TITLE 7 - AGRICULTURE
CHAPTER 62—BEEF RESEARCH AND INFORMATION

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<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>TITLE 7 - AGRICULTURE</td>
<td>1</td>
</tr>
<tr>
<td>CHAPTER 62 - BEEF RESEARCH AND INFORMATION</td>
<td>4</td>
</tr>
<tr>
<td>§ 2901. Congressional findings and declaration of policy</td>
<td>4</td>
</tr>
<tr>
<td>§ 2902. Definitions</td>
<td>5</td>
</tr>
<tr>
<td>§ 2903. Issuance of orders</td>
<td>6</td>
</tr>
<tr>
<td>§ 2904. Required terms in orders</td>
<td>7</td>
</tr>
<tr>
<td>§ 2905. Certification of organizations to nominate</td>
<td>10</td>
</tr>
<tr>
<td>§ 2906. Requirement of referendum</td>
<td>11</td>
</tr>
<tr>
<td>§ 2907. Refunds</td>
<td>11</td>
</tr>
<tr>
<td>§ 2908. Enforcement</td>
<td>13</td>
</tr>
<tr>
<td>§ 2909. Investigations by Secretary; oaths and affirmations; subpoenas; judicial enforcement; contempt proceedings; service of process</td>
<td>14</td>
</tr>
<tr>
<td>§ 2910. Preemption of other Federal and State programs; applicability of provisions to amendments to orders</td>
<td>14</td>
</tr>
<tr>
<td>§ 2911. Authorization of appropriations</td>
<td>15</td>
</tr>
<tr>
<td>§§ 2912 to 2918. Omitted</td>
<td>15</td>
</tr>
</tbody>
</table>
TITLE 7—AGRICULTURE

