

sentence, substituted “the person” for “the handler or other person”.

#### § 4912. Requirement of referendum

(a) The Secretary shall conduct a referendum among producers, handlers, and importers not exempt under sections 4902(5) and 4907(b) of this title who, during a representative period determined by the Secretary, have been engaged in the production, handling, or importing of watermelons, for the purpose of ascertaining whether the issuance of a plan is approved or favored by producers, handlers, and importers. The ballots and other information or reports that reveal or tend to reveal the vote of any producer, handler, or importer or the person’s volume of watermelons produced, handled, or imported shall be held strictly confidential and shall not be disclosed. Any officer or employee of the Department of Agriculture violating the provisions hereof shall be subject to the penalties provided in section 4908(c) of this title.

(b) A plan issued under this chapter shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers who are subject to the plan) voting in the referendum.

(Pub. L. 99-198, title XVI, § 1653, Dec. 23, 1985, 99 Stat. 1629; Pub. L. 103-189, §§ 2, 8(i), Dec. 14, 1993, 107 Stat. 2259, 2262.)

#### AMENDMENTS

1993—Pub. L. 103-189 designated existing provisions as subsec. (a), added subsec. (b), and in subsec. (a) substituted “, handlers, and importers” for “and handlers” in two places and “, handling, or importing” for “or handling” in first sentence, substituted “, handler, or importer” for “or handler” and “, handled, or imported” for “or handled” in sentence beginning with “The ballots”, and struck out after first sentence “The referendum shall be conducted at the county extension offices. No plan issued under this chapter shall be effective unless the Secretary determines that the issuance of the plan is approved or favored by not less than two-thirds of the producers and handlers voting in such referendum, or by the producers and handlers of not less than two-thirds of the watermelons produced and handled during the representative period by producers and handlers voting in such referendum, and by not less than a majority of the producers and a majority of the handlers voting in the referendum.”

#### § 4913. Suspension or termination of plans

(a) Whenever the Secretary finds that a plan or any provision thereof obstructs or does not tend to effectuate the declared policy of this chapter, the Secretary shall terminate or suspend the operation of the plan or provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or at least 10 percent of the combined total of the watermelon producers, handlers, and importers eligible to vote in a referendum, to determine if watermelon producers, handlers, and importers favor the termination or suspension of the plan. The Secretary shall terminate or suspend the plan at the end of the marketing year whenever the Secretary determines that the termination or suspension is favored by a majority of those voting in the referendum, and who produce, handle, or import

more than 50 per cent of the combined total of the volume of the watermelons produced by the producers, handled by the handlers, or imported by the importers voting in the referendum.

(Pub. L. 99-198, title XVI, § 1654, Dec. 23, 1985, 99 Stat. 1630; Pub. L. 103-189, § 8(j), Dec. 14, 1993, 107 Stat. 2263.)

#### AMENDMENTS

1993—Subsec. (b). Pub. L. 103-189, § 8(j)(3), struck out at end “Any such referendum shall be conducted at county extension offices.”

Pub. L. 103-189, § 8(j)(2)(C), which directed the substitution of “, handled by the handlers, or imported by the importers” for “or handled by the handlers,” in second sentence, was executed by making the substitution in text which did not contain a comma after the word “handlers”, to reflect the probable intent of Congress.

Pub. L. 103-189, § 8(j)(1)-(2)(B), in first sentence, substituted “at least 10 percent of the combined total” for “10 per centum or more” and “, handlers, and importers” for “and handlers” in two places, and in second sentence, substituted “, handle, or import” for “or handle” and “50 percent of the combined total” for “50 per centum”.

#### § 4914. Amendment procedure

##### (a) In general

Before a plan issued by the Secretary under this chapter may be amended, the Secretary shall publish the proposed amendments for public comment and conduct a referendum in accordance with section 4912 of this title.

##### (b) Separate consideration of amendments

###### (1) In general

The amendments described in paragraph (2) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act of 1993 shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 4912 of this title before the Secretary alters the plan as in effect on the day before December 14, 1993.

###### (2) Amendments

The amendments referred to in paragraph (1) are the amendments to a plan required under—

(A) section 7 of the Watermelon Research and Promotion Improvement Act of 1993 relating to the elimination of the assessment refund; and

(B) section 8 of such Act relating to subjecting importers to the terms and conditions of the plan.

###### (3) Importers

When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments to a plan were approved.

(Pub. L. 99-198, title XVI, § 1655, Dec. 23, 1985, 99 Stat. 1630; Pub. L. 103-189, § 10, Dec. 14, 1993, 107 Stat. 2264.)

#### REFERENCES IN TEXT

The Watermelon Research and Promotion Improvement Act of 1993, referred to in subsec. (b)(1), (2), is