

area. The handler shall be assessed an equal amount as the producer. No more than one assessment on a producer nor more than one assessment on a handler shall be made on any watermelons.

(2)(A) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessment to the Board, as the Board may direct.

(B) The assessment on imported watermelons shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States.

(C) Each importer required to pay assessments under the plan shall maintain a separate record that includes a record of—

- (i) the total quantity of watermelons imported into the United States that are included under the terms of the plan;
- (ii) the total quantity of watermelons that are exempt from the plan; and
- (iii) such other information as may be prescribed by the Board.

(D) No more than 1 assessment shall be made on any imported watermelon.

(b) Inspection of records

Handlers and importers responsible for payment of assessments under subsection (a) shall maintain and make available for inspection by the Secretary such books and records as required by the plan and file reports at the times, in the manner, and having the content prescribed by the plan, to the end that information and data shall be made available to the Board and to the Secretary that is appropriate or necessary to the effectuation, administration, or enforcement of this chapter or of any plan or regulation issued under this chapter.

(c) Confidentiality of information; disclosure authority; general or violation statements; penalties; removal from office

All information obtained under subsections (a) and (b) shall be kept confidential by all officers and employees of the Department of Agriculture and of the Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the plan with reference to which the information to be disclosed was furnished or acquired. Nothing in this subsection shall be deemed to prohibit—

- (1) the issuance of general statements based on the reports of a number of handlers or importers subject to a plan if such statements do not identify the information furnished by any person; or
- (2) the publication by direction of the Secretary of the name of any person violating any plan together with a statement of the particular provisions of the plan violated by such person.

Any such officer or employee violating the provisions of this subsection shall be subject to a

fine of not more than \$1,000 or imprisonment for not more than one year, or both, and shall be removed from office.

(Pub. L. 99-198, title XVI, §1649, Dec. 23, 1985, 99 Stat. 1626; Pub. L. 103-189, §8(g), Dec. 14, 1993, 107 Stat. 2262.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-189, §8(g)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 103-189, §8(g)(2), inserted “and importers” after “Handlers”.

Subsec. (c)(1). Pub. L. 103-189, §8(g)(3), inserted “or importers” after “handlers”.

§ 4909. Petition and review

(a) Any person subject to a plan may file a written petition with the Secretary, stating that the plan or any provision of the plan, or any obligation imposed in connection therewith, is not in accordance with law and praying for a modification thereof or to be exempted therefrom. The person shall be given an opportunity for a hearing on the petition, in accordance with regulations prescribed by the Secretary. After the hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with the law.

(b) The district courts of the United States in any district in which the person is an inhabitant, or in which the person's principal place of business is located, are hereby vested with jurisdiction to review such ruling, provided that a complaint for that purpose is filed within twenty days from the date of the entry of the ruling. Service of process in such proceedings may be had on the Secretary by delivering to the Secretary a copy of the complaint. If the court determines that the ruling is not in accordance with law, it shall remand the proceedings to the Secretary with directions either to (1) make such ruling as the court shall determine to be in accordance with law, or (2) take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted under subsection (a) shall not impede or delay the United States or the Secretary from obtaining relief under section 4910(a)¹ of this title.

(Pub. L. 99-198, title XVI, §1650, Dec. 23, 1985, 99 Stat. 1627.)

REFERENCES IN TEXT

Section 4910(a) of this title, referred to in subsec. (b), was in the original “section 1851(a)”, a nonexistent section in Pub. L. 99-198, and has been translated as if the reference had been to “section 1651(a)” to reflect the probable intent of Congress.

§ 4910. Enforcement

(a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any plan or regulation made or issued under this chapter. The facts relating to any civil action that may be brought under this subsection shall be referred to the Attorney General for appropriate action, except that nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney

¹ See References in Text note below.