Chap. ...Sec.
1. Commodity Exchanges ...1
2. Cotton Standards ...51
3. Grain Standards ...71
4. Naval Stores ...91
5. Importation of Adulterated Seeds [Repealed] ...111
6. Insecticides and Environmental Pesticide Control ...121
6A. National Laboratory Accreditation ...138
7. Insect Pests Generally [Repealed, Omitted, or Transferred] ...141
7A. Golden Nematode [Repealed] ...150
7B. Plant Pests [Repealed] ...150aa
8. Nursery Stock and Other Plants and Plant Products [Repealed, Omitted, or Transferred] ...151
8A. Rubber and Other Critical Agricultural Materials ...171
9. Packers and Stockyards ...181
10. Warehouses ...241
11. Honeybees ...281
12. Associations of Agricultural Products Producers ...291
13. Agricultural and Mechanical Colleges ...301
14. Agricultural Experiment Stations ...361
15. Bureau of Animal Industry ...391
16. Bureau of Dairy Industry ...401
17. Miscellaneous Matters ...411
18. Cooperative Marketing ...451
19. Cotton Statistics and Estimates ...471
20. Dumping or Destruction of Interstate Produce ...491
20A. Perishable Agricultural Commodities ...499a
21. Tobacco Statistics ...501
21A. Tobacco Inspection ...511
21B. Tobacco Control [Repealed] ...515
21C. Tobacco Reform ...518
22. Agricultural Marketing [Omitted or Transferred] ...521
23. Foreign Agricultural Service [Repealed] ...541
24. Perishable Agricultural Commodities [Transferred to Chapter 20A] ...551
25. Export Standards for Apples ...581
25A. Export Standards for Grapes and Plums ...591
26. Agricultural Adjustment ...601
26A. Agricultural Marketing Agreements ...671
27. Cotton Marketing [Repealed or Omitted] ...701
28. Tobacco Industry [Repealed] ...751
29. Potato Act of 1935 [Repealed] ...801
30. Anti-Hog-Cholera Serum and Hog-Cholera Virus ...851
31. Rural Electrification and Telephone Service ...901
31A. Telemedicine and Distance Learning Services in Rural Areas ...950aaa
32. Peanut Statistics ...951
33. Farm Tenancy ...1000
34. Sugar Production and Control [Omitted or Repealed] ...1100
35. Agricultural Adjustment Act of 1938 ...1281
35A. Price Support of Agricultural Commodities ...1421
36. Crop Insurance ...1501
37. Seeds ...1551
38. Distribution and Marketing of Agricultural Products ...1621
39. Stabilization of International Wheat Market ...1641
40. Halogeton Glomeratus Control [Repealed] ...1651
41. Food for Peace ...1691
42. Agricultural Commodity Set-Aside ...1741
43. Foreign Market Development ...1761
44. Wool Program [Repealed] ...1781
45. Soil Bank Program ...1801
46. Surplus Disposal of Agricultural Commodities ...1851
47. Interchange of Department of Agriculture and State Employees [Repealed] ...1881
48. Humane Methods of Livestock Slaughter ...1901
49. Consultation on Agricultural Programs ...1911
50. Agricultural Credit ...1921
51. Supplemental Nutrition Assistance Program ...2011
52. Farm Labor Contractor Registration [Repealed] ...2041
53. Cotton Research and Promotion ...2101
54. Transportation, Sale, and Handling of Certain Animals ...2131
55. Department of Agriculture ...2201
55A. Department of Agriculture Advisory Committees ...2281
56. Unfair Trade Practices Affecting Producers of Agricultural Products ...2301
57. Plant Variety Protection ...2321
58. Potato Research and Promotion ...2611
59. Rural Fire Protection, Development, and Small Farm Research and Education ...2651
60. Egg Research and Consumer Information ...2701
61. Noxious Weeds ...2801
62. Beef Research and Information ...2901
63. Farmer-to-Consumer Direct Marketing ...3001
64. Agricultural Research, Extension, and Teaching ...3101
65. Wheat and Wheat Foods Research and Nutrition Education ...3401
66. Agricultural Foreign Investment Disclosure ...3501
67. Implementation of International Sugar Agreement, 1977 ...3601
68. Agricultural Subterminal Facilities ...3701
69. Swine Health Protection ...3801
70. Animal Cancer Research ...3901
71. Agricultural Trade Suspension Adjustment ...4001
72. National Agricultural Cost of Production Standards Review Board [Omitted] ...4101
73. Farmland Protection Policy ...4201
74. Floral Research and Consumer Information ...4301
75. International Carriage of Perishable Foodstuffs ...4401
76. Dairy Research and Promotion ...4501
77. Honey Research, Promotion, and Consumer Information ...4601
78. Agricultural Productivity Research [Repealed] ...4701
79. Pork Promotion, Research, and Consumer Information ...4801
80. Watermelon Research and Promotion ...4901
81. National Commission on Agriculture and Rural Development Policy [Omitted] ...5001
82. State Agricultural Loan Mediation Programs ...5101
83. Agricultural Competitiveness and Trade ...5201
84. National Nutrition Monitoring and Related Research ...5301
85. Administration of Environmental Programs ...5401
86. Water Quality Research, Education, and Coordination ...5501
87. Export Promotion ...5601
88. Research ...5801
89. Pecan Promotion and Research ...6001
90. Mushroom Promotion, Research, and Consumer Information ...6101
91. Lime Promotion, Research, and Consumer Information ...6201
92. Soybean Promotion, Research, and Consumer Information ...6301
93. Processor-Funded Milk Promotion Program ...6401
94. Organic Certification ...6501
95. Rural Revitalization Through Forestry ...6601
96. Global Climate Change ...6701
97. Fresh Cut Flowers and Fresh Cut Greens Promotion and Information ...6801
98. Department of Agriculture Reorganization ...6901
99. Sheep Promotion, Research, and Information ...7101
100. Agricultural Market Transition ...7201
101. Agricultural Promotion ...7401
102. Emergency Food Assistance ...7501
103. Agricultural Research, Extension, and Education Reform ...7601
104. Plant Protection ...7701
105. Hass Avocado Promotion, Research, and Information ...7801
106. Commodity Programs ...7901
107. Renewable Energy Research and Development ...8101
108. Tree Assistance Program ...8201
109. Animal Health Protection ...8301  
110. Enhancing Controls on Dangerous Biological Agents and Toxins ...8401  
111. Brown Tree Snake Control and Eradication ...8501  
112. Biomass Research and Development [Repealed] ...8601  
113. Agricultural Commodity Support Programs ...8701  
114. Agricultural Security ...8901
CHAPTER 62—BEEF RESEARCH AND INFORMATION

Sec.

