) 949-6923 Cell



May 24, 2007

BY HAND

Ms. Sonia N. Jiménez
Agricultural Marketing Service
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
STOP 0244, Room 0634-S
Washington, D.C. 20250

Dear Ms. Jiménez:

On behalf of the American Honey Producers Association ("AHPA") and its more than 550 members across the country, I am pleased to submit a revised and completed proposal petitioning for the creation of a U.S. Honey Producer Research and Promotion Board ("U.S. Honey Producer Board"), as is permitted under the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. §§ 7411-7425, Pub. L. 104-127).

As required by the Agricultural Marketing Service, this proposal includes: (1) an analysis of the U.S. honey industry; (2) a justification for the U.S. Honey Producer Board; (3) a statement of the objectives of the U.S. Honey Producer Board; (4) an estimation of the impact that the U.S. Honey Producer Board will have on small business; and (5) evidence of industry support for the U.S. Honey Producer Board. These five items are included in the enclosed document entitled "Proposal for the U.S. Honey Producer Board". Additionally, this proposal includes the new text of the proposed order, which has been modified slightly to reflect a few concerns raised earlier by USDA during the permitted discussion phase.

Thank you again for your assistance. If you have any questions regarding this now final proposal, please do not hesitate to contact me or John Waits, AHPA's Washington counsel, who can be reached at (202) 282-5779.

Sincerely,

Mark Brady
President
American Honey Producers Association

Enclosures:

Proposal for the U.S. Honey Producer Board
Proposed Order for the U.S. Honey Producer Research and Promotion Board

American Honey Producers Association
PO Box 158
Power MT 59468

*Proposal for the U.S. Honey Producer Board
May 24, 2007*

INTRODUCTION

As President of the American Honey Producers Association (“AHPA”) and on behalf of AHPA’s more than 550 members nationwide, I am submitting the attached proposed order and justification for a research and promotion program for U.S.-produced honey. AHPA is a national organization of commercial beekeepers actively engaged in honey production and offering pollination services throughout the United States. This proposed board, the U.S. Honey Producer Research and Promotion Board (“U.S. Honey Producer Board”), will be funded via assessments upon U.S. honey producers that produce in excess of 100,000 pounds of honey per year.

As the U.S. Department of Agriculture’s Agricultural Research Service (“ARS”) noted in an August 2006 press release, honey bees have “had a rough time of it lately”. The same can be said for the U.S. honey industry. The U.S. honey industry is undergoing a significant transition due to a dramatically declining honey bee population, the increased threat of unfair imports of honey, and increased production costs. The commercial beekeeping industry in the U.S. is small relative to other agricultural industries, and it generates its income from honey production as well as the provision of pollination services. Beekeepers have historically made the vast majority of their income from honey production, and they cannot survive by merely relying on income from pollination services alone. Thus, the survival of U.S. commercial beekeepers is dependent upon creating a strong market demand for U.S.-produced honey.

In order to address these and other problems, to reverse the decline in the number of bees available for honey production, and to increase the demand for honey produced in the United States, the U.S. honey industry needs a research and promotion board that focuses solely on the U.S. honey industry. The proposed U.S. Honey Producer Board will actively support and strengthen the U.S. honey industry and will be dedicated to finding solutions to the challenges and issues discussed below. This new research and promotion board is needed to enhance the image of U.S.-produced honey and honey products.

Because the honey industry at large includes producers, importers, and packers, the current National Honey Board is charged with addressing the concerns of a large and diverse group. The National Board, as a result, has been unable to adequately promote the interests of U.S. honey producers and assist those producers with the unique challenges and issues they face. Only a U.S. Honey Producer Board, concerned solely with domestic honey production, can help U.S. honey producers find a way to navigate this new environment and can enable the small but critically important U.S. honey industry to survive.

PART I:

THE STATE OF THE U.S. HONEY INDUSTRY

I. Industry Analysis

A. *Honey Bee Population*

In the past few decades, U.S. commercial beekeepers have seen a worrisome and dramatic decline in the population of U.S. honey bees. According to a report released last year by the National Research Council, the population of American honey bees has plunged by 30 percent in the last 20 years. This staggering loss of managed honey bee colonies is one of the most severe declines U.S. agriculture has ever experienced in such a short period. Most troubling, there are far fewer bee hives in the U.S. today than at any time in the last 50 years.

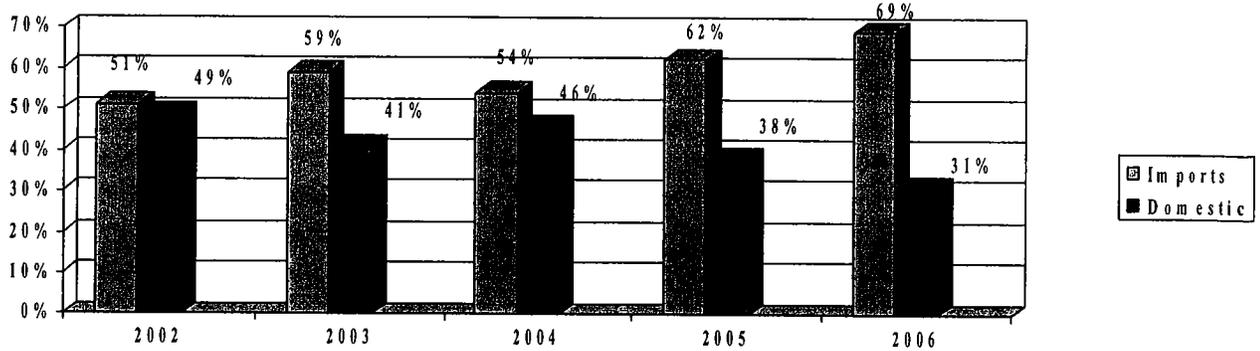
As the honey bee population has declined, so has the number of commercial beekeepers in the U.S. Not surprisingly, commercial beekeepers supply the vast majority of the domestic honey consumed in the United States and most pollination services. Today, the number of U.S. commercial beekeepers has fallen to an all-time low of 1,600. This drop in the number of domestic commercial beekeepers corresponds with a steady decline in the number of colonies producing honey. In 2006, 2.39 million colonies produced honey in the U.S., down 7 percent from 2004.

B. *Honey Production and Sales*

Honey bees, and consequently the U.S. honey industry, are indispensable to contemporary American agriculture. In recent years, domestic honey bees have annually produced an average of 200 million pounds of honey. However, in 2005, only 174 million pounds of honey were produced in the United States, a five percent decrease from 2004. In 2006, domestic honey production fell even further, amounting to less than 155 million pounds, almost a 16 percent decrease from 2004. By comparison, as recently as 2000, U.S. commercial beekeepers produced over 220 million pounds of honey.

U.S. sales of domestic honey also reached historically low levels in the past two years. Based on the National Honey Board's data, U.S.-produced honey accounted for only 38 percent of all U.S. honey sales in 2005, and fell to a startling 31 percent in 2006. This represents a significant decline from 2004, when 46 percent of U.S. sales were of domestic honey. Meanwhile, honey imports have dramatically risen, accounting for 62 percent of U.S. sales in 2005 and 69 percent in 2006. The decline in sales of U.S.-produced honey in recent years has been coupled with falling honey prices. Chart 1 below shows the recent decrease in the share of U.S. honey sales and the increase in the level of foreign honey being imported into the U.S. marketplace.

Chart 1
Share of U.S. Honey Sales

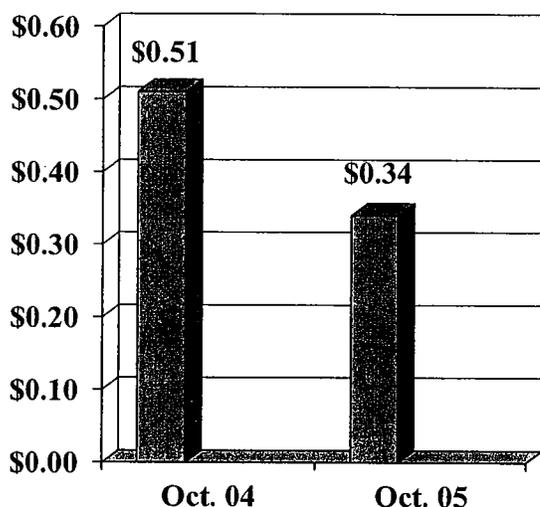


Source: National Honey Board Sales Assessments

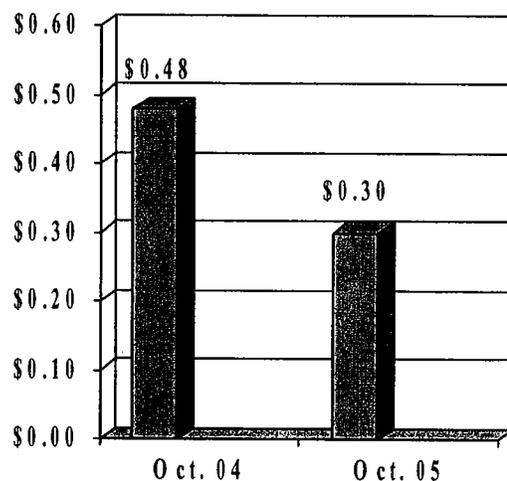
As a result of decreased sales and low honey prices, U.S. honey producers have faced yet another consecutive year of unprecedented difficulty in selling honey. During 2005 and much of 2006, many U.S. producers had virtually all of their 2004, 2005, and 2006 production still in inventory. The low price of honey in recent years has been due, in large part, to the importation of Chinese honey that is being sold below production cost. As illustrated in Chart 2 below, the average price of Chinese honey was far below the average price of U.S.-produced white and extra light amber honey in 2005. In fact, the average bulk price of honey imported from China in 2005 was 40 cents per pound, which was 28 cents lower than the average bulk price of honey imported from Argentina (which had an average bulk price of 68 cents per pound); 36 cents lower than honey imported from Mexico (which had an average bulk price of 76 cents per pound); and 38 cents lower than honey imported from Canada (which had an average bulk price of 78 cents per pound).

Chart 2
Chinese Honey Prices, 2005
(Customs Value, Exclusive of Freight)

White Honey



Extra Light Amber Honey



Sources:

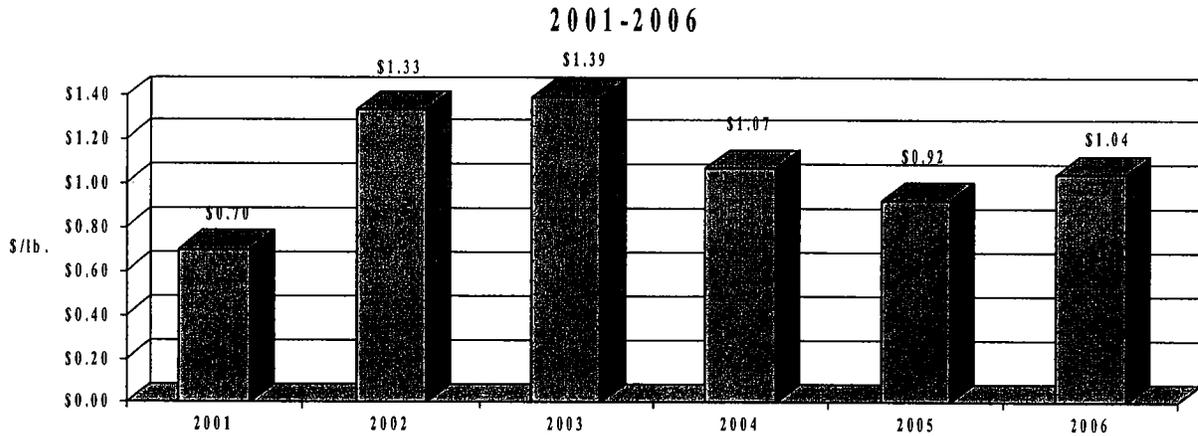
<http://www.ams.usda.gov/marketnews.htm>

<http://www.marketnews.usda.gov/portal/fv>

The price of Chinese honey remained exceedingly low during 2006. The average bulk price of honey imported from China for the first eight months of 2006 was 46 cents per pound. Again, this was significantly lower than the average bulk price of honey imported from other countries. The average bulk price of Chinese honey was 25 cents lower than the average bulk price of honey imported from Argentina (which had an average bulk price of 71 cents per pound); 40 cents lower than honey imported from Mexico (which had an average bulk price of 86 cents per pound); and 36 cents lower than honey imported from Canada (which had an average bulk price of 82 cents per pound).

