

(1) maintain such books and records, and prepare and submit to the Secretary such reports from time to time, as may be required by the Secretary for appropriate accounting of the receipt and disbursement of funds entrusted to the Board or a State association, as the case may be; and

(2) cause a complete audit report to be submitted to the Secretary at the end of each fiscal year.

(g) Investment by Board of funds collected

The Board, with the approval of the Secretary, may invest funds collected through assessments authorized under this section, pending disbursement for a plan or project, only in—

(1) an obligation of the United States, or of a State or political subdivision thereof;

(2) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(3) an obligation fully guaranteed as to principal and interest by the United States.

(Pub. L. 99-198, title XVI, §1620, Dec. 23, 1985, 99 Stat. 1614; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(3)(B)(i), (iv), was in the original “this title” and was translated as reading “this subtitle”, meaning subtitle B of title XVI of Pub. L. 99-198, which enacted this chapter, as the probable intent of Congress.

AMENDMENTS

1986—Subsecs. (c)(2)(A), (e). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

§ 4810. Permissive provisions

(a) Recordkeeping and reporting requirements; incidental and necessary terms and conditions

On the recommendation of the Board, and with the approval of the Secretary, an order may contain one or more of the following provisions:

(1) Each person purchasing a porcine animal from a producer for commercial use, and each importer, shall—

(A) maintain and make available for inspection such books and records as may be required by the order; and

(B) file reports at the time, in the manner, and having the content prescribed by the order,

including documentation of the State of origin of a purchased porcine animal or the place of origin of an imported porcine animal, pork, or pork product.

(2) A term or condition—

(A) incidental to, and not inconsistent with, the terms and conditions specified in this chapter; and

(B) necessary to effectuate the other provisions of such order.

(b) Availability of information to Secretary and Board; confidentiality; disclosure; issuance of general statement, statistical data, or name of violator of order

(1) Information referred to in subsection (a)(1) shall be made available to the Secretary and the Board as is appropriate or necessary for the effectuation, administration, or enforcement of this chapter or an order.

(2)(A) Except as provided in subparagraphs (B) and (C), information obtained under subsection (a)(1) shall be kept confidential by officers or employees of the Department of Agriculture or the Board.

(B) Such information may be disclosed only—

(i) in a suit or administrative hearing involving the order with respect to which the information was furnished or acquired—

(I) brought at the direction or on the request of the Secretary; or

(II) to which the Secretary or an officer of the United States is a party; and

(ii) if the Secretary considers such information to be relevant to such suit or hearing.

(C) Nothing in this section prohibits—

(i) the issuance of a general statement based on the reports of a number of persons subject to an order, or statistical data collected therefrom, if such statement or data does not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating an order, together with a statement of the particular provisions of the order violated by such person.

(c) Penalty for willful violations

A person who willfully violates subsection (a)(1) or (b) shall, on conviction, be—

(1) subject to a fine of not more than \$1,000 or imprisoned for not more than 1 year, or both; and

(2) if such person is an employee of the Department of Agriculture or the Board, removed from office.

(Pub. L. 99-198, title XVI, §1621, Dec. 23, 1985, 99 Stat. 1617.)

EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

§ 4811. Referendum

(a) Continuation of order

For the purpose of determining whether an order then¹ effect shall be continued during the period beginning not earlier than 24 months after the issuance of the order and ending not later than 30 months after the issuance of the order, the Secretary shall conduct a referendum among persons who have been pork producers and importers during a representative period, as determined by the Secretary.

(b) Factors determining continuation; termination of order

(1) Such order shall be continued only if the Secretary determines that such order has been

¹ So in original. Probably should be followed by “in”.

approved by not less than a majority of the producers and importers voting in the referendum.

(2) If the continuation of such order is not approved by a majority of the producers and importers voting in the referendum, the Secretary shall terminate—

(A) collection of assessments under the order not later than 6 months after the date of such determination; and

(B) the order in an orderly manner as soon as practicable after the date of such determination.

(c) Reimbursement for cost

The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred in connection with a referendum conducted under this section or section 4812 of this title.

(d) Manner of conducting

A referendum shall be conducted in such manner as prescribed by the Secretary.

(e) Amendment of initial order

A referendum to amend the initial order shall be conducted pursuant to this section.

(Pub. L. 99-198, title XVI, § 1622, Dec. 23, 1985, 99 Stat. 1618.)

EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

§ 4812. Suspension and termination of orders

(a) Authority of Secretary

If after the initial referendum provided for in section 4811(a) of this title the Secretary determines that an order, or a provision of the order, obstructs or does not tend to effectuate the declared policy of this chapter, the Secretary shall terminate or suspend the operation of such order or provision.

(b) Referendum to terminate or suspend; eligible voters; requirements for approval; termination or suspension date; one referendum within 2-year period

(1)(A) Except as provided in paragraph (2), after the initial referendum provided for in section 4811(a) of this title, on the request of a number of persons equal to at least 15 percent of persons who have been producers and importers during a representative period, as determined by the Secretary, the Secretary shall conduct a referendum to determine whether the producers and importers favor the termination or suspension of the order.

(B) The Secretary shall—

(i) suspend or terminate collection of assessments under the order not later than 6 months after the date the Secretary determines that suspension or termination of the order is favored by a majority of the producers and importers voting in the referendum; and

(ii) terminate the order in an orderly manner as soon as practicable after the date of such determination.

(2) Except with respect to a referendum required to be conducted under section 4811 of this

title, the Secretary shall not be required by paragraph (1) to conduct more than one referendum under this chapter in a 2-year period.

(c) Termination or suspension not to be considered an order

The termination or suspension of an order, or a provision of an order, shall not be considered an order within the meaning of this chapter.

(Pub. L. 99-198, title XVI, § 1623, Dec. 23, 1985, 99 Stat. 1618.)

EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

§ 4813. Refunds

(a) Demand for refund; persons eligible

Notwithstanding any other provision of this chapter, prior to the approval of the continuation of an order pursuant to the referendum required under section 4811(a) of this title, any person shall have the right to demand and receive from the Board a refund of an assessment collected under section 4809 of this title if such person—

(1) is responsible for paying such assessment; and

(2) does not support the program established under this chapter.

(b) Form and time within which demand to be made

Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board and approved by the Secretary, but not later than 30 days after the end of the month in which the assessment was paid.

(c) Payment of refund on submission of satisfactory proof

Such refund shall be made not later than 30 days after demand is received therefore¹ on submission of proof satisfactory to the Board that the producer, person, or importer—

(1) paid the assessment for which refund is sought; and

(2) did not collect such assessment from another producer, person, or importer.

(Pub. L. 99-198, title XVI, § 1624, Dec. 23, 1985, 99 Stat. 1619.)

EFFECTIVE DATE

Section effective Jan. 1, 1986, see section 1631 of Pub. L. 99-198, set out as a note under section 4801 of this title.

§ 4814. Petition and review

(a)(1) A person subject to an order may file with the Secretary a petition—

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

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

(2) Such person shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

¹ So in original. Probably should be "therefor".