2901. Congressional findings and declaration of policy.

2902. Definitions.

2903. Issuance of orders.

2904. Required terms in orders.

2905. Certification of organizations to nominate.

2906. Requirement of referendum.

2907. Refunds.

2908. Enforcement.

2909. Investigations by Secretary; oaths and affirmations; subpoenas; judicial enforcement; contempt proceedings; service of process.

2910. Preemption of other Federal and State programs; applicability of provisions to amendments to orders.

2911. Authorization of appropriations.

2912 to 2918. Omitted.

§ 2901. Congressional findings and declaration of policy

(a) Congress finds that—

(1) beef and beef products are basic foods that are a valuable part of human diet;

(2) the production of beef and beef products plays a significant role in the Nation’s economy, beef and beef products are produced by thousands of beef producers and processed by numerous processing entities, and beef and beef products are consumed by millions of people throughout the United States and foreign countries;

(3) beef and beef products should be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for beef and beef products are vital to the welfare of beef producers and those concerned with marketing, using, and producing beef products, as well as to the general economy of the Nation;

(5) there exist established State and national organizations conducting beef promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of beef and beef products; and

(6) beef and beef products move in interstate and foreign commerce, and beef and beef products that do not move in such channels of commerce directly burden or affect interstate commerce of beef and beef products.

(b) It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for financing (through assessments on all cattle sold in the United States and on cattle, beef, and beef products imported into the United States) and carrying out a coordinated program of promotion and research designed to strengthen the beef industry’s position in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products. Nothing in this chapter shall be construed to limit the right of individual producers to raise cattle.


Amendments

§ 2902. Definitions

For purposes of this chapter—

(1) the term “beef” means flesh of cattle;

(2) the term “beef products” means edible products produced in whole or in part from beef, exclusive of milk and products made therefrom;

(3) the term “Board” means the Cattlemen’s Beef Promotion and Research Board established under section 2904 (1) of this title;

(4) the term “cattle” means live domesticated bovine animals regardless of age;

(5) the term “Committee” means the Beef Promotion Operating Committee established under section 2904 (5) of this title;

(6) the term “consumer information” means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of beef and beef products;

(7) the term “Department” means the Department of Agriculture.¹

(8) the term “importer” means any person who imports cattle, beef, or beef products from outside the United States;

(9) the term “industry information” means information and programs that will lead to the development of new markets, marketing strategies, increased efficiency, and activities to enhance the image of the cattle industry;

(10) The term “order” means a beef promotion and research order issued under section 2903 of this title.¹

(11) the term “person” means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;
§ 2903. Issuance of orders

(a) During the period beginning on January 1, 1986, and ending thirty days after receipt of a proposal for a beef promotion and research order, the Secretary shall publish such proposed order and give due notice and opportunity for public comment on such proposed order. Such proposal may be submitted by any organization meeting the requirements for certification under section 2905 of this title or any interested person, including the Secretary.