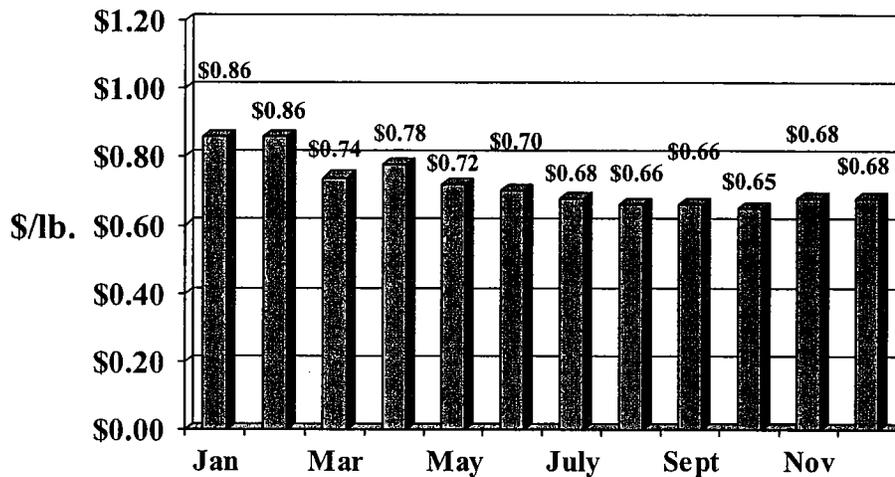
Based on data from the U.S. Department of Agriculture, the average price for U.S. honey in 2005 was 92 cents per pound, a significant drop from 2003's average of \$1.39 per pound. By comparison, the average price of U.S.-produced honey in 1995 was 64.4 cents per pound, providing further evidence of the extremely low price of U.S. honey today. Further evidencing the decline in the industry, honey prices for 2005 were lower than the previous year for all color classes of honey. Chart 3 below illustrates the sharp decline in U.S. honey prices from 2003-2005, and Chart 4 provides a month-by-month analysis of U.S. honey prices for 2005. Note that the price of U.S. honey recovered somewhat in 2006 due to favorable action by Congress in closing a loophole in U.S. trade laws that has led to abuses, particularly with respect to honey imports from China. However, the difficulty posed by the low price of imported honey is clear.

Chart 3
U.S. Honey Prices



Source: USDA, National Agricultural Statistics Service

Chart 4
U.S. Honey Prices, January – December, 2005



Sources:

<http://www.fsa.usda.gov/ao/epas/dsa/honeyprice.htm> (2005)

Proposal for the U.S. Honey Producer Board
May 24, 2007

C. *Beeswax*

Commercial beekeepers also market and sell the beeswax produced by honey bees. Beeswax is used commercially to make fine candles, cosmetics, and pharmaceuticals. Cosmetics and pharmaceuticals account for 60 percent of the total consumption of beeswax.

D. *Pollination*

In addition to providing the marketplace with U.S. honey, commercial beekeepers supply U.S. honey bees to pollinate a variety of agricultural crops, and their efforts are vital to U.S. agriculture production. Honey bees pollinate more than 90 different food, fiber, and seed crops in the U.S., valued at approximately \$15 to \$20 billion a year, according to the U.S. Department of Agriculture. The importance of U.S. honey bees for pollination cannot be understated; the value of such pollination is vastly greater than the total value of honey and wax produced by honey bees. Without pollination, many plants cannot produce fruit after they bloom. If a plant is only partially pollinated, the fruit produced is likely to be deformed or smaller than its normal size. Thus, honey bees are a fundamental component of U.S. agriculture.

Honey bees are necessary for the production of such diverse crops as almonds, apples, oranges, melons, broccoli, tangerines, cranberries, strawberries, vegetables, alfalfa, soybeans, sunflower, and cotton, among others. In fact, honey bees pollinate approximately one-third of the human diet. More than 140 billion honey bees (representing 2 million colonies) are transported by U.S. beekeepers across the country every year to pollinate crops. The vast majority of these honey bees are owned by commercial honey producers, who use income from such pollination services to help protect themselves against the volatility of the U.S. honey market. The importance of honey bee pollination goes beyond agriculture; honey bees also pollinate more than 16 percent of flowering plant species.

The importance of honey bees—and the U.S. honey industry which supplies the honey bees for pollination—is illustrated by the pollination of California’s almond crop, which is that state’s largest agricultural export. California grows 100 percent of the nation’s almond crop and supplies 80 percent of the world’s almonds. Honey bees are transported from all over the nation to pollinate California almonds, which is the biggest single crop requiring honey bees for pollination. More than one million honey bee hives are needed to pollinate the 600,000 acres of almond groves that line California’s Central Valley. That means nearly half of the managed honey-producing colonies in the U.S. are involved in pollinating almonds in California during February and early March. As with other agricultural products, having enough bees to pollinate the almond crop can mean the difference between a good crop and disaster. As one news report noted last year, growing almonds without honey bees “is like sky diving without a parachute”. Moreover, almond producers estimate that California may need as many as 2 million hives for pollination by 2012 to pollinate the expected 800,000 acres of almonds that will be in production then. As *OnEarth* magazine notes, the fate of California’s almond crop rests “on the slender back of the embattled honey bee”.

Many other U.S. agriculture producers rely on extensive honey bee pollination. A Maine blueberry grower recently put it quite succinctly—“without bees in May, there are no blueberries

Proposal for the U.S. Honey Producer Board
May 24, 2007

in August.” Additionally, avocados—an over \$363 million crop in California—receive more than 90 percent of their pollination from the honey bee. Studies on the effect of pollination of cotton by honey bees show an increase of 17 to 19 percent in the yield of seed cotton, as compared to a cotton crop that is not pollinated by honey bees. The cattle and farm-raised catfish industries also benefit from honey bee pollination, as pollination is important for growing alfalfa, which is fodder for cattle and farm-raised fish.

The U.S. honey industry must be preserved through the creation of the proposed U.S. Honey Producer Board because the industry is vital. Not only does it supply honey to the U.S. marketplace, but also many U.S. agricultural commodities rely on the U.S. honey industry’s honey bees for pollination. If the U.S. does not maintain an active, vibrant domestic honey industry, as would be furthered by the U.S. Honey Producer Board, many other agricultural commodities will suffer due to the loss of essential pollination services that the U.S. honey industry provides. Unfortunately, due to recent problems plaguing the U.S. honey industry, U.S. farmers were forced to import honey bees from other countries (New Zealand and Australia) last year for pollination. This marked the first time since 1922 that honey bees were imported into the U.S. for pollination services, underscoring the fragile state of the U.S. honey industry and highlighting the need for a research and promotion board focused solely on the domestic honey industry. Although the United States can import honey, it will never be able to import bees on the massive scale required by U.S. farm producers for critical pollination of U.S. crops.

II. Industry Profile

A. U.S. Honey Production

Although honey is produced in every state, North Dakota, California, South Dakota, Florida, Montana, and Minnesota lead the nation in honey production. Chart 5 below lists the top six honey-producing states in 2006, and indicates the number of pounds produced and the value of production for each of these states.

Chart 5

U.S. Honey Production — Top 6 States

State	Pounds Produced	Dollar Value of Production
North Dakota	25,900,000	\$23,310,000
California	19,760,000	\$19,365,000
Florida	13,770,000	\$13,908,000
South Dakota	10,575,000	\$8,672,000
Montana	10,428,000	\$10,428,000
Minnesota	10,000,000	\$8,900,000

Source: USDA, National Agricultural Statistics Service

B. *Imported Honey*

Chart 6 below, prepared by the current National Honey Board, details the amount of honey, in pounds, imported into the U.S. As noted in this chart, seventeen countries produce over 93 percent of the honey that is imported into the U.S. The major importers into the U.S. marketplace in 2005 were China, Argentina, Canada, Vietnam, and India. These five countries produced almost 78.5 percent of the honey imported into the U.S. in 2005. As described in more detail below, several of these countries have been found to dump honey in the U.S. marketplace, in violation of international trade laws. Several of these countries also have imported tainted honey into the U.S. and have attempted to evade U.S. anti-dumping duties through transshipments of honey.

*Proposal for the U.S. Honey Producer Board
May 24, 2007*

Chart 6
Pounds of Honey Imported From Selected Countries, 2001 - 2005

	2001	%	2002 ¹	%	2003	%	2004	%	2005	%
CHINA	48,603,333	31.0%	17,097,663	8.9%	42,793,773	20.9%	61,800,126	34.6%	60,409,612	26.8%
ARGENTINA	53,950,862	34.4%	13,174,534	6.9%	15,961,790	7.8%	4,378,161	2.5%	47,453,353	21.0%
MEXICO	8,735,508	5.6%	23,283,075	12.1%	17,737,202	8.6%	7,079,206	4.0%	4,597,953	2.0%
CANADA	21,083,599	13.4%	44,436,094	23.2%	27,804,493	13.6%	21,881,422	12.2%	21,794,883	9.7%
AUSTRALIA	432,458	0.3%	5,601,230	2.9%	224,893	0.1%	1,577,202	0.9%	850,584	0.4%
BRAZIL	5,568	0.0%	8,917,735	4.6%	17,860,076	8.7%	7,403,562	4.1%	9,920,780	4.4%
BULGARIA	61,384	0.0%	159,272	0.1%	1,556,864	0.8%	1,322,644	0.7%	627,330	0.3%
CHILE	1,819,462	1.2%	5,924,058	3.1%	10,137,109	4.9%	1,856,341	1.0%	2,178,769	1.0%
INDIA	49,145	0.0%	4,843,832	2.5%	10,774,583	5.3%	13,467,204	7.5%	17,334,655	7.7%
INDONESIA	66	0.0%	0		80,434	0.0%	4,762,971	2.7%	3,074,140	1.4%
MALAYSIA	0		2,079,218	1.1%	6,977,848	3.4%	1,889,076	1.1%	440,898	0.2%
PERU	1,025	0.0%	606,094	0.3%	2,211,975	1.1%	1,165,708	0.7%	137,201	0.1%
ROMANIA	41,272	0.0%	536,434	0.3%	2,416,657	1.2%	2,124,239	1.2%	562,331	0.2%
THAILAND	1,518,440	1.0%	11,053,579	5.8%	1,624,065	0.8%	1,819,611	1.0%	979,552	0.4%
TURKEY	149,246	0.1%	2,950,443	1.5%	5,364,708	2.6%	1,991,064	1.1%	493,309	0.2%
UKRAINE	35,201	0.0%	629,874	0.3%	4,406,189	2.1%	4,389,649	2.5%	866,731	0.4%
URUGUAY	5,172,089	3.3%	13,391,301	7.0%	12,067,962	5.9%	6,776,222	3.8%	8,740,347	3.9%
VIETNAM	11,777,589	7.5%	31,495,955	16.4%	17,380,070	8.5%	21,499,166	12.0%	29,705,109	13.2%
OTHER	3,564,897	2.3%	5,651,240	2.9%	7,677,702	3.7%	11,466,516	6.4%	15,606,693	6.9%
TOTAL	157,001,144	100.0%	191,831,631	100.0%	205,058,393	100.0%	178,650,090	100.0%	225,774,230	100.0%

Source: National Honey Board

PART II

THE NEED FOR A U.S. HONEY PRODUCER BOARD

I. Threats to the U.S. Honey Industry and U.S. Honey Bees

The U.S. honey industry desperately needs a U.S. Honey Producer Board focused on the grave threats currently facing the U.S. honey industry and affecting both U.S. honey producers and U.S. honey bees. Over the past two decades, the vitality of the American honey industry has been threatened by: (1) natural pests and diseases that kill or weaken honey bees, including the recent and serious threat posed by the mysterious condition known as Colony Collapse Disorder ("CCD"); (2) international importers that sell honey below cost in violation of international trade laws; (3) record droughts in the Midwest that have destroyed the plants and flowers honey bees use to gather pollen; (4) farm pesticides that poison foraging bees; (5) tainted imports of honey that decrease demand in the U.S. marketplace; and (6) adulterated imports of honey that further

¹ In 2002, the U.S. anti-dumping order on honey took effect, causing a dramatic drop in the importation of Chinese and Argentinean honey. As the chart illustrates, this marked only a temporary decline in the amount of Chinese and Argentinean honey imported into the U.S.

