

melons under this chapter and the use of such funds to cover the costs of research, development, advertising, and promotion with respect to watermelons under this chapter. Any plan shall be applicable to watermelons produced in the United States or imported into the United States.

(Pub. L. 99-198, title XVI, § 1644, Dec. 23, 1985, 99 Stat. 1623; Pub. L. 103-189, §§ 3(b), 8(b), Dec. 14, 1993, 107 Stat. 2259, 2261.)

#### AMENDMENTS

1993—Pub. L. 103-189, in first sentence, substituted “, handlers, and importers” for “and handlers”, struck out after first sentence “Any order issued by the Secretary under this chapter shall hereinafter in this chapter be referred to as a ‘plan.’”, and in last sentence, struck out “the forty-eight contiguous States of” after “watermelons produced in”, and inserted “or imported into the United States” before period at end.

#### § 4904. Notice and hearings

(a) When sufficient evidence, as determined by the Secretary, is presented to the Secretary by watermelon producers, handlers, and importers, or whenever the Secretary has reason to believe that a plan will tend to effectuate the declared policy of this chapter, the Secretary shall give due notice and opportunity for a hearing on a proposed plan. Such hearing may be requested by watermelon producers, handlers, or importers or by any other interested person, including the Secretary, when the request for such hearing is accompanied by a proposal for a plan.

(b) After notice and opportunity for hearing as provided in subsection (a) of this section, the Secretary shall issue a plan if the Secretary finds, and sets forth in such plan, on the evidence introduced at the hearing that the issuance of the plan and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 99-198, title XVI, § 1645, Dec. 23, 1985, 99 Stat. 1623; Pub. L. 103-189, § 8(c), Dec. 14, 1993, 107 Stat. 2261.)

#### AMENDMENTS

1993—Subsec. (a). Pub. L. 103-189 substituted “, handlers, and importers” for “and handlers” and “, handlers, or importers” for “or handlers”.

#### § 4905. Regulations

The Secretary may issue such regulations as may be necessary to carry out the provisions of this chapter and the powers vested in the Secretary under this chapter.

(Pub. L. 99-198, title XVI, § 1646, Dec. 23, 1985, 99 Stat. 1624.)

#### § 4906. Required terms in plans

##### (a) Description of terms and provisions

Any plan issued under this chapter shall contain the terms and provisions described in this section.

##### (b) Establishment and powers of National Watermelon Promotion Board

The plan shall provide for the establishment by the Secretary of the National Watermelon Promotion Board and for defining its powers and duties, which shall include the powers to—

(1) administer the plan in accordance with its terms and conditions;

(2) make rules and regulations to effectuate the terms and conditions of the plan;

(3) receive, investigate, and report to the Secretary complaints of violations of the plan; and

(4) recommend to the Secretary amendments to the plan.

##### (c) Membership of Board; representation of interests; appointment; nomination; eligibility of producers; importer representation

(1) The plan shall provide that the Board shall be composed of representatives of producers and handlers, and one representative of the public, appointed by the Secretary from nominations submitted in accordance with this subsection. An equal number of representatives of producers and handlers shall be nominated by producers and handlers, and the representative of the public shall be nominated by the other members of the Board, in such manner as may be prescribed by the Secretary. If producers and handlers fail to select nominees for appointment to the Board, the Secretary may appoint persons on the basis of representation as provided for in the plan. If the Board fails to nominate a public representative, the Secretary shall choose such representative for appointment.

(2) A producer shall be eligible to serve on the Board only as a representative of handlers, and not as a representative of producers, if—

(A) the producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or

(B) the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production.

(3)(A) If importers are subject to the plan, the Board shall also include 1 or more representatives of importers, who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.

(B) Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least 1 representative of importers shall serve on the Board.

(C) If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers.

(D) Not later than 5 years after the date that importers are subjected to the plan, and every 5 years thereafter, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.

##### (d) Compensation and expenses of Board

The plan shall provide that all Board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the Board.