(b) After notice and opportunity for public comment are given, as provided for in subsection (a) of this section, the Secretary shall issue a beef promotion and research order. The order shall become effective not later than one hundred and twenty days following publication of the proposed order.
Effective Date of 1985 Amendment


§ 2904. Required terms in orders

An order issued under section 2903 (b) of this title shall contain the following terms and conditions:

1. The order shall provide for the establishment and selection of a Cattlemen’s Beef Promotion and Research Board. Members of the Board shall be cattle producers and importers appointed by the Secretary from:
   (A) nominations submitted by eligible State organizations certified under section 2905 of this title (or, if the Secretary determines that there is no eligible State organization in a State, the Secretary may provide for nominations from such State to be made in a different manner), and
   (B) nominations submitted by importers under such procedures as the Secretary determines appropriate. In determining geographic representation for cattle producers on the Board, whole States shall be considered as a unit. Each State that has a total cattle inventory greater than five hundred thousand head shall be entitled to at least one representative on the Board. A State that has a total inventory of fewer than 500,000 cattle shall be grouped, as far as practicable, with other States each of which has a combined total inventory of not less than 500,000 cattle, into geographically contiguous units in a manner prescribed in the order. A unit may be represented on the Board by more than one member. For each additional million head of cattle within a unit, such unit shall be entitled to an additional member on the Board. A State that has a total inventory of fewer than 500,000 cattle shall be grouped, as far as practicable, with other States each of which has a combined total inventory of not less than 500,000 cattle, into geographically contiguous units in a manner prescribed in the order. A unit may be represented on the Board by more than one member. For each additional million head of cattle within a unit, such unit shall be entitled to an additional member on the Board. The Board may recommend a change in the level of inventory per unit necessary for representation on the Board and, on such recommendation, the Secretary may change the level necessary for representation on the Board. The number of members on the Board that represent importers shall be determined by the Secretary on a proportional basis, by converting the volume of imported beef and beef products into live animal equivalencies.

2. The order shall define the powers and duties of the Board, which shall be exercised at an annual meeting, and shall include only the following powers:
   (A) To administer the order in accordance with its terms and provisions.
   (B) To make rules and regulations to effectuate the terms and provisions of the order.
   (C) To elect members of the Board to serve on the Committee.
   (D) To approve or disapprove budgets submitted by the Committee.
   (E) To receive, investigate, and report to the Secretary complaints of violations of the order.
   (F) To recommend to the Secretary amendments to the order.

In addition, the order shall determine the circumstances under which special meetings of the Board may be held.

3. The order shall provide that the term of appointment to the Board shall be three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for one-year, two-year, and three-year terms; and that Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

4. The order shall provide that the Board shall elect from its membership ten members to serve on the Beef Promotion Operating Committee, which shall be composed of ten members of the Board and ten producers elected by a federation that includes as members the qualified State beef councils. The producers elected by the federation shall be certified by the Secretary as producers that are directors of a qualified State beef council. The Secretary also shall certify that such directors are duly elected by the federation as representatives to the Committee.
(B) The Committee shall develop plans or projects of promotion and advertising, research, consumer information, and industry information, which shall be paid for with assessments collected by the Board. In developing plans or projects, the Committee shall—

(i) to the extent practicable, take into account similarities and differences between certain beef, beef products, and veal; and

(ii) ensure that segments of the beef industry that enjoy a unique consumer identity receive equitable and fair treatment under this chapter.

(C) The Committee shall be responsible for developing and submitting to the Board, for its approval, budgets on a fiscal year basis of its anticipated expenses and disbursements, including probable costs of advertising and promotion, research, consumer information, and industry information projects. The Board shall approve or disapprove such budgets and, if approved, shall submit such budget to the Secretary for the Secretary’s approval.

(D) The total costs of collection of assessments and administrative staff incurred by the Board during any fiscal year shall not exceed 5 per centum of the projected total assessments to be collected by the Board for such fiscal year. The Board shall use, to the extent possible, the resources, staffs, and facilities of existing organizations.

(5) The order shall provide that terms of appointment to the Committee shall be one year, and that no person may serve on the Committee for more than six consecutive terms. Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Committee. The Committee may utilize the resources, staffs, and facilities of the Board and industry organizations. An employee of an industry organization may not receive compensation for work performed for the Committee, but shall be reimbursed from assessments collected by the Board for reasonable expenses incurred in performing such work.