Proposal for the U.S. Honey Producer Board
May 24, 2007

decrease demand in the U.S. marketplace. A U.S. Honey Producer Board would be focused solely on advancing the interests of the U.S. honey industry and would help strengthen the industry by addressing these and other serious threats.

A. *Pests and Diseases*

Honey bees have been plagued by exotic parasite mites, Africanized bees, brood diseases, and other new pests and pathogens that pose very serious and growing threats to the viability of the U.S. honey industry. Since 1984, the survival of the honey bee has been threatened by continuing infestations of mites and pests. Together, these diseases and parasites are costing U.S. honey producers millions of dollars for treatment, for colony maintenance and replacement, in lost honey production, and in lost pollination services.

Unfortunately, many of these pests and diseases are now resistant to chemical controls in many regions of the country. Such resistance is increasingly becoming a problem, as most of the major chemical controls are ineffective in treating such pests and diseases. Further, U.S. honey producers and commercial beekeepers have seen that these pests are building resistance to newly-developed chemicals more quickly than in the past, thereby limiting the longevity of chemical controls. These pests and diseases are causing more commercial beekeepers to leave the business, which could accelerate a long-term decline in the number of honey producers in the U.S. Clearly, the loss of honey bees and commercial beekeepers seriously threaten the U.S. honey industry. The U.S. Honey Producer Board would conduct research activities designed to address these critical issues.

1. Colony Collapse Disorder

Colony Collapse Disorder ("CCD") has recently emerged as a new and serious threat to America's beekeepers and their honey bees. CCD is a highly destructive and still mysterious condition. It causes sudden and unexplained death of bees in colonies. Most of the adult bees in a colony mysteriously disappear, and soon the colony completely collapses.

Despite coordinated efforts by government, academic and private sector researchers, there is little known about CCD and its causes. However, based on reports from beekeepers throughout the country, it is becoming increasingly apparent that CCD poses a serious and, perhaps, unprecedented threat to America's honey bee colonies. For beekeepers, bee losses are a harsh fact of life. Beekeepers often face serious bee losses from a variety of causes. However, the losses apparently related to CCD are much more widespread and severe, with some beekeepers reporting the disappearance or destruction of 90 percent of their honey bees.

The AHPA has been receiving many reports of collapsing colonies and staggering bee losses from beekeepers throughout the country, and bee losses have been linked to CCD in 27 states. There does not appear to be a discernable pattern to these losses. Loss reports have come to AHPA from both large-scale and smaller beekeepers, and from beekeepers who transport their colonies extensively as well as those who keep their colonies at one location. One beekeeper may experience pervasive colony collapse, while neighboring beekeepers report no such losses. Additionally, CCD-related losses have been experienced by beekeepers with colonies under

Proposal for the U.S. Honey Producer Board
May 24, 2007

stress from pests and other factors, as well as by those who have strong colonies and vigilantly employ state-of-the-art management loss-prevention practices.

Modern beekeepers are highly attentive to the condition of their bees and can usually pinpoint the causes for colony losses. However, beekeepers are baffled by these latest serious bee losses. A great many theories have been offered to explain CCD. Some suggest that the stress from the almost constant movement of bee colonies, combined with the additional stress of pollinating crops, like almonds, that provide little honey to the bees, may be a contributing factor to CCD. Many others believe that continuing infestations of the highly destructive Varroa mite (described below), combined with other pathogens and viruses carried by these mites, may be the primary cause of CCD. Still others suggest that CCD may result from an unknown fungal pathogen. Additionally, other beekeepers suspect that new classes of pesticides, possibly in combination with increasing and serious misuse of other commonly used agricultural chemicals, may be a cause of CCD. Research has shown that some new chemicals can be present in the pollen of certain crops at levels high enough to threaten bees. It has also been suggested that CCD may be related to the introduction of foreign bees for pollination for the first time in 85 years. Recent press reports note that some researchers even believe that CCD may be caused by the disruption of honey bee navigation by cell phone signals. Finally, many beekeepers believe that recent unprecedented losses are caused by some combination of these and possibly other contributing factors.

In short, the unexplained and severe losses apparently caused by CCD represent a new and serious challenge to the domestic beekeeping sector. It is imperative that this threat be addressed before it begins to thin even further the already dwindling ranks of U.S. honey bees and create potentially serious problems for U.S. agriculture.

2. The Varroa Mite

The most serious bee threat facing the U.S. honey industry in recent years (prior to the emergence of CCD) is the pinhead-sized Varroa mite, which is systematically destroying bee colonies. Twenty years after its introduction into the U.S., these mites continue to devastate the commercial honey bee populations that produce honey and are causing the loss of hundreds of thousands of domestic honey bee colonies annually. As noted in a 2005 *USA Today* article, the Varroa mite has destroyed as much as sixty percent of the hives in some areas in 2005. For example, in Florida, the number of commercial bee colonies has fallen from approximately 360,000 hives in 1990 to just 160,000 today—in large part as a result of the Varroa mite. The Commonwealth of Virginia estimates that the number of hives lost annually in that state is between twenty-five and fifty percent. The U.S. honey industry has not seen losses on this scale since the 1940s, when American foulbrood destroyed large numbers of honey bee colonies. Since the arrival of these exotic pests in the 1980s, honey bee stocks in the U.S. have declined by 39 percent, according to a major new report from the National Academies, entitled “Status of Pollinators in North America”.

These tiny parasites—also known as “vampire mites”—attach themselves to the backs of adult bees and literally suck out their insides. As Florida’s chief of apiary inspection has stated, a mite infestation is “like having parasitic rats all over you”. Researchers have stated that a

Proposal for the U.S. Honey Producer Board
May 24, 2007

single Varroa mite can decrease the lifespan of a honey bee by one-third, and two mites can shorten a honey bee's lifespan by one-half. The mite also burrows its way into the cocoon-like cells of developing bees and lays its eggs. In doing so, it destroys the developing bees. In addition to this devastation, mites weaken honey bees and make them much more susceptible to viral diseases, such as Acute Paralysis Virus, Kashmir Bee Virus, and Deformed Wing Virus. If left untreated, the Varroa mite can destroy a honey bee colony in as little as six months.

When these mites were first discovered in the U.S. in 1987, beekeepers were able to fight them with strips of the chemical fluvalinate and with the chemical coumaphos. However, these chemicals are becoming increasingly ineffective. In fact, the Varroa mites have evolved into a parasite seemingly immune to these pesticides. Applications of these pesticides no longer eliminate the mites in honey bee colonies. Thus, many U.S. honey producers are required to continually treat honey bee hives to keep the mites in check. While the U.S. Department of Agriculture's ARS Honey Bee Research Laboratories have been working frantically to develop other means of control, there are no other chemicals commercially available that will effectively control the Varroa mite.

The Varroa mite has caused significant increases in the costs of maintaining honey bee colonies for commercial beekeeping operations. Because U.S. commercial beekeepers must treat their colonies two to four times a year to thwart mite infestations, the beekeepers are subject to increases in the costs for treatment chemicals and for the labor involved in the applications. Additionally, infested colonies require additional feedings of sugar syrup and pollen substitutes because such colonies do not collect and store as much food as healthy colonies. The need for these feedings raises the costs of operations, both in terms of feed and labor. These costs are in addition to the increased expenses related to the purchase of new bees to refill hives devastated by the Varroa mites. Finally, Varroa mites cause significant losses of honey yields. Colonies infested with the Varroa mite are weaker and produce less honey. Replacing colonies destroyed by mites also reduces honey production.

3. The Tracheal Mite

Tracheal mites are another contributing factor to the loss of honey bees. Tracheal mites, which were first detected in the U.S. in 1984, infest the breathing tubes of adult honey bees and also feed on the bees' blood. The mites essentially clog the honey bees' breathing tubes, blocking the flow of oxygen and eventually killing the infested honey bees. Although they can be better controlled than the Varroa mite, attention to tracheal mites has diminished as honey producers struggle to manage the more problematic Varroa mite. Consequently, the tracheal mite continues to pose a serious threat to commercial beekeepers and the U.S. honey industry.

4. The Small Hive Beetle

The small hive beetle is a further problem facing the U.S. honey industry. Although the small hive beetle is most prevalent along the Southeastern coast, this pest has caused severe honey bee colony losses in California, Florida, Georgia, South Carolina, North Carolina, Pennsylvania, Ohio, and Minnesota. Estimates put these losses in just one season at over 30,000 colonies. The beetles are now spreading all across the United States.

Proposal for the U.S. Honey Producer Board
May 24, 2007

Small hive beetles and their larvae eat pollen, honey, and brood and damage colonies and beekeeping equipment. In doing so, the beetles reap destruction on the combs of unextracted honey. Because the larvae burrow through the combs, they cause honey to ferment and leak from the combs, essentially ruining the hive's honey supply.

5. The American Foulbrood Disease

One of the most devastating diseases facing honey bees is American foulbrood, a widespread bacterial disease. American foulbrood kills young honey bee larvae, turning their remains into dark, shriveled corpses, called "scales". The scales contain billions of spores of the disease that are spread by honey bees to other hives. Although the disease poses no human danger, severe outbreaks will weaken or kill entire honey bee colonies, according to officials at one of the ARS honey bee laboratories.

American foulbrood caused tremendous honey bee losses in the first half of the twentieth century, destroying hundreds of thousands of colonies. However, the introduction of antibiotics in the late 1940s dramatically reduced the incidence of American foulbrood. These antibiotics successfully treated American foulbrood for approximately fifty years. Unfortunately, in the mid-1990s, the bacteria that cause American foulbrood began to develop resistance to the sole antibiotic that had proven effective against the disease. That resistance has now become pervasive, and the disease is now a resurgent threat to the U.S. honey industry. Although the U.S. Food and Drug Administration ("FDA") recently approved a new antibiotic to treat American foulbrood, U.S. honey producers and commercial beekeepers know that a single chemical treatment is only a short-term solution, as has been demonstrated with the treatment for Varroa mites. Thus, it is only a matter of time before the bacteria develops resistance to this new chemical control.

B. *Unfair Imports*

Global competition in the marketplace for honey is extremely strong and is driven, among other things, by low production costs in key honey-producing countries. The U.S. honey industry historically has been able to compete successfully with imported honey in the U.S. marketplace. However, the honey industry cannot compete when importers violate international trade laws or engage in other unfair practices, as has repeatedly been the case in recent years. One of the most significant recent threats to the U.S. honey industry has been unfair, below-cost trade from the largest honey-importing countries. The desire to capture an increasing share of the U.S. honey market has caused these importers to exploit provisions of U.S. trade law, undercutting anti-dumping orders that are designed to protect the U.S. agricultural industry from unfairly traded imports. As previously shown in Chart 1, these unfair practices have had a serious negative effect on sales of U.S.-produced honey, causing the U.S. market share to plunge from 49 percent in 2002 to 31 percent in 2006. Unscrupulous foreign honey producers, particularly in China, also continue to employ other unfair trading methods, including sales of mislabeled and adulterated honey.

Proposal for the U.S. Honey Producer Board
May 24, 2007

The U.S. International Trade Administration determined that, in 2000, imports of honey from China were being dumped in the U.S. marketplace at margins as high as 183 percent and honey from Argentina was being dumped at margins as high as 55 percent. Surging volumes of honey imported from these countries, coupled with unfair sales at well-below-market rates, have seriously damaged the U.S. honey industry. AHPA expended considerable time, effort, and expense in actively pursuing its rights under U.S. law to prevent unfair dumped imports of foreign honey. In early 2002, after years of such dumping, the U.S. honey industry won hard-fought anti-dumping cases against unfairly traded Chinese and Argentinean honey, and significant anti-dumping duties were imposed on honey imported from China and Argentina. In the first year after they were issued, the anti-dumping orders had very positive effects, helping to restore fair prices and reduce imports of unfairly traded honey.

In response to these anti-dumping orders, Chinese importers and related U.S. entities aggressively sought ways to evade the anti-dumping order on honey imports from China. Beginning in 2003, these companies began to exploit a loophole in U.S. law to undercut the effect of the anti-dumping order and evade the accompanying anti-dumping duties. Chinese importers increasingly claimed to be “new shippers” under the U.S. anti-dumping law. A provision of U.S. law provided importers from these “new shippers” the privilege to post low-cost bonds (obtained at a cost of pennies on the dollar) for their imports instead of making full cash deposits to cover the anti-dumping duty. Most troubling, the U.S. Department of Commerce repeatedly determined, after long reviews, that numerous Chinese shippers had based claims of new shipper status on fraudulent and forged documents.

