

unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Pub. L. 99-198, title XVI, § 1651, Dec. 23, 1985, 99 Stat. 1627.)

#### § 4911. Investigation and power to subpoena

(a) The Secretary may make such investigations as the Secretary deems necessary to carry out effectively the Secretary's responsibilities under this chapter or to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this chapter, or of any plan or regulation issued under this chapter. For the purpose of an investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, including a handler (or an importer who is subject to the plan), the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring the person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by the court as contempt thereof. All process in any such case may be served in the judicial district in which the person is an inhabitant or wherever the person may be found. The site of any hearing held under this subsection shall be within the judicial district in which the person is an inhabitant or in which the person's principal place of business is located.

(b) No person shall be excused from attending and testifying or from producing books, papers, and documents before the Secretary, or in obedience to the subpoena of the Secretary, or in any cause or proceeding, criminal or otherwise, based on, or growing out of, any alleged violation of this chapter, or of any plan or regulation issued thereunder, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. However, no person shall be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which the person is compelled, after having claimed the person's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that

any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(Pub. L. 99-198, title XVI, § 1652, Dec. 23, 1985, 99 Stat. 1628; Pub. L. 103-189, § 8(h), Dec. 14, 1993, 107 Stat. 2262.)

#### Editorial Notes

##### AMENDMENTS

1993—Subsec. (a). Pub. L. 103-189, in first sentence, substituted "a person" for "a handler or any other person", in fourth sentence, inserted "(or an importer who is subject to the plan)" after "a handler", and in last 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.)

#### Editorial Notes

##### 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.)

#### Editorial Notes

##### 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 re-

lating 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.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Watermelon Research and Promotion Improvement Act of 1993, referred to in subsec. (b)(1), (2), is Pub. L. 103-189, Dec. 14, 1993, 107 Stat. 2259, which amended this section and sections 4901 to 4904, 4906, 4908, and 4911 to 4913 of this title, and enacted provisions set out as a note under section 4901 of this title. Section 7 of the Act amended section 4906 of this title. Section 8 of the Act amended sections 4901 to 4904, 4906, 4908, and 4911 to 4913 of this title. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 4901 of this title and Tables.

##### AMENDMENTS

1993—Pub. L. 103-189 amended section generally. Prior to amendment, section read as follows: “The provisions of this chapter applicable to plans shall be applicable to amendments to plans.”

#### § 4915. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 99-198, title XVI, §1656, Dec. 23, 1985, 99 Stat. 1630.)

#### § 4916. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this chapter, except that the funds so appropriated shall not be available for the payment of any expenses or expenditures of the Board in administering any provision of any plan issued under authority of this chapter.

(Pub. L. 99-198, title XVI, §1657, Dec. 23, 1985, 99 Stat. 1630.)

### CHAPTER 81—NATIONAL COMMISSION ON AGRICULTURE AND RURAL DEVELOPMENT POLICY

#### §§ 5001 to 5007. Omitted

#### Editorial Notes

##### CODIFICATION

Sections 5001 to 5007 were omitted pursuant to section 5007 which provided that this chapter and the Na-