(6) The order shall provide that, to ensure coordination and efficient use of funds, the Committee shall enter into contracts or agreements for implementing and carrying out the activities authorized by this chapter with established national nonprofit industry-governed organizations, including the federation referred to in paragraph (4), to implement programs of promotion, research, consumer information, and industry information. Any such contract or agreement shall provide that—

(A) the person entering the contract or agreement shall develop and submit to the Committee a plan or project together with a budget or budgets that shows estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the person entering the contract or agreement shall keep accurate records of all of its transactions, account for funds received and expended, and make periodic reports to the Committee of activities conducted, and such other reports as the Secretary, the Board, or the Committee may require.

(7) The order shall require the Board and the Committee to—

(A) maintain such books and records, which shall be available to the Secretary for inspection and audit, as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to them.

(8) The order shall provide that each person making payment to a producer for cattle purchased from the producer shall, in the manner prescribed by the order, collect an assessment and remit the assessment to the Board. The Board shall use qualified State beef councils to collect such assessments.

(B) If an appropriate qualified State beef council does not exist to collect an assessment in accordance with paragraph (1), such assessment shall be collected by the Board.
(C) The order also shall provide that each importer of cattle, beef, or beef products shall pay an assessment, in the manner prescribed by the order, to the Board. The assessments shall be used for payment of the costs of plans and projects, as provided for in paragraph (4), and expenses in administering the order, including more administrative costs incurred by the Secretary after the order has been promulgated under this chapter, and to establish a reasonable reserve. The rate of assessment prescribed by the order shall be one dollar per head of cattle, or the equivalent thereof in the case of imported beef and beef products. A producer who can establish that the producer is participating in a program of an established qualified State beef council shall receive credit, in determining the assessment due from such producer, for contributions to such program of up to 50 cents per head of cattle or the equivalent thereof. There shall be only one qualified State beef council in each State. Any person marketing from 1 beef from cattle of the person’s own production shall remit the assessment to the Board in the manner prescribed by the order.

(9) The order shall provide that the Board, with the approval of the Secretary, may invest, pending disbursement, funds collected through assessments only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(10) The order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing governmental action or policy, with the exception of recommending amendments to the order.

(11) The order shall require that each person making payment to a producer, any person marketing beef from cattle of the person’s own production directly to consumers, and any importer of cattle, beef, or beef products maintain and make available for inspection 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. Such information shall be made available to the Secretary as is appropriate to the administration or enforcement of this chapter, the order, or any regulation issued under this chapter. In addition, the Secretary shall authorize the use of information regarding persons paying producers that is accumulated under a law or regulation other than this chapter or regulations under this chapter.

All information so obtained shall be kept confidential by all officers and employees of the Department, and only such information so obtained as the Secretary deems relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order. Nothing in this paragraph may be deemed to prohibit—

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

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

No information obtained under the authority of this chapter may be made available to any agency or officer of the United States for any purpose other than the implementation of this chapter and any investigatory or enforcement act necessary for the implementation of this chapter. Any person violating the provisions of this paragraph 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 an officer or employee of the Board or the Department, shall be removed from office.

(12) The order shall contain terms and conditions, not inconsistent with the provisions of this chapter, as necessary to effectuate the provisions of the order.

Footnotes

1 So in original. The word “from” probably should not appear.
§ 2905. Certification of organizations to nominate

(a) Eligibility of State organization certified by Secretary; eligibility criteria

The eligibility of any State organization to represent producers and to participate in the making of nominations under section 2904 (1) of this title shall be certified by the Secretary. The Secretary shall certify any State organization that the Secretary determines meets the eligibility criteria established under subsection (b) of this section and such determination as to eligibility shall be final.

(b) State cattle association or State general farm organization

A State cattle association or State general farm organization may be certified as described in subsection (a) of this section if such association or organization meets all of the following eligibility criteria:

1. The association or organization’s total paid membership is comprised of at least a majority of cattle producers or the association or organization’s total paid membership represents at least a majority of the cattle producers in the State.

2. The association or organization represents a substantial number of producers that produce a substantial number of cattle in the State.