Once they qualified for new shipper bonding, importers from “new shippers” began making massive imports. When the Federal Government eventually determined that significant anti-dumping duties were due, the U.S. entities (who were often U.S. affiliates of the alleged new shippers) often evaded payment by defaulting or dissolving their companies. Importers often closed shop and “skipped out” on these bonds, making it difficult for the U.S. Customs and Border Protection (“CBP”) to collect duties and severely weakening the deterrent effect of the anti-dumping order. During the past four most recently-completed fiscal years (2003-2006), the U.S. Commerce Department has instructed CBP to collect \$19.40 million in final antidumping duties owed by U.S. importers on honey imports from China. Of this amount, CBP has succeeded in collecting only \$2.78 million dollars, which is about 14 percent of the total amount owed. Put another way, over the past four years CBP has collected only about 14 cents for every dollar in assessed AD duties owed by U.S. importers on honey imports from China. This is a double blow for the U.S. honey industry. The industry is unable to recover these duties (to which the domestic industry is entitled under the Continued Dumping and Subsidy Offset Act), and the U.S. market is flooded with low-cost, and often low-quality, honey, making it impossible for U.S. honey producers to compete in such an environment. As a result of these abuses, in mid-2006, many U.S. honey producers still had warehouses full of honey harvested in 2004, 2005, and 2006, and the market share of U.S. honey plummeted, as previously shown in Chart 1.

Despite anti-dumping duties as high as 183 percent, domestic honey producers have been faced with Chinese imports that surged from 17 million pounds in 2002 (the first year after the anti-dumping order took effect) to 65 million pounds in 2005. For the first eight months of 2006, honey imports from China were over 60 million pounds—almost as much as the country

Proposal for the U.S. Honey Producer Board
May 24, 2007

imported in the entire year in 2005. From 2004 to mid-2006, new shipper bonding abuse allowed these importers to ignore the anti-dumping order. Such illegal actions virtually wrecked the U.S. honey market, and prevented many hardworking U.S. honey producers from selling their crops in a market flooded with low-cost imports.

Fortunately, Congress recently came to the aid of the U.S. honey industry and temporarily closed this serious loophole in the trade laws. A provision of the recently enacted Pension Protection Act of 2006 temporarily suspended (until June 30, 2009) the option of posting bonds in new shipper cases. U.S. honey producers and commercial beekeepers are hopeful that this important change in the law will help restore fair prices and allow the anti-dumping order on honey to work as the law intends. The U.S. honey producers are cognizant, however, that this is only a short-term solution, since the bonds are only suspended until 2009. Meanwhile, U.S. honey producers must still grapple with unfairly priced honey imports.

The serious competitive pressures that led to high levels of dumping and concerted efforts to evade the anti-dumping duties will continue to play out in other ways in the marketplace. Unscrupulous foreign honey producers will continue to find ways to evade the anti-dumping order and engage in other unfair trade practices that flood the U.S. market with cheap, inferior honey. For example, prior to their use of the new shipper loophole, Chinese companies attempted to circumvent the anti-dumping duties with elaborate smuggling operations. Unscrupulous exporters re-labeled Chinese honey as a product of other countries and transshipped the fraudulently labeled honey to the U.S. Although sometimes the Chinese honey was blended with the native honey and imported into the U.S., the Chinese honey, in most instances, was simply fraudulently relabeled and sent to the U.S. Thus, countries with little previous history of exporting honey began shipping massive amounts of honey into the U.S. shortly after the anti-dumping order took effect.

In August 2002, joint international investigations implicated parties in China, Vietnam, Malaysia, Thailand, Mexico, and Australia in this type of scheme. With the closure of the new shipper loophole, U.S. honey producers anticipate that the Chinese producers and others will again employ transshipments to circumvent American trade laws. Nobody knows better than the U.S. honey producer how Chinese importers do not always play by the rules, especially when it comes to trade. Thus, the U.S. honey industry knows it will be forced to continue its fight against these, and other, unfair trade practices—practices that severely threaten the stability of the U.S. honey industry. The majority of honey importers do not share these concerns about unfair trade, even though it is a vital issue for U.S. honey producers. These differing views further evidence the need for a U.S. Honey Producer Board that is more focused on U.S.-produced honey and is more attuned to the U.S. honey producer segment of the honey industry.

C. Effect of the Drought

The recent drought situation, especially throughout the Midwest (the leading honey production area), has also had a devastating effect on the U.S. honey industry. The area had such a shortage of rainfall in 2006 that many of the flowers and trees that bees typically rely on for nectar did not bloom. Because bees use nectar to make honey, the drought caused a significant downturn in honey production. Midwestern producers saw honey production plummet by 75

Proposal for the U.S. Honey Producer Board
May 24, 2007

percent or more due to these severe weather conditions. Furthermore, the drought placed severe stress on the honey bees, making them more susceptible to the diseases and pests discussed above, and significantly reducing their life span. Recent forecasts indicate that severe drought conditions are likely for a number of honey-producing regions, particularly the upper Midwest.

D. *Effect of Crop Pesticides*

Every year, the application of agricultural and forestry pesticides, especially insecticides used to control agricultural pests, kills or weakens thousands of honey bee colonies, further threatening the U.S. honey industry. As noted in a recent article in the magazine *OnEarth*, safe pastures where honey bees can forage without being poisoned by pesticides are becoming increasingly rare. Indeed, it is estimated that 20 percent or more of all losses of honey bee colonies involve some degree of pesticide exposure. The economic harm that pesticides impose on the U.S. honey industry is substantial and unnecessary. According to a study on economic costs of pesticide use, honey bee poisonings result in an annual loss of \$13.3 million in the U.S.

Honey bees are killed when exposed to the toxic pesticide or insecticide while foraging for nectar, pollen, tree resin, sap, or water. A honey bee cannot recover from an exposure to a dangerous pesticide; simply put, if the bee is exposed to the pesticide, it dies. Even if some of the honey bees within a given population avoid exposure (and thereby avoid death), the bee populations rebound very slowly, if at all. Specifically, honey bees recover slowly from insecticides and other disturbances because of their low fecundity (they are unable to reproduce rapidly or in great numbers), which also makes them more susceptible to local extinction. Without outside intervention, it may take 3 to 4 years for bee populations to return to pre-pesticide application levels.

Moreover, there are no documented cases of bees becoming resistant to insecticides. Consequently, honey bees will always be susceptible to pesticide poisoning. A survey cited by the U.S. Environmental Protection Agency ("EPA") states, "bees continue to sustain major losses from pesticides in many parts of the United States. Sixty beekeepers, operating 127,950 colonies in 22 states, reported that bee losses from pesticides are a significant issue in their operations." The survey also indicates that 35,970 colonies were damaged from pesticides in 1995 alone, and 36,192 colonies were damaged in 1996.

There is ample evidence, in the form of recorded bee kills, that the pesticide Carbofuran poses a very high risk to honey bees, even in the absence of misuse. Significantly, in the above-referenced survey, Carbofuran was ranked as the number one pesticide (*i.e.*, the worst) in terms of being linked to bee kills. For example, the EPA has noted a bee kill incident in California that resulted from the registered use of Carbofuran on alfalfa, even though there was no evidence of misuse (*i.e.*, the use was in accordance with label instructions). The State of Washington Department of Agriculture also has reported bee poisoning events in that state related to the use of Carbofuran. An earlier survey indicated that, during a two-year period, hundreds of honey bee colonies experienced kills related to Carbofuran application.

Carbofuran's role in bee kills has been recognized by the EPA in a 2005 document that states:

Proposal for the U.S. Honey Producer Board
May 24, 2007

[T]he [Environmental Protection] Agency has received incident reports documenting damage to hundreds of bee colonies and bee kills and indicating risk to honey bees associated with use of carbofuran on alfalfa. Because of a lack of a nationwide incident monitoring and reporting system, it is reasonable to assume that many incidents go undetected and unreported. These reported incidents are likely a small subset of the actual carbofuran incidents that are occurring in the environment. Moreover, even if an incident occurs, it is difficult to find carcasses because of factors related to vegetative cover, scavengers, and decay. For these reasons, the number of incidents associated with other crops cannot be interpreted as evidence that mortality events are not occurring. Comparison of laboratory-derived toxicity values with realistic application rates indicates that most terrestrial invertebrate populations inhabiting areas where carbofuran is applied are likely to experience significant mortality. Field studies corroborate this conclusion, as do incident reports on effects of carbofuran on honey bee colonies.

The pesticide Sevin, which is used to control infestations of the cottonwood leaf beetle, is also highly toxic to honey bees. The poisoning from this pesticide and others continues long after application, because worker bees carry pollen contaminated with the pesticides back to the hive. Sevin then kills more honey bees when the insects feed on the contaminated pollen over the winter. In the 1990s, other pesticides posed significant problems for beekeepers in Nebraska, Colorado, North Carolina, and Washington, when the insecticide Penncap-M became popular as a defense against corn rootworm. One report notes that the micro-encapsulated Penncap-M could have been designed as the “ultimate bee-killing weapon: a highly toxic, long-lived nerve poison enclosed in tiny, pollen-sized beads.” Believing the beads were pollen, foraging honey bees carried this pesticide back to their hives, wiping out the colonies.

In addition to the death of honey bees as a result of pesticide exposure, there is increasing concern by U.S. honey producers that sub-lethal effects may have significant impacts on honey bee colonies and honey production. A variety of sub-lethal effects have been reported in honey bees following exposure to pesticides. Sub-lethal effects can include: changes in the division of labor, reduced longevity, reduced foraging, reduced communication of food sources, reduced homing behavior, altered odor discrimination in the individual bee, alteration of colony development, negative impact on survival, and negative effects on larval development. Many of these effects are reported at doses well below estimated exposure levels following field application.

Concerns about sub-lethal effects of crop treatments are particularly pronounced in the case of new, systemic pesticides, including seed treatments containing the chemical Imidacloprid. Research has shown that these chemicals—which can impair the memory and brain metabolism of bees—can be present in the pollen of certain crops at levels high enough to threaten bees. Beekeepers are concerned that pollen containing such chemicals might have long-

Proposal for the U.S. Honey Producer Board
May 24, 2007

term adverse effects to honeybees at several stages in life, particularly when stored in bee colonies.

Most troubling, every class of insecticide, including insect growth regulators, has been shown to decrease the production of honey bee offspring. Indeed, even though colonies fed one part per million of Carbofuran may have survived the summer, they produced significantly fewer adult honey bees. Further, pesticides can affect both the queen status of colonies and the ability of the queen to lay eggs. Although queen bees were usually among the last individuals in the population to die following exposure to Carbofuran, the queens died primarily due to the reduction in the numbers of attendant workers in colonies.

E. *Effect of Tainted Imports*

Imports of honey tainted with Chloramphenicol and Fluoroquinolones have also had a negative impact on sales of honey in the U.S. Chloramphenicol is an antibiotic that has been banned by the FDA. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited its use in food-producing animals, including honey bees. Chloramphenicol adversely affects the ability of a person's bone marrow to produce red blood cells. In addition, the National Institute on Environmental and Health Sciences has found that Chloramphenicol is believed to be a human carcinogen.

In recent years, several countries, including the U.S., have found Chloramphenicol in honey imported from China and South Korea. The Louisiana Department of Agriculture and Forestry recently noted in October 2006 that it had found the banned substance in honey imported from Thailand. In addition, last year the Florida Department of Agriculture and Consumer Services became aware of a problem concerning adulteration of Chinese honey with two fluoroquinolones, another substance banned by the FDA. The presence of Chloramphenicol also has led to several high-profile recalls of honey. In July 2003, 12,040 cases of honey packaged and private labeled for a well-known luxury hotel were recalled because the honey was tainted with the antibiotic Chloramphenicol. Additionally, a large bakery conglomerate acknowledged to using over 118,000 pounds of honey contaminated with Chloramphenicol in fresh-baked goods sold to consumers. At least 500,000 loaves of bread containing this contaminated honey were distributed to retail locations in numerous states.

