

budgeted for operation of this subchapter for 1 year.

(e) Promotion activities outside United States

The order may authorize the Board to use, with the approval of the Secretary, funds collected under section 7465(b) of this title and funds from other sources for the development and expansion of sales in foreign markets of kiwifruit produced in the United States.

(Pub. L. 104-127, title V, §557, Apr. 4, 1996, 110 Stat. 1070.)

§ 7467. Petition and review

(a) Petition

(1) In general

A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings

A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling

After the hearing, the Secretary shall issue a ruling on the petition which shall be final if the petition is in accordance with law.

(4) Limitation on petition

Any petition filed under this subchapter challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) Review

(1) Commencement of action

The district court of the United States for any district in which the person who is a petitioner under subsection (a) of this section resides or carries on business is vested with jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a) of this section.

(2) Process

Service of process in the proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) Enforcement

The pendency of a proceeding instituted pursuant to subsection (a) of this section shall

not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 7468 of this title.

(Pub. L. 104-127, title V, §558, Apr. 4, 1996, 110 Stat. 1070.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 7468. Enforcement

(a) Jurisdiction

A district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subchapter.

(b) Referral to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subchapter, or any order or regulation issued under this subchapter, if the Secretary believes that the administration and enforcement of this subchapter would be adequately served by administrative action under subsection (c) of this section or suitable written notice or warning to the person committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

Any person who willfully violates any provision of any order or regulation issued by the Secretary under this subchapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than \$500 nor more than \$5,000 for each such violation. Each violation shall be a separate offense.

(2) Cease-and-desist orders

In addition to or in lieu of the civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing the violation.

(3) Notice and hearing

No order assessing a civil penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to the violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the person against whom the order is issued files an appeal of the order in the appropriate district court of the United States, in accordance with subsection (d) of this section.

(d) Review by United States district court

(1) Commencement of action

Any person against whom a violation is found and a civil penalty assessed or cease-