3. The association or organization has a history of stability and permanency.

4. A primary or overriding purpose of the association or organization is to promote the economic welfare of cattle producers.

(c) Factual report basis for certification of State cattle association and State general farm association

Certification of State cattle associations and State general farm organizations shall be based on a factual report submitted by the association or organization involved.

(d) Certification of more than one State organization; caucus

If more than one State organization is certified in a State (or in a unit referred to in section 2904 (1) of this title), such organizations may caucus to determine any of such State’s (or such unit’s) nominations under section 2904 (1) of this title.

Amendments


Effective Date of 1985 Amendment

§ 2906. Requirement of referendum

(a) Continuation or termination of order

For the purpose of determining whether the initial order shall be continued, not later than 22 months after the issuance of the order (or any earlier date recommended by the Board), the Secretary shall conduct a referendum among persons who have been producers or importers during a representative period, as determined by the Secretary. The order shall be continued only if the Secretary determines that it has been approved by not less than a majority of the producers voting in the referendum who, during a representative period as determined by the Secretary, have been engaged in the production of cattle. 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 six months after the Secretary determines that continuation of the order is not favored by a majority voting in the referendum and shall terminate the order in an orderly manner as soon as practicable after such determination.

(b) Additional referendum to determine suspension or termination of order

After the initial referendum, the Secretary may conduct a referendum on the request of a representative group comprising 10 per centum or more of the number of cattle producers to determine whether cattle producers favor the termination or suspension of the order. The Secretary shall suspend or terminate collection of assessments under the order within six months after the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum who, during a representative period as determined by the Secretary, have been engaged in the production of cattle and shall terminate or suspend the order in an orderly manner as soon as practicable after such determination.

(c) Reimbursement for cost of referendum; time and place of referendum; certification by producers; absentee mail ballot

The Department shall be reimbursed from assessments collected by the Board for any expenses incurred by the Department in connection with conducting any referendum under this section, except for the salaries of Government employees. Any referendum conducted under this section shall be conducted on a date established by the Secretary, whereby producers shall certify that they were engaged in the production of cattle during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum. Each referendum shall be conducted at county extension offices, and there shall be provision for an absentee mail ballot on request.


Amendments


Effective Date of 1985 Amendment


§ 2907. Refunds

(a) Establishment of escrow account

During the period prior to the approval of the continuation of an order pursuant to the referendum required under section 2906 (a) of this title, subject to subsection (f) of this section, the Board shall—
(1) establish an escrow account to be used for assessment refunds;
(2) place funds in such account in accordance with subsection (b) of this section; and
(3) refund assessments to persons in accordance with this section.

(b) Funding escrow account

Subject to subsection (f) of this section, the Board shall place in such account, from assessments collected under section 2906 of this title during the period referred to in subsection (a) of this section, an amount equal to the product obtained by multiplying—
(1) the total amount of assessments collected under section 2906 of this title during such period; by
(2) the greater of—
   (A) the average rate of assessment refunds provided to producers under State beef promotion, research, and consumer information programs financed through producer assessments, as determined by the Board; or
   (B) 15 percent.

(c) Demand and receipt of one-time refund

Subject to subsections (d), (e), and (f) of this section and notwithstanding any other provision of this chapter, any person shall have the right to demand and receive from the Board a one-time refund of all assessments collected under section 2906 of this title from such person during the period referred to in subsection (a) of this section if such person—
(1) is responsible for paying such assessment; and
(2) does not support the program established under this chapter.

(d) Form and time period for demand for one-time refund

Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(e) Submission of proof for one-time refund

Such refund shall be made on submission of proof satisfactory to the Board that the producer, person, or importer—
(1) paid the assessment for which refund is sought; and
(2) did not collect such assessment from another producer, person, or importer.