The U.S. honey industry remains concerned that tainted honey will continue to be imported by unscrupulous Chinese importers. The health hazards associated with Chloramphenicol and fluoroquinolones can cause consumers to cease buying any type of honey, including U.S. honey, especially when large quantities of honey are found to be tainted with these chemicals. If consumers cease to buy or substantially reduce their purchases of U.S. honey, the U.S. honey industry will be faced with substantial economic losses. A U.S. Honey Producer Board will be attentive to these issues and will remain vigilant in helping to combat such tainted imports.

Proposal for the U.S. Honey Producer Board
May 24, 2007

F. *Effect of Adulterated Imports*

Unfortunately, the importation of adulterated honey is not a new phenomenon. Based on the experience of AHPA members, adulterated honey is another growing threat to the U.S. honey industry. The addition of inexpensive sweeteners to honey to increase bulk and lower production costs is a practice used by foreign producers of honey, which causes immense harm to U.S. honey producers.

Imports of products labeled “pure honey” are increasingly found to be made up of primarily maltose sugar, high fructose corn syrup, or rice sugar. The addition of high fructose corn syrup to honey, even in large amounts, is difficult to detect without laboratory testing. Consumers purchase such adulterated products under the false belief that the product is pure honey. Honey adulteration adversely affects the U.S. honey industry by displacing its product in the marketplace and lowering the price of honey, because adulterated honey is cheaper to produce than pure honey. Additionally, adulterated honey can undermine consumers’ trust in the quality and safety of honey, leading to a decrease in consumption of all honey—domestic and imported.

II. *The Current National Honey Board*

A. *Inadequacies of the National Honey Board*

The current National Honey Board was created by statute in 1984 and was approved by the honey industry in a 1986 referendum, before many of the threats discussed above became prevalent. The current National Honey Board consists of U.S. honey producers and honey importers. Since its creation almost twenty-five years ago, the honey industry has seen significant changes, which could not have been predicted when the National Honey Board was formed. In particular, producers and importers now have divergent interests which cannot be served concurrently by the National Honey Board. These changes necessitate a honey producer-oriented board that focuses solely on protecting and promoting the interests of the U.S. honey industry. Only a U.S. Honey Producer Board, concerned solely with domestic honey production, can help U.S. honey producers find a way to navigate the new environment in which they operate and can enable the small but critically important U.S. honey industry to survive.

Regrettably, imported honey is garnering an increasingly larger share of the honey consumed in the U.S. As shown in Chart 1 above, imports accounted for almost 70 percent of U.S. consumption in 2006. The share of U.S. honey consumption supplied by imports from China increased from 8.5 percent in 1990, to 23.9 percent in 1993, to more than 26 percent in 2005. This dramatic increase in imports—many of which are unfair imports—displaces domestic honey production and drives U.S. honey producers out of business. In addition, the dramatic increase in imports has raised concern among U.S. producers about the quality of the honey sold in this country. U.S. producers also feel the emphasis in the honey industry on price as opposed to quality will ultimately affect the amount of honey consumed and will result in an additional threat to the industry and especially to the U.S. honey industry.

Proposal for the U.S. Honey Producer Board
May 24, 2007

With regard to the inadequacies of the National Honey Board, as the amount of imports has risen, so has the power of importers within the current board structure. In 1995, importers paid 30 percent of the assessments collected by the National Honey Board. By 2006, that number had more than doubled. Importers now pay almost 70 percent of the assessments collected by the current National Honey Board and this number is continuing to grow. With the growing voting power of importers on the current Board, it is difficult to enact changes within the National Honey Board that are focused on and beneficial to the domestic honey industry.

B. *Termination of the National Honey Board*

The National Honey Board should be terminated to allow for the creation of both the U.S. Honey Producers Board and, if approved, a Packer-Importer Board. For all the reasons given above, the U.S. honey industry cannot be effectively served by the current honey board. Simply put, a new and separate producer-oriented Board that focuses solely on the advancement of U.S. honey is better suited to address the specialized concerns of the U.S. honey industry and the unique threats faced by the domestic industry.

The National Honey Board should be terminated by a referendum in which all its current members participate at the same time. In the interest of fairness and informed voting, honey industry members should have the opportunity to vote simultaneously on the termination of the current Board and the creation of the two separate entities as proposed: (1) the U.S. Honey Producer Board; and (2) the Packer-Importer Board. Any market research data, brochures, and intellectual property managed by or in the possession of the terminated National Honey Board should be provided to all derivative honey boards. Funds remaining from assessments of National Honey Board members and all other assets under the National Honey Board's control should be split equitably among derivative boards. If the division of assessment funds proves difficult, the funds should be returned to National Honey Board members on the basis of average contributions made during the past five years.

If the National Honey Board is terminated and a Packer-Importer Board is created in addition to the U.S. Honey Producers Board, the two newly created Boards would pursue their own distinct agendas, but would engage in interaction to the extent that shared interests emerge. There is a commitment to work together to combat any threats to the overall image of honey and the vitality of the industry as a whole. In addition, opportunities for information-sharing may arise that enhance the position and development of both new honey boards.

PART III

THE U.S. HONEY PRODUCER BOARD

I. Objectives of the U.S. Honey Producer Board

A. *How the U.S. Honey Producer Board Will Address Marketing Problems*

The proposed U.S. Honey Producer Board will actively promote the U.S. honey industry. The U.S. honey demand is approximately 350 to 380 million pounds a year. At the current low prices, U.S. honey producers can produce approximately 200 million pounds a year, although the 2006 crop was less than 155 million pounds due to the drought, diseases, and pests. Much is needed to promote U.S. honey, and the U.S. Honey Producer Board will be focused solely on promoting domestic honey, instead of promoting honey generally.

The U.S. Honey Producer Board's long-term strategy will be to increase U.S. consumption of American honey by highlighting its nutritional value and its use as a tasty, versatile ingredient. This strategy will utilize several demand-building initiatives focused on specific targets, which include: Consumer Targets, Consumer Advertising, Foodservice and Industrial Targets, Youth Education, and Government Targets (focused on the military and the school lunch program). Each of these programs will be designed to educate the U.S. Honey Producer Board's target audience and those who influence those individuals' decisions (such as health professionals, chefs, bakers, and food manufacturers) of the health benefits, versatility, and great taste of honey. Additionally, the U.S. Honey Producer Board will devote a portion of its budget to research designed to control the pests and diseases described in detail above and to develop better honey crop production techniques and practices. The U.S. Honey Producer Board will also work to combat honey imports that are dumped in the U.S. marketplace and imported honey that is tainted or adulterated.

Although the AHPA is willing to provide more in-depth information regarding the proposed promotional programs that the U.S. Honey Producer Board will enact, it wishes to focus briefly on one of these programs, so that the U.S. Department of Agriculture can understand how such a research and promotion board will operate. For the Consumer Advertising program, the U.S. Honey Producer Board will examine the characteristics of key target audiences, their influencers, as well as various lifestyle and individual market drivers. If U.S. honey producers can understand why consumers buy honey and what qualities are valued, the U.S. honey industry can better market its product and, consequently, increase the consumption of U.S. honey. The Consumer Advertising program will create clearly focused messages, media, and events that will reach the consumer both directly and indirectly through powerful influencer outreach, adding weight and value to the U.S. Honey Producers Board's other marketing communications. Health and nutrition messages will be developed, based on thorough research and will add to the programs created by the U.S. Honey Producer Board.

As a further example of the programs that will be utilized to increase the demand for U.S. honey, the U.S. Honey Producer Board will utilize market research to determine the qualities that

Proposal for the U.S. Honey Producer Board
May 24, 2007

make U.S. honey unique. The AHPA is aware that cheaper imported honey will always be available to both packers and consumers. In order to generate increased demand with U.S. consumers, the U.S. honey industry must demonstrate to the consumer that U.S. honey is worth the extra cost. One way to improve demand for (and the prices of) U.S. honey is to establish consumer loyalty based on the uniqueness, quality, purity, and diversity of U.S. honey.

B. *Budget for U.S. Honey Producer Board*

Based on current estimates of commercial beekeepers in the U.S., AHPA projects that the U.S. Honey Producer Board will generate approximately \$3 to \$4 million per year. Given the experience of the current National Honey Board, AHPA estimates that less than \$450,000 would be used to administer the program and would work to ensure that administrative expenses do not exceed 10 percent of the assessments received. Consequently, after program administration costs are paid, between \$2.5 and \$3.5 million would be available to administer research and promotion programs designed to benefit honey produced in the U.S. The AHPA, given its members' experience with the National Honey Board, is confident that an effective research and promotion program can be conducted with these funds. Because the industry is extremely small compared to other U.S. agricultural commodities, the AHPA believes that a budget of this size can be used effectively to promote U.S. honey and to help address the threats discussed above.

C. *Assessments*

The assessments on U.S. honey producers that will generate the funds for the U.S. Honey Producer Board will have a relatively minimal impact on the economic status of each honey producer, but may have a great impact on the vitality of the U.S. honey production industry. It is expected that the activities of the U.S. Honey Producer Board, particularly targeted marketing, will result in an increased demand for U.S. honey and therefore an economic boost to the U.S. honey industry. In addition, the research supported and conducted by the U.S. Honey Producer Board could help find solutions for the grave threats to the industry and may make the difference in preserving the U.S. honey industry.

D. *Alternatives*

In deciding to petition for the creation of a U.S. Honey Producer Board, the AHPA considered and rejected several alternatives. The AHPA first considered the continuation of the current National Honey Board. However, as noted above, the current National Honey Board is not designed to actively promote the U.S. honey industry, given the dominance of importers based on total assessments. Past experience has demonstrated that the efforts of the current National Honey Board have not been successful in promoting U.S. honey. Instead, any new demand that has been created by the current National Honey Board have been filled by the low-cost honey imported in violation of U.S. trade laws. The AHPA also considered whether the U.S. honey industry could survive without a research and promotion board. Unfortunately, the industry is too small to promote itself outside of the framework of mutual cooperation that exists with a research and promotion board sanctioned by the U.S. Department of Agriculture. Given the dire threats facing the U.S. honey industry, especially the new and serious threat posed by

Proposal for the U.S. Honey Producer Board
May 24, 2007

CCD, a research and promotion board is very much needed in order to maintain the viability of the U.S. honey industry.

II. Impact on Small Business

Because small honey producers may request a refund of their contributions to the U.S. Honey Producer Board, a substantial impact on small businesses is not anticipated. Under the current National Honey Board, those beekeepers producing over 100,000 pounds paid 72 percent of the total assessments, although this group represented only 12 percent of those paying assessments. Similarly, the U.S. Honey Producer Board would rely on these large commercial beekeepers to fund the new board.

The U.S. Honey Producer Board seeks not to burden small businesses. The proposed regulations permit beekeepers that produce less than 100,000 pounds to receive a return of their assessment. As described in the proposed order, the return process is simple and straightforward. The current National Honey Board collected \$13,354 in 2005 from 1,511 producers who paid \$60 or less in annual assessments. While these individuals represented 51 percent of the individuals assessed, they paid only 1 percent of the total assessments that were collected in 2005. This data shows that a large number of small businesses pay a minimal amount of assessments under the current National Honey Board. The return process provided for in the attached proposed order will eliminate the burden currently placed on small businesses by the National Honey Board. The return process will also streamline the operation of the proposed U.S. Honey Producer Board. Under the proposed order, large honey producers will bear most of the costs of the U.S. Honey Producer Board operations.

III. Indication of Industry Support

AHPA, the nation's largest organization of commercial beekeepers actively engaged in honey production, fully supports the creation of the U.S. Honey Producer Board and has taken official action endorsing such a board. Several state associations have shown great interest in a U.S. Honey Producer Board. For example, the Texas Beekeepers Association recently passed a resolution supporting the creation of a new board focused solely on U.S.-produced honey. We anticipate that other similar organizations will show strong support for a U.S. Honey Producer Board once this formal submission has been published in the *Federal Register*. In addition, AHPA has communicated that it will support a separate research and promotion board dedicated to honey packers and importers, with the understanding that those entities will support the creation of a U.S. Honey Producer Board. Thus, we anticipate that the organizations representing honey packers and importers will support the creation of a U.S. Honey Producer Board.

As a general matter, other members of the domestic honey industry who would participate in and benefit from a U.S. Honey Producer Board have been made aware of the U.S. Honey Board proposal. The U.S. Honey Producer Board proposal has been widely shared and has received multiple expressions of support. There is no evidence of opposition to a U.S. Honey Producer Board within the honey industry.

