

**(5) Making of refund**

Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

**(6) Proration**

If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible growers, grower-shellers, or importers; and

(B) the plan is not approved pursuant to the referendum conducted under section 6011(a) of this title;

the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund.

**(7) Program approved**

If the plan is approved pursuant to the referendum conducted under section 6011(a) of this title, all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this chapter.

(Pub. L. 101-624, title XIX, §1912, Nov. 28, 1990, 104 Stat. 3848.)

**§ 6008. Petition and review****(a) Petition****(1) In general**

A person subject to a plan issued under this chapter may file with the Secretary a petition—

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

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

**(2) Hearings**

The petitioner shall be given the opportunity for a hearing on the petition, on the record and in accordance with regulations issued by the Secretary.

**(3) Ruling**

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

**(b) Review****(1) Commencement of action**

The district courts of the United States in any district in which a person who is a petitioner under subsection (a) of this section resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 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 such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

**(3) Remands**

If the court determines that such ruling is not in accordance with law, the court shall re-

mand the matter to the Secretary with directions either—

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

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

**(4) Enforcement**

The pendency of proceedings instituted under subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 6009 of this title.

(Pub. L. 101-624, title XIX, §1913, Nov. 28, 1990, 104 Stat. 3850.)

## 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.

**§ 6009. Enforcement****(a) Jurisdiction**

The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, this chapter or any plan or regulation issued under this chapter.

**(b) Referral to Attorney General**

A civil action 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 chapter or any plan or regulation issued under this chapter if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) of this section or by providing a suitable written notice or warning to any person committing the violation.

**(c) Civil penalties and orders****(1) Civil penalties****(A) In general**

A person who willfully violates any provision of this chapter or any plan or regulation issued under this chapter, or who fails to pay, collect, or remit any assessment or fee required of the person under this chapter or any plan or regulation issued under this chapter, may be assessed by the Secretary a civil penalty of not less than \$1,000 nor more than \$10,000 for each such violation.

**(B) Separate offense**

Each violation described in subparagraph (A) shall be a separate offense.

**(2) Cease and desist orders**

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

**(3) Notice and hearing**

No penalty shall be assessed or cease and desist order 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 with respect to such violation.