

the determination, and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the determination.

**(3) Opportunity to request additional referenda**

**(A) In general**

Beginning on the date that is 5 years after the conduct of a referendum under this subchapter, and every 5 years thereafter, the Secretary shall provide canola and rapeseed producers an opportunity to request an additional referendum.

**(B) Method of making request**

**(i) In-person requests**

To carry out subparagraph (A), the Secretary shall establish a procedure under which a producer may make a request for a reconfirmation referendum in person at a county cooperative extension office or a county Consolidated Farm Service Agency office during a period established by the Secretary, or as provided in clause (ii).

**(ii) Mail-in requests**

In lieu of making a request in person, a producer may make a request by mail. To facilitate the submission of requests by mail, the Secretary may make mail-in request forms available to producers.

**(C) Notifications**

The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for an in-person request, of the opportunity of producers to request an additional referendum. The notification shall explain the right of producers to an additional referendum, the procedure for a referendum, the purpose of a referendum, and the date and method by which producers may act to request an additional referendum under this paragraph. The Secretary shall take such other action as the Secretary determines is necessary to ensure that producers are made aware of the opportunity to request an additional referendum.

**(D) Action by Secretary**

As soon as practicable following the submission of a request for an additional referendum, the Secretary shall determine whether a sufficient number of producers have requested the referendum, and take such steps as are necessary to conduct the referendum, as required under paragraph (1).

**(E) Time limit**

An additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of the referendum.

**(c) Procedures**

**(1) Reimbursement of Secretary**

The Secretary shall be reimbursed from assessments collected by the Board for any ex-

penses incurred by the Secretary in connection with the conduct of an activity required under this section.

**(2) Date**

Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure under which producers intending to vote in the referendum shall certify that the producers were engaged in the production of canola, rapeseed, or canola or rapeseed products during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

**(3) Place**

Referenda under this section shall be conducted at locations determined by the Secretary. On request, absentee mail ballots shall be furnished by the Secretary in a manner prescribed by the Secretary.

(Pub. L. 104-127, title V, §537, Apr. 4, 1996, 110 Stat. 1058; Pub. L. 110-234, title VII, §7511(c)(28), May 22, 2008, 122 Stat. 1270; Pub. L. 110-246, §4(a), title VII, §7511(c)(28), June 18, 2008, 122 Stat. 1664, 2031.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsecs. (a)(2), (b)(3)(B)(i). Pub. L. 110-246, §7511(c)(28), substituted “cooperative extension” for “Cooperative State Research, Education, and Extension Service”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

Amendment by section 7511(c)(28) of Pub. L. 110-246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110-246, set out as a note under section 1522 of this title.

**§ 7447. Petition and review**

**(a) Petition**

**(1) In general**

A person subject to an order issued under this subchapter 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 established in accordance with law; and

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

**(2) Hearings**

The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

**(3) Ruling**

After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that

is the subject of the hearing, which shall be final if the ruling is in accordance with applicable 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) resides or carries on business shall have jurisdiction to review a ruling on the petition, if a complaint is filed by the person not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a)(3).

**(2) Process**

Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

**(3) Remands**

If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand 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) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 7448 of this title.

(Pub. L. 104-127, title V, §538, Apr. 4, 1996, 110 Stat. 1060.)

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.

**§ 7448. Enforcement**

**(a) Jurisdiction**

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation made or issued under this subchapter.

**(b) Referral to Attorney General**

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

**(c) Civil penalties and orders**

**(1) Civil penalties**

**(A) In general**

Any person who willfully violates any provision of an order or regulation issued by the Secretary under this subchapter, or who fails or refuses to pay, collect, or remit an assessment or fee required of the person under an order or regulation, may be assessed—

- (i) a civil penalty by the Secretary of not more than \$1,000 for each violation; and
- (ii) in the case of a willful failure to pay, collect, or remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

**(B) Separate offense**

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

**(2) Cease-and-desist orders**

In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation.

**(3) Notice and hearing**

No penalty shall be assessed, or cease-and-desist order issued, by the Secretary under this subsection unless the person against whom the penalty is assessed or the cease-and-desist order is issued is given notice and opportunity for a hearing 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 under this subsection shall be final and conclusive unless the affected person files an appeal of the order in the appropriate district court of the United States in accordance with subsection (d).

**(d) Review by district court**

**(1) Commencement of action**

Any person who has been determined to be in violation of this subchapter, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c), may obtain review of the penalty or cease-and-desist order by—

- (A) filing, within the 30-day period beginning on the date the penalty is assessed or cease-and-desist order issued, a notice of appeal in—
  - (i) the district court of the United States for the district in which the person resides or carries on business; or
  - (ii) the United States District Court for the District of Columbia; and
- (B) simultaneously sending a copy of the notice by certified mail to the Secretary.

**(2) Record**

The Secretary shall file promptly, in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary determined that the person committed the violation.