Proposal for the U.S. Honey Producer Board
May 24, 2007

IV. Proposed Order

The Proposed U.S. Honey Producer Research, Promotion, and Consumer Information Order is included as Attachment A.

CONCLUSION

In view of the vast agricultural, economic, and ecological importance of honey bees, the domestic honey industry must be sustained; U.S. commercial beekeepers will not survive if their sole source of income is from pollination services. In order to maintain profitability (and, thus, remain in operation), U.S. commercial beekeepers require a vibrant U.S. marketplace, where they can sell their honey at prices that exceed the cost of production. Because honey is a low yield and high-input product, the significant fluctuation in honey prices can have devastating effects on U.S. honey producers. The American Honey Producers Association believes that the creation of a U.S. Honey Producer Board will not only help ensure the survival of the U.S. honey industry, but it will also strengthen this small, struggling, but vital, industry.

Consequently, the American Honey Producers Association is submitting this Proposed U.S. Honey Producer Research, Promotion, and Consumer Information Order to the U.S. Department of Agriculture. As is noted in the recent scholarly report by the National Research Council, the U.S. honey bee (and concomitantly the U.S. honey industry) is “at a critical juncture”. The American Honey Producers Association believes that the time for action is now. U.S. honey producers cannot rely on the current National Honey Board to serve the interests of the U.S. honey industry; a new entity must be established. The U.S. honey industry can survive, but it requires a research and promotion board that focuses solely on the domestic honey industry. For the reasons stated herein, the American Honey Producers Association respectfully requests that the U.S. Department of Agriculture approve the creation of the proposed U.S. Honey Producer Board and help ensure the economic vitality of the U.S. honey industry.

DC:493810.21

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

PART 1245--U.S. HONEY PRODUCER PROMOTION, AND CONSUMER INFORMATION

Subpart A—U.S. Honey Producer Research, Promotion, and Consumer Information Order

DEFINITIONS

§ 1245.1 Act.

Act means the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. §§ 7411-7425, Pub. L. 104-127, 110 Stat. 1029) and any amendments thereto.

§ 1245.2 Board.

Board means the U.S. Honey Producer Board, the administrative body established pursuant to §1245.30.

§ 1245.3 Conflict of interest.

Conflict of interest means a situation in which a member, alternate, or employee of the Board has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

§ 1245.4 Department.

Department means the United States Department of Agriculture.

§ 1245.5 Exporter.

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

§ 1245.6 First Handler.

First handler means the person who first handles honey. Persons who are first handlers include the following:

- (a) When a producer delivers U.S. honey from the producer's own production to a packer or processor for processing in preparation for marketing and consumption, the packer or processor is the first handler, regardless of whether such honey is handled for the packer's or processor's own account or for the account of the producer or the account of other persons.
- (b) When a producer delivers U.S. honey to a handler who takes title to such honey, and places it in storage, such handler is the first handler.
- (c) When a producer delivers U.S. honey to a commercial storage facility for the purpose of holding such honey under the producer's own account for later sale, the first handler of such honey would be identified on the basis of later handling of such honey.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

(d) When a producer delivers a lot of U.S. honey to a processor who processes and packages a portion of such lot of honey for the processor's own account and sells the balance of the lot, with or without further processing, to another processor or commercial user, the first processor is the first handler for all the honey.

(e) When a producer supplies U.S. honey to a cooperative marketing organization that sells or markets such honey, with or without further processing and packaging, the cooperative marketing organization becomes the first handler upon physical delivery to such cooperative.

(f) When a producer uses U.S. honey from the producer's own production for feeding the producer's own bees, such honey is not handled at that time. Honey in any form sold and shipped to any persons for the purpose of feeding bees is handled and is subject to assessment. The buyer of such honey for feeding bees is the first handler.

§ 1245.7 Fiscal period and marketing year.

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.

§ 1245.8 Handle.

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

§ 1245.9 Handler.

Handler means any person, including a producer, that handles U.S. honey or honey products.

§ 1245.10 Honey.

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

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

§ 1245.11 Honey production.

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

§ 1245.12 Honey products.

Honey products means products wherein U.S. honey is a principal ingredient.

§ 1245.13 Information.

Information means information, programs, or activities that are designed to develop new domestic or foreign markets, maintain or expand such markets, develop new marketing strategies, increase market efficiency, or enhance the image of U.S. honey and honey products and of the U.S. honey industry. These include:

(a) Consumer information, which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes and care of U.S. honey and honey products; and

(b) Industry information, which means any action that will lead to the development of new markets, new marketing strategies, or increased efficiency for the U.S. honey industry, and activities to enhance the image or strengthen the position of the U.S. honey industry.

§ 1245.14 Marketing.

Marketing means the sale or other disposition of U.S. honey or honey products in the domestic market or the foreign market.

§ 1245.15 Order.

Order means an order issued by the Department under section 514 of the Act that provides a program of promotion, research, and information regarding agricultural commodities authorized under the Act.

§ 1245.16 Part.

Part means part 1245, which includes the U.S. Honey Producer Research, Promotion, and Consumer Information Order and all rules, regulations, and supplemental orders issued pursuant to the Act and the Order.

§ 1245.17 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity. For the purpose of this definition, the term partnership includes, but is not limited to:

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

(a) A husband and wife who have title to, or leasehold interest in, honey bee colonies or beekeeping equipment as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property, and

(b) Joint ventures wherein one or more parties to the agreement, informal or otherwise, contributed land and others contributed capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the production, handling, or importation of U.S. honey or honey products for market and the authority to transfer title to the U.S. honey or honey products so produced, handled, or imported.

§ 1245.18 Plan and project.

Plan and project mean those research, promotion, and information programs or activities established pursuant to this subpart.

§ 1245.19 Principal Ingredient.

Principal ingredient means fifty-one percent or more by weight of the total ingredients contained in U.S. honey products.

§ 1245.20 Producer.

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

§ 1245.21 Producer-packer.

Producer-packer means any person that is both a producer and handler of U.S. honey or honey products. Persons that are producers-packers include the following:

(a) When a producer packages and sells U.S. honey of the producer's own production at a roadside stand or other facility to consumers or sells to wholesale or retail outlets or other buyers, the producer is a producer-packer.

(b) When a producer sells unprocessed or processed U.S. honey from the producer's own production directly to a commercial user or food processor who utilizes such honey as an ingredient in the manufacture of formulated products, the producer is a producer-packer.

(c) When a producer uses U.S. honey from the producer's own production in the manufacture of formulated products for the producer's own account and for the account of others, the producer is the producer-packer.

§ 1245.22 Promotion.

Promotion means any action, including paid advertising and public relations, to advance the desirability or marketability of U.S. honey or honey products to the general public and the food industry with the express intent of improving the competitive position and stimulating sales of U.S. honey or honey products.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

§ 1245.23 Research.

Research means any type of systematic study, analysis, test, or investigation, including studies testing the effectiveness of market development and promotion efforts, or the evaluation of any study or investigation designed to advance the image, desirability, usage, marketability, production, or quality of U.S. 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, U.S. honey production, and honey bees.

§ 1245.24 Secretary.

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

§ 1245.25 State.

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

U.S. HONEY PRODUCER BOARD

§ 1245.30 Establishment and membership.

(a) There is hereby established a U.S. Honey Producer Board, composed of no more than seven honey producers and seven alternates, appointed by the Secretary, to carry out a program of promotion, research, and information regarding U.S. honey and honey products.

(b) One producer member and one alternate shall be appointed to serve on the Board from each of the following regions:

(1) Region 1: Washington, Oregon, Idaho, California, Nevada, Utah, Alaska, and Hawaii.

(2) Region 2: Montana, Wyoming, Nebraska, Kansas, Colorado, Arizona, and New Mexico.

(3) Region 3: North Dakota and South Dakota.

(4) Region 4: Minnesota, Iowa, Wisconsin, and Michigan.

(5) Region 5: Texas, Oklahoma, Missouri, Arkansas, Tennessee, Louisiana, Mississippi, and Alabama.

(6) Region 6: Florida, Georgia, and Puerto Rico.

ATTACHMENT A

**Proposed Order for the
U.S. Honey Producer Research and Promotion Board**

(7) 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.

§ 1245.31 Nominations and Voting.

(a) The Board shall seek nominations for members and alternates from the specific regions set forth in this subpart in accordance with the following procedures:

(1) The Board shall establish a list of producers that are eligible to serve on the Board and shall notify all producers that they may nominate persons to serve as members and alternates on the Board. Nominations shall be received by mail from any producer that resides in the region in which one or more vacancies will occur. Persons that are interested in nominating an individual to serve on the Board shall submit to the Board in writing the name and mailing address of the proposed nominee and such other information as the Board may require, in order to place such individual on the ballot.

(2) Once proposed nominations have been submitted from the applicable region, the Board shall cause each proposed nominee, if the individual qualifies, to be placed on the region's nominee ballot. The Board then shall mail a ballot to each known producer within the region.

(3) Within 45 days after a mail ballot is issued, the Board shall validate the ballots cast, tabulate the votes, and provide the Secretary with the results of the vote and the identification of the two producers receiving the highest number of votes for each open position on the Board.

(b) For each region, the Board shall submit to the Secretary the name of the nominee receiving the highest number of votes and the name of the nominee receiving the second highest number of votes as the producers' first and second choice nominees. The Secretary shall select the producer members and alternates of the Board from the names of those persons receiving the highest and second highest number of votes within a specific region, as submitted by the Board.

(c) Notice of balloting to nominate candidates for the Board shall be publicized by the Board to producers in the region involved, and to the Secretary, at least 90 days before the region's nominee ballot is issued.

(d) In proposing nominees for inclusion on a mail ballot, nominations must be received by the Board at least 30 days before the region's nominee ballot is issued.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

(e) If a producer nominee is engaged in the production of honey in more than one region, such producer shall participate within the region that such producer so elects in writing to the Board and such election shall remain controlling until revoked in writing to the Board.

(f) Each producer within a region shall cast a ballot for each open position on the Board assigned to such region in accordance with the procedures prescribed in this subpart. The completed ballot must be returned to the Board or its designee within 30 days after the ballot is issued.

(g) The Board shall provide nominees with qualification statements and other specified information. Each nominee selected in the mail ballot will be contacted by the Board and asked to forward such completed documentation to the Board within 14 days of such notification.

§ 1245.32 Term of office.

The members of the Board and their alternates shall serve for terms of three years. No member or alternate shall serve more than two consecutive three-year terms. The term of office shall begin on April 1. When the Board is first established, three producers will be assigned initial terms of four years; two producers will be assigned initial terms of three years; and two producers will be assigned initial terms of two years. Thereafter, each of these positions will carry a full three-year term. Members serving initial terms of two or four years will be eligible to serve a second term of three years. Each Board member and alternate member shall continue to serve until the member's or alternate's successor meets all qualifications and is appointed by the Secretary.

§ 1245.33 Board reapportionment.

(a) At least once every five years, but not more frequently than once in a three-year period, the Board shall review the geographic distribution of the quantities of U.S. honey assessed under this subpart. The review will be based on Board assessment records and statistics from the Department.

(b) If warranted as a result of this review, the Board shall recommend for the Secretary's approval changes in the regional representation of honey producers.

(c) Except as provided in paragraph (d) of this section, recommendations made under paragraph (b) of this section shall be based on the 5-year average annual assessments, determined pursuant to the review that is conducted under paragraph (a) of this section.

(d) The base period proportions for determining the reallocation under 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 period 2008.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

(e) Any such reallocation 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.

§ 1245.34 Vacancies.

(a) In the event any member of the Board ceases to be a producer, such position shall automatically become vacant: *Provided*, that if, as a result of Board reallocation pursuant to § 1245.33, a producer member or alternate is no longer from the region from which such person was appointed, the affected member 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 the member be removed from office. If the Secretary finds the recommendation of the Board shows adequate cause, the Secretary shall remove such member from office.

(c) Should any member position become vacant, the alternate for that member shall automatically assume the position of that member. At its next meeting, the Board shall nominate a replacement for such 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 §§ 1245.30, except that nomination and replacement shall not be required if the unexpired terms are less than six months.

§ 1245.35 Procedure.

(a) A majority of members, including alternates acting in place of members of the Board, shall constitute a quorum. Alternates shall serve whenever the member is absent from a meeting or is disqualified.

(b) All Board members shall be notified at least 30 days in advance of all Board and committee meetings unless an emergency meeting is declared.