(f) Insufficiency of funds in escrow account; proration of funds among eligible persons

(1) If the amount in the escrow account required to be established by subsection (a) of this section is not sufficient to refund the total amount of assessments demanded by all eligible persons under this section and the continuation of an order is approved pursuant to the referendum required under section 2906 (a) ¹ of this title, the Board shall—
   (A) continue to place in such account, from assessments collected under section 2904 of this title, the amount required under subsection (b) of this section, until such time as the Board is able to comply with subparagraph (B); and
   (B) provide to all eligible persons the total amount of assessments demanded by all eligible producers.

(2) If the amount in the escrow account required to be established by subsection (a) of this section is not sufficient to refund the total amount of assessments demanded by all eligible persons under this section and the continuation of an order is not approved pursuant to the referendum required under section 2906 (a) of this title, the Board shall prorate the amount of such refunds among all eligible persons who demand such refund.

Footnotes

¹ See References in Text note below.
TITLE 7 - Section 2908 - Enforcement

References in Text

This chapter, referred to in provisions preceding par. 1 of subsec. (c), was in the original “this subtitle”, and was translated as reading “this Act” to reflect the probable intent of Congress.

Section 2906 (a) of this title, referred to in subsec. (f)(1), was in the original a reference to section 10(a) of Pub. L. 94–294, section 2909 (a) of this title, and was translated as section 2906 (a) of this title as the probable intent of Congress, in view of section 2909 of this title not containing a subsec. (a) and the subject matter of section 2906 (a) which relates to a referendum.

Amendments


Effective Date of 1985 Amendment


§ 2908. Enforcement

(a) Restraining order; civil penalty

If the Secretary believes that the administration and enforcement of this chapter or an order would be adequately served by such procedure, following an opportunity for an administrative hearing on the record, the Secretary may—

(1) issue an order to restrain or prevent a person from violating an order; and

(2) assess a civil penalty of not more than $5,000 for violation of such order.

(b) Jurisdiction of district court

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation made or issued under this chapter.

(c) Civil action to be referred to Attorney General

A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

Amendments

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to enforcement for provisions relating to referendum and cattle producer approval of orders, reimbursement of expenses by Secretary, procedural requirements, and bonding requirements.

1978—Pub. L. 95–334 substituted “a majority” for “not less than two-thirds”.

Effective Date of 1985 Amendment

§ 2909. Investigations by Secretary; oaths and affirmations; subpoenas; judicial enforcement; contempt proceedings; service of process

The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this chapter or to determine whether any person subject to this chapter has engaged or is about to engage in any act that constitutes or will constitute a violation of this chapter, the order, or any rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records 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 to, any person, 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 the person and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.


Amendments

1985—Pub. L. 99–198 amended section generally, substituting provisions relating to investigations, power to subpoena and take oaths and affirmations, and aid of courts, for provisions relating to termination or suspension of orders.

Effective Date of 1985 Amendment


§ 2910. Preemption of other Federal and State programs; applicability of provisions to amendments to orders

(a) Nothing in this chapter may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State.

(b) The provisions of this chapter applicable to the order shall be applicable to amendments to the order.


Amendments


Effective Date of 1985 Amendment

§ 2911. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this chapter. Sums appropriated to carry out this chapter shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provisions of the order issued under section 2903 (b) of this title.


Amendments


Effective Date of 1985 Amendment


§§ 2912 to 2918. Omitted

Codification

Sections 2912 to 2918 of this title were omitted in the general revision of this chapter by Pub. L. 99–198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1597.


Section 2915, Pub. L. 94–294, § 16, May 28, 1976, 90 Stat. 537, provided that nothing in this chapter be construed to interfere with workings of any State beef board, council, or other promotion entity. See section 2910 (a) of this title.

Section 2916, Pub. L. 94–294, § 17, May 28, 1976, 90 Stat. 537, authorized Secretary to promulgate regulations to carry out this chapter.

Section 2917, Pub. L. 94–294, § 18, May 28, 1976, 90 Stat. 537, related to investigations by Secretary, oaths and affirmations, subpenas, judicial enforcement, contempt proceedings, and service of process. See section 2909 of this title.