

**(2) Income**

Income from any such investment may be used for any purpose for which the invested funds may be used.

**(p) Prohibition on use of funds to influence governmental action****(1) In general**

Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy.

**(2) Exceptions**

Paragraph (1) shall not apply to—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order; or

(C) any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof.

**(q) Books and records of first purchasers and certain producers****(1) Recordkeeping****(A) In general**

The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection by the Board or the Secretary such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. The order shall exempt small producers processing soybeans of their own production from such recordkeeping and reporting requirements if they are not required to pay assessments under the order.

**(B) "Small producer" defined**

The order shall define the term "small producer" as such term is used in subparagraph (A).

**(2) Use of information****(A) In general**

Information maintained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement of this chapter, or any order or regulation issued under this chapter.

**(B) Other information**

The Secretary shall authorize the use under this chapter of information regarding first purchasers that is accumulated under a law or regulation other than this chapter or regulations under this chapter.

**(3) Confidentiality****(A) In general**

Except as otherwise provided in this chapter, commercial or financial information

that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department, members of the Board, and agents of the Board.

**(B) Permitted uses**

Information obtained under the authority of this chapter shall be made available to any agency or officer of the Federal Government for—

(i) the implementation of this chapter;

(ii) any investigatory or enforcement action necessary for the implementation of this chapter; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

**(C) Other exceptions**

Nothing in subparagraph (A) may be deemed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

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

**(4) Penalty**

Any person who willfully violates the provisions of this subsection, upon conviction, shall be subject to a fine of not more than \$1,000, or to imprisonment for not more than one year, or both, and, if a member or an agent of the Board or an officer or employee of the Department, shall be removed from office.

**(r) Incidental terms and conditions**

The order shall provide terms and conditions, not inconsistent with the provisions of this chapter, as necessary to effectuate the provisions of the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (l).

(Pub. L. 101-624, title XIX, §1969, Nov. 28, 1990, 104 Stat. 3884; Pub. L. 102-237, title VIII, §806(1), Dec. 13, 1991, 105 Stat. 1883.)

## AMENDMENTS

1991—Subsec. (g)(2)(A)(ii). Pub. L. 102-237, §806(1)(A), substituted "Agricultural" for "Argicultural".

Subsec. (l)(2)(F)(vii)(V). Pub. L. 102-237, §806(1)(B), substituted "that request" for "that requests".

Subsec. (q)(4). Pub. L. 102-237, §806(1)(C), inserted a comma after "and" and struck out semicolon after "Board".

**§ 6305. Referenda****(a) Initial referendum****(1) Requirement**

Not earlier than 18 months or later than 36 months following issuance of an order under section 6303 of this title, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the

production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued.

**(2) Advance notice**

The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. Any such notice shall be provided without advertising expenses by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Extension Service offices and county Agricultural Stabilization and Conservation Service offices, and by other appropriate means specified in the order. Such notice shall include information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent facts.

**(3) Approval of order**

Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

**(4) Disapproval of order**

If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

**(b) Additional referenda**

**(1) In general**

**(A) Requirement**

After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

**(B) Representative group of producers**

An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth may be producers in any one State, as determined by the Secretary.

**(C) Eligible producers**

Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

**(2) Disapproval of order**

If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 6 months after such determination and shall suspend or ter-

minate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

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

**(A) In general**

To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this chapter and every 5 years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

**(B) Method of making request**

**(i) In-person requests**

To carry out subparagraph (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices or county Agricultural Stabilization and Conservation Service offices during a period established by the Secretary, or as provided in clause (ii).

**(ii) Mail-in requests**

In lieu of making such requests in person, producers may make requests by mail. Mail-in requests shall be postmarked no later than the end of the period established under clause (i) for in-person requests. To facilitate such 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 in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedure specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers may act to request the additional referenda under this paragraph. The Secretary shall take such other actions as the Secretary determines are necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

**(D) Action by Secretary**

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

**(E) Time limit**

Any additional referendum requested under the procedures provided in this para-

graph 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 such referendum.

**(c) Procedures**

**(1) Reimbursement of Secretary**

The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under this section, except for the salaries of Government employees associated with the conduct of a referendum under subsections (a) and (b).

**(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 whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

**(3) Place**

Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided on request. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

(Pub. L. 101-624, title XIX, §1970, Nov. 28, 1990, 104 Stat. 3898; Pub. L. 102-237, title VIII, §806(2), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b)(3)(A). Pub. L. 102-237 made technical amendment to reference to this chapter to correct reference to corresponding provision of original act.

**§ 6306. Petition and review**

**(a) Petition**

**(1) In general**

A person subject to an order issued under this chapter may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any 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 make a ruling on the petition that is the subject of the hearing, which shall be final if such ruling is in accordance with applicable law.

**(b) Review**

**(1) Commencement of action**

The district court of the United States in any district in which the person who is a peti-

tioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition of such person under such subsection, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under such subsection (a).

**(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 6307 of this title.

(Pub. L. 101-624, title XIX, §1971, Nov. 28, 1990, 104 Stat. 3900.)

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.

**§ 6307. 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, any order or regulation made or issued under this chapter.

**(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 chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by providing a suitable written notice or warning to the person who committed such violation or by administrative action under section 6306 of this title.

**(c) Civil penalties and orders**

**(1) Civil penalties**

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

(A) a civil penalty by the Secretary of not more than \$1,000 for each such violation; and

(B) in the case of a willful failure to pay, collect, or remit an assessment as required by the order or regulation, an additional