(c) Any action of the Board shall require the concurring votes of a majority of those present and voting.

(d) At the start of each fiscal period, the Board will select a chairperson and vice chairperson. The chairperson, or in the chairperson's absence the vice chairperson, shall conduct meetings throughout that fiscal period.

(e) In lieu of voting at a properly convened meeting and, when in the opinion of the chairperson of the Board such action is considered necessary, the Board may act upon the concurring votes of a majority of its members by mail, telephone, electronic mail, facsimile, or any other means of communication, provided that all members are notified

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

and given the opportunity to vote. All votes shall be promptly confirmed in writing. Any action so taken shall have the same force and effect as though such action had been taken at a properly convened meeting of the Board. All votes shall be recorded in the Board minutes.

(f) There shall be no voting by proxy.

(g) The Chairperson shall be a voting member of the Board.

(h) The organization of the Board and the procedures for conducting meetings shall be in accordance with the Board's bylaws, which shall be established by the Board and approved by the Secretary.

§ 1245.36 Compensation and Reimbursement.

(a) Members of the Board, alternates when acting as members, and the members of any special committees formed by the Board shall serve without compensation.

(b) Members of the Board, alternates, and the members of any special committees shall be reimbursed for reasonable travel expenses, as approved by the Board, incurred in the performance of their Board duties. The Board shall have the authority to request the attendance of alternates of any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ 1245.37 Powers and Duties

The Board shall have the following powers and duties:

(a) To administer the Order in accordance with its terms and provisions of the Act and to collect assessments;

(b) To carry out promotion, research, and information plans and projects related to U.S. honey and honey products and the U.S. honey industry;

(c) To adopt such rules, regulations, and by-laws for the conduct of its business as it may deem advisable;

(d) To recommend to the Secretary amendments to the Order;

(e) To pay the costs of promotion, research, and information plans and projects with assessments collected pursuant to Section 1245.61, earnings from invested assessments, and other funds.

(f) To appoint and convene, from time to time, special committees and subcommittees which may include producers, handlers, producer-packers, importers, exporters, members of wholesale or retail outlets for honey, or other members of the public to assist in the

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

development of research, promotion, advertising, information plans, or projects for U.S. honey and the U.S. honey industry;

(g) To prepare and submit to the Secretary for approval 60 days in advance of the beginning of a fiscal period, a budget of its anticipated expenses in the administration of this part including the probable costs of all promotion, research, and information activities and to recommend a rate of assessment;

(h) To enter into contracts or agreements with the approval of the Secretary to develop or carry out promotion, research, and information plans and projects related to U.S. honey and honey products;

(i) To meet and organize and select from among its members a chairperson, and other officers;

(j) To require its employees to receive, investigate, and report to the Secretary complaints of violations of the Order;

(k) To employ persons, other than members, as it may deem necessary and to determine the compensation and define the duties of each employee;

(l) To cause its books to be audited by an independent auditor at the end of each fiscal period and to submit a copy of each audit to the Secretary;

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

(n) To receive, investigate, and report to the Secretary complaints of violations of this Order;

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

(p) To notify honey producers of all Board meetings through press releases or other means; and

(q) To borrow funds necessary for the startup expenses of the Order.

§ 1245.38 Other authority

The Board may take any other action that is:

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

- (1) not inconsistent with the purpose of the Act or any rule issued to carry out the Act; and
- (2) necessary to administer the Order.

§ 1245.39 Prohibited Activities.

The Board may not engage in, and shall prohibit its employees and agents from engaging in:

- (a) Any action that would be a conflict of interest;
- (b) Using funds collected by the Board under the Order to undertake any action for the purpose of influencing legislation or governmental policy or action, other than recommending to the Secretary amendments to the Order; and
- (c) Any advertising, including promotion, research, and information plans or projects authorized to be carried out under the Order, that may be false or misleading regarding U.S. honey or honey products or be disparaging to any competing commodity.

PROMOTION, RESEARCH, AND INFORMATION

§ 1245.40. Plans and Projects.

(a) The Board shall receive and evaluate, or, on its own initiative, develop and submit to the Secretary for approval, any plan or project authorized under this part. Such plans or projects may provide for:

- (1) The establishment, issuance, effectuation, or administration of appropriate activities for research, promotion, advertising, or information, including industry and consumer information, with respect to U.S. honey and honey products and the U.S. honey industry;
- (2) The establishment and conduct of marketing research and development activities to encourage, improve, or expand the acquisition of knowledge pertaining to U.S. honey and honey products or their consumption and use, or the marketing and utilization of U.S. honey and honey products;
- (3) The development and expansion of the sale of U.S. honey and honey products in foreign markets; or
- (4) The sponsorship of research designed to advance the cost-effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping, U.S. honey production, and honey bees.

ATTACHMENT A

**Proposed Order for the
U.S. Honey Producer Research and Promotion Board**

(b) No plan or project shall be implemented prior to approval by the Secretary. Once a plan or project is so approved, the Board shall take appropriate steps to implement it.

(c) Each plan or project implemented under this part shall be reviewed or evaluated periodically by the Board to ensure that it contributes to an effective program of promotion, research, or information. If the Board finds that any such plan or project does not contribute to an effective program of promotion, research, or information, then the Board shall terminate such plan or project.

(d) In addition to any evaluation that may be carried out pursuant to paragraph (c) 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 the Order and other plans 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 this paragraph.

(e) No plan or project shall be false or misleading.

§ 1245.41. Contracts.

(a) Subject to the approval of the Secretary, the Board may:

(1) enter into contracts and agreements to carry out promotion, research, and information activities relating to U.S. honey and honey products, including contracts and agreements with producer associations or other entities as considered appropriate by the Secretary; and

(2) pay the cost of approved promotion, research, and information activities using assessments collected under the Order, earnings obtained from assessments, and other income of the board.

(b) Each contract or agreement shall provide that any person who enters into the contract or agreement with the Board shall:

(1) develop and submit to the Board a proposed activity together with a budget that specifies the cost to be incurred to carry out the activity;

(2) keep accurate records of all of its transactions relating to the contract or agreement;

(3) account for funds received and expended in connection with the contract or agreement;

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

(4) make periodic reports to the Board of activities conducted under the contract or agreement; and

(5) make such other reports as the Board or the Secretary considers relevant.

§ 1245.42 Patents, copyrights, trademarks, information, publications, and product formulations.

(a) Patents, copyrights, trademarks, information, publications, and product formulations developed through the use of funds received by the Board under this subpart:

(1) shall be the property of the U.S. Government, as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, information, publications, or product formulations, inure to the benefit of the Board;

(2) shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and

(3) may be licensed subject to approval by the Department.

(b) Upon termination of this subpart, Section 1245.73 shall apply to determine disposition of all such property.

REPORTS, BOOKS, AND RECORDS

§ 1245.50 Records of the Board and Audits.

(a) The Board shall:

(1) maintain such records as the Secretary may require and make such records available to the Secretary for inspection and audit;

(2) collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request;

(3) account for the receipt and disbursement of all funds in the possession, or under the control, of the Board;

(4) have its records audited by an independent auditor at the end of each fiscal year; and

(5) submit a report of the audit to the Secretary.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

§ 1245.51 Producer and producer-packer reports.

(a) Each producer or producer-packer subject to this part shall be required to report to the Board, at such time and in such manner as the Board may prescribe, such information as may be necessary for the Board to perform its duties. Such reports may include, but shall not be limited to the following:

- (1) The handler's or producer-packer's name and address;
- (2) The date of report (which is also date of payment to the Board);
- (3) The period covered by report; and
- (4) The total quantity of U.S. honey determined as assessable during the reporting period.

(b) Handlers or producer-packers who collect assessments from producers or withhold assessments for their accounts or pay the assessments themselves shall also include with each report a list of all such producers whose honey was handled during the period, their addresses, and to total assessable quantities handled for each such producer.

(c) Producer-packers shall also include with each report the total quantity of U.S. honey acquired during the reporting period; the total quantity of U.S. honey and honey products handled during such period; the amount of U.S. honey acquired from each producer, giving the name and address of each producer; the assessments collected during the reporting period; the quantity of U.S. honey processed for sale from a producer-packer's own production; and a record of each transaction for U.S. honey on which assessments had already been paid, including a statement from the seller that the assessment had been paid.

(d) In the event of a first handler's or producer-packer's death, bankruptcy, receivership, or incapacity to act, the representative of the handler, producer-packer, or importer or his or her estate, shall be considered the first handler, producer-packer, or importer for the purposes of this part.

§ 1245.52 Producer and producer-packer books and records.

Each producer and producer-packer 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 part, including such records as are necessary to verify any required reports. A member or alternate member of the Board is prohibited from conducting inspections authorized by this section. Such books and records shall be maintained for two years beyond the fiscal period of their applicability.

§ 1245.53 Confidential treatment.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

(a) All information obtained from the books, records, or reports required to be maintained by producers and producer-packers 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. Only such information as the Secretary deems relevant shall be disclosed, and then only in a judicial proceeding 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.

(b) Nothing in this subpart shall be deemed to prohibit:

(1) The issuance of general statements based upon the reports of the number of producers, producer-packers, or handlers or statistical data collected therefrom, if such statements do not identify the information furnished by any person; or

(2) The publication by direction of the Secretary of the name of any person who has been adjudged to have violated this part, together with a statement of the particular provisions of this part violated by such person.

EXPENSES AND ASSESSMENTS

§ 1245.60 Budget and expenses.

(a) At least 60 days prior to the beginning of each fiscal period, or as may be necessary thereafter, the Board shall prepare and submit to the Secretary a budget for the fiscal period covering its anticipated expenses and disbursements in the administration of this subpart. Each such budget shall include:

(1) A statement of objectives and strategy for each plan or project;

(2) A summary of anticipated revenue, with comparative data for at least one preceding year (except for the initial budget);

(3) A summary of proposed expenditures for each plan or project; and

(4) Staff and administrative expense breakdowns, with comparative data for at least one preceding year (except for the initial budget).

(b) Each budget shall provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in this subpart.

(c) Subject to this section, any amendment or addition to an approved budget, including shifting funds from one plan or project to another, must be approved by the Secretary before such amendment or addition shall occur. Shifts of funds which do not cause an increase in the Board's approved budget and which are consistent with governing bylaws need not have prior approval by the Secretary.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

(d) The Board is authorized to incur expenses, including a provision for a reserve for operating contingencies, for research, promotion, advertising, or information activities and such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary. Such expenses shall be paid from funds received by the Board, including assessments, contributions from persons, and other funds available to the Board.

(e) With approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays and are limited to the first year of operation of the Board.

(f) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of research, promotion, advertising, or information activities. Voluntary contributions shall be free from any encumbrances by the donor, and the Board shall retain complete control of their use.

(g) The Board shall reimburse the Department from assessments for all expenses incurred by the Department in the implementation, administration, and supervision of the Order, including all referenda costs incurred in connection with the Order.

(h) For fiscal years beginning 3 years after the date of the Board's establishment, the Board shall not expend for administration, maintenance, and functioning of the Board in a single fiscal year an amount that exceeds 15 percent of the assessments and other income received by the Board for that fiscal year. Such limitation on spending shall not include reimbursements to the Secretary.

§ 1245.61 Assessments.

(a) The assessment rate on honey produced in the United States shall be 0.02 cents per pound of U.S. honey produced and shall only be imposed on producers or producer-packers. Such assessments shall not be levied on the portion of U.S. honey which does not enter commerce and which is utilized solely to sustain a producer's or producer-packer's own colonies of bees.

(b) The assessment rate shall not be increased without an affirmative vote of five members of the Board. The assessment rate shall not be increased by more than 0.005 cents per year and shall not exceed 0.05 cents per pound. Any change in the assessment rate shall be announced by the Board at least 30 days prior to becoming effective and shall not be subject to a vote in a referendum.

(c) Except as provided in this section, the first handler shall collect the assessment from the producer or deduct such assessment from the proceeds paid to the producer on whose honey the assessment is made, and remit the assessments to the Board. The first handler

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

or producer-packer shall furnish the producer with evidence of such payment. Any such collection or deduction of assessment shall be made not later than the time when the assessment becomes payable to the Board. The first handler shall maintain separate records for each producer's honey handled, including honey produced by said handler. Should a first handler fail to collect an assessment from a producer, the producer shall be responsible for the payment of the assessment to the Board.

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

(e) The first handler or the producer-packer shall collect and pay assessments to the Board unless such handler or producer-packer has received documentation acceptable to the Board that the assessment has been previously paid.

(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 this part. The Board may provide for different payment schedules so as to recognize differences in marketing or purchasing practices and procedures.

(g) The Board may authorize other organizations to collect assessments on its behalf with the approval of the Secretary.

§ 1245.62 Late Payment.

(a) There shall be a late-payment charge imposed on any person who fails to remit to the Board the total amount for which any such person is liable on or before the payment due date established by the Board. The amount of the late-payment charge shall be set by the Board subject to approval by the Secretary.

(b) There shall also be imposed on any person subject to a late-payment charge, an additional charge in the form of interest on the outstanding portion of any amount for which the person is liable. The rate of interest shall be prescribed by the Secretary.

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

§ 1245.63 Escrow account.

(a) During the period beginning on the effective date of this Order and ending on the date the Secretary announces the results of the referendum conducted under Section 1245.71(b), the Board shall:

- (1) establish and maintain an interest-bearing escrow account with one or more financial institutions that are members of the Federal Reserve System, which shall be used to refund assessments pursuant to Section 1245.64(b); and

ATTACHMENT A

**Proposed Order for the
U.S. Honey Producer Research and Promotion Board**

(2) deposit funds in the account in accordance with this section.

(b) The board shall deposit into the escrow account created under this section an amount equal to 10 percent of the assessments collected during the period beginning on the effective date of this Order and ending on the date the Secretary announces the results of the referendum conducted under Section 1245.71(b).

(c) If this Order is approved in an initial referendum conducted under Section 1245.71(b):

(1) the Board shall close the escrow account; and

(2) the funds shall be available to the Board for disbursement as authorized in this Order.

§ 1245.64 Refunds and returns of assessment.

(a) Returns based on production.

(1) A producer who produces less than 100,000 pounds of U.S. honey per year, based on average production over the previous five-years, or a producer-packer who produces and handles less than 100,000 pounds of U.S. honey or honey products per year, based on average production over the previous five-years, shall be eligible for a return for all assessments paid during the fiscal period.

(2) Upon written application to the Board and submittal of any information as may be required, the Board shall, after determination that the person meets the requirements of this section, return the assessments paid by a producer who produces less than 100,000 pounds of U.S. honey per year, based on average production over the previous five-years, or a producer-packer who produces and handles less than 100,000 pounds of honey or honey products per year, based on average production over the previous five-years.

(3) The demand for a return under this subsection shall be made at such time as the Board determines and shall be made in accordance with the provisions set forth in Section 1245.65.

(4) The Board shall pay all returns made under this subsection by February 1 of the fiscal year.

(b) Returns of assessments based on failure of initial referendum.

(1) During the period beginning on the effective date of this Order and ending on the date the Secretary announces the results of the referendum conducted under

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

Section 1245.71(b), producers subject to this Order shall be eligible to demand a return of assessments collected during this period if:

(A) the assessments were remitted on behalf of the person demanding the return; and

(B) this Order is not approved in the referendum conducted under Section 1245.71(b).

(2) The demand for a return of assessments under this subsection shall be made at such time as the Board determines and shall be made in accordance with the provisions set forth in Section 1245.65.

(3) A producer entitled to a return of assessments under this subsection shall be paid promptly after the Board receives satisfactory proof that the assessment for which the return is demanded was paid on behalf of the producer making the demand.

(4) If the funds in the escrow account required under Section 1245.63 are insufficient to pay the amount of all returns that producers subject to this Order otherwise would have a right to receive under this subsection, the Board shall prorate the amount of the funds among all eligible producers demanding such return.

(c) Refunds based on application.

(1) At any time after the Secretary announces the result of the initial referendum conducted under Section 1245.71(b), any producer from whom an assessment is collected and remitted to the Board after the announcement of such results, or who pays an assessment directly to the Board after the announcement of such results, under authority of the Act and this subpart and who is not in favor of the promotion and research program as provided for in this subpart, shall have the right to receive from the Board a refund of such assessment, or a pro rata share thereof, upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought. Any such demand shall be made by such producer in accordance with the provisions of this subpart and in a manner consistent with procedures recommended by the Board.

(2) The demand for a refund under this subsection shall be made at such time as the Board determines and shall be made in accordance with the provisions set forth in Section 1245.65.

(3) Upon receipt of a refund application, the Board shall determine whether the producer is eligible for a refund. The Board shall initiate payment of refund

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

requests submitted under Section 1245.64, or a pro rata share thereof, within 60 days of the end of the fiscal year.

(4) In any one fiscal year, the Board shall not pay refunds under this subsection (c) that exceed more than ten percent of the total assessments for the previous fiscal year. In the event such total refunds exceed ten percent of the total assessments, the Board shall prorate the amount of available funds among all eligible producers who request a refund of assessments.

§ 1245.65 Procedure for obtaining a return or refund.

(a) Each producer who pays an assessment pursuant to the Act and this subpart may obtain a return or refund of such assessment, as appropriate, only by following the procedures prescribed in this section and any regulations recommended by the Board and prescribed by the Secretary.

(1) A producer shall obtain a Board-approved application form from the Board. Such form shall be obtained by written request to the Board and the request shall bear the producer's signature or properly witnessed mark.

(2) The application for a refund or return shall show:

(A) The name and address of the producer;

(B) The name and address of the person who collected the assessment;

(C) The quantity of U.S. honey on which a refund is requested;

(D) The total amount of refund requested;

(E) The date or dates on which the assessments were paid;

(F) A certification that the assessment was not collected from another producer or documentation of assessments collected from others; and

(G) The producer's signature or properly witnessed mark.

(3) The evidence of payment as required under Section 1245.61, or a copy thereof, or such other evidence deemed satisfactory to the Board shall accompany the producer's application.

§ 1245.66 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.

ATTACHMENT A

**Proposed Order for the
U.S. Honey Producer Research and Promotion Board**

MISCELLANEOUS

§ 1245.70 Right of the Secretary.

All budgets, plans or projects, rules or regulations, contracts and agreements proposed and prepared by the Board shall be submitted to the Secretary for approval.

1245.71 Referenda.

(a) Referendum. For the purpose of ascertaining whether the persons subject to this Order favor the issuance, amendment, continuation, suspension, or termination of this part, the Secretary shall conduct a referendum among persons subject to assessments under § 1245.61 who, during the representative period determined by the Secretary, have engaged in the production of U.S. honey or honey products.

(b) Initial Referendum. This Order shall not become effective unless:

(1) The Department determines that the Order is consistent with and will effectuate the purposes of the Act; and

(2) The Order is approved in a referendum by a majority of those persons voting for approval who also represent a majority of the volume of U.S. honey or honey products produced.

(c) Subsequent Referenda.

(1) Except as otherwise provided in this section, not later than five years from the date the approval of this Order, and every five years thereafter, the Secretary shall conduct a referendum to determine if producers favor the termination or suspension of this Order. The Order shall continue if it is favored by a majority of those persons voting for approval who also represent a majority of the volume of U.S. honey or honey products produced.

(2) The Secretary shall also hold a referendum on the request of the Board, or when petitioned by 10 percent or more of the producers subject to assessment under this subpart to determine if the producers favor termination or suspension of this subpart. A referendum under this paragraph may not be held more than once every five 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 (c) of this section shall not be held less than 5 years after the date the referendum was conducted under this paragraph. The Order shall continue if it is favored by a majority of those persons voting for approval who also represent a majority of the volume of U.S. honey or honey products produced.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

§ 1245.72 Suspension or termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof if the Secretary finds that the subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) The Secretary shall suspend or terminate this subpart at the end of the marketing year whenever the Secretary determines that its suspension or termination is approved or favored by a majority of the producers voting who, during a representative period determined by the Secretary, have been engaged in the production of U.S. honey.

(c) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under this subpart; and

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1245.73 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.

(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 Section 1245.37 and 1245.38;

(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.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

(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.

§ 1245.74 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.

§ 1245.75 Personal liability.

No member, alternate member, employee, or agent 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, employee, or agent, except for acts of dishonesty or willful misconduct.

§ 1245.76 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.

§ 1245.77 Amendments.

Amendments to this subpart may be proposed from time to time by the Board or by any interested person affected by the provisions of the Act, including the Secretary.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

§ 1245.78 OMB control numbers.

The control numbers assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511, are as follows: OMB Number 0581-0093, except Board member nominee information sheets which are assigned OMB Number 0505-0001.

Subpart B—Referendum Procedures

§ 1245.100 General.

Referenda to determine whether eligible producers favor the issuance, amendment, suspension, or termination of the U.S. Honey Producer Research, Promotion, and Consumer Information Order shall be conducted in accordance with this subpart.

§ 1245.101 Terms defined.

Unless otherwise defined in this subpart, the definitions of terms used in this subpart shall have the same meaning as the definitions of such terms which appear in Subpart A—U.S. Honey Producer Research, Promotion and Consumer Information Order.

§ 1245.102 Definitions.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Eligible handler* means any person defined as a handler or producer-packer in the Order, or importer in this subpart, who handles U.S. honey or honey products, and is covered by an order and subject to assessment on U.S. honey handled during the representative period.

(c) *Eligible producer* means any person defined as a producer or producer-packer in the Order who produces honey and is subject to pay assessments to the Board on such honey produced during the representative period and who:

(1) Owns or shares in the ownership of honey bee colonies or beekeeping equipment resulting in the ownership of the honey produced;

(2) Rents honey bee colonies or beekeeping equipment resulting in the ownership of all or a portion of the honey produced;

(3) Owns honey bee colonies or beekeeping equipment but does not manage them and, as compensation, obtains the ownership of a portion of the honey produced;
or

(4) Is a party in a lessor-lessee relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce honey who

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

share the risk of loss and receive a share of the honey produced. No other acquisition of legal title to honey shall be deemed to result in persons becoming eligible producers.

(d) *Order* means an order issued by the Department under section 514 of the Act that provides a program of promotion, research, and information regarding agricultural commodities authorized under the Act.

(e) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(f) *Representative period* means the period designated by the Secretary pursuant to the Act.

§ 1245.103 Voting.

(a) Each person who is, as defined in this subpart, an eligible producer shall be entitled to vote in the referendum.

(b) Each person who is an eligible producer and each person who is an eligible producer-packer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast one ballot in the referendum: However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce U.S. honey or honey products, in which more than one of the parties is a producer, shall be entitled to cast one ballot in the referendum covering only that producer's share of the ownership of U.S. honey or honey products.

(c) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer may cast one ballot in the referendum on behalf of such entity. Any individual so voting in a referendum shall certify that they are an officer or employee of the eligible entity, or an administrator, executor, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(d) All ballots are to be cast by mail as instructed by the Secretary.

§ 1245.104 Instructions.

The referendum agent shall conduct the referendum, in the manner herein provided, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions of this subpart, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast.

ATTACHMENT A

Proposed Order for the U.S. Honey Producer Research and Promotion Board

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining:

(1) Whether the person voting, or on whose behalf the vote is cast, is an eligible voter; and

(2) The quantity of U.S. honey or honey products produced.

(c) Give reasonable public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the voting period, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as said agent may deem advisable.

(d) Mail to eligible producers, the instructions on voting, a ballot, and a summary of the terms and conditions to be voted upon. No person who claims to be eligible to vote shall be refused a ballot.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(f) Prepare a report on the referendum.

(g) Announce the results to the Secretary and the public.

§ 1245.105 Subagents.

The referendum agent may appoint any individual or individuals necessary to assist the agent in performing such agent's functions hereunder. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1245.106 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, why the ballot was challenged, the results of any investigation made with respect to the challenged ballot, and the disposition of the challenged ballot. Ballots invalid under this subpart shall not be counted.

§ 1245.107 Referendum report.

ATTACHMENT A

**Proposed Order for the
U.S. Honey Producer Research and Promotion Board**

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, the number of ballots cast, the number of valid ballots, and other information pertinent to analysis of the referendum and its results.

§ 1245.108 Confidential information.

All ballots cast and their contents and all other information or reports furnished to, compiled by, or in possession of, the referendum agent or subagents that reveal, or tend to reveal, the identity or vote of any producer or producer-packer of U.S. honey or honey products shall be held strictly confidential and shall not be disclosed.

§ 1245.109 OMB control number.

The control number assigned to the information collection requirements of this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, is OMB control number 0581-0209.