

- (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,¹ 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.

(Pub. L. 94-294, § 8, May 28, 1976, 90 Stat. 532; Pub. L. 99-198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1604.)

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

1985—Pub. L. 99-198 amended section generally, substituting provisions relating to refunds for provisions relating to required terms and conditions in orders.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99-198, set out as a note under section 2901 of this title.

§ 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.

(Pub. L. 94-294, § 9, May 28, 1976, 90 Stat. 534; Pub. L. 95-334, title III, § 302, Aug. 4, 1978, 92 Stat. 433; Pub. L. 99-198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1605.)

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.

¹ See References in Text note below.

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

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99-198, set out as a note under section 2901 of this title.

§ 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.

(Pub. L. 94-294, §10, May 28, 1976, 90 Stat. 535; Pub. L. 99-198, title XVI, §1601(b), Dec. 23, 1985, 99 Stat. 1606.)

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

Amendment by Pub. L. 99-198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99-198, set out as a note under section 2901 of this title.

§ 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.

(Pub. L. 94-294, §11, May 28, 1976, 90 Stat. 535; Pub. L. 99-198, title XVI, §1601(b), Dec. 23, 1985, 99 Stat. 1606.)

AMENDMENTS

1985—Pub. L. 99-198 amended section generally, substituting administrative provisions for provisions relating to applicability of provisions to amendments to orders.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99-198, set out as a note under section 2901 of this title.

§ 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.

(Pub. L. 94-294, §12, May 28, 1976, 90 Stat. 535; Pub. L. 99-198, title XVI, §1601(b), Dec. 23, 1985, 99 Stat. 1606.)

AMENDMENTS

1985—Pub. L. 99-198 amended section generally, substituting provisions relating to authorization of appropriations for provisions relating to refund of assessment from Beef Board.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99-198, set out as a note under section 2901 of this title.

§§ 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 2912, Pub. L. 94-294, §13, May 28, 1976, 90 Stat. 535, related to administrative review of orders, petition for such review, a hearing, and judicial review.

Section 2913, Pub. L. 94-294, §14, May 28, 1976, 90 Stat. 536, related to enforcement of orders, referral of civil actions to Attorney General, penalties for willful violations, and availability of additional remedies. See section 2908 of this title.

Section 2914, Pub. L. 94-294, §15, May 28, 1976, 90 Stat. 536, related to certification of organizations and contents of a factual report as criteria. See section 2905 of this title.

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, subpoenas, judicial enforcement, contempt proceedings, and service of process. See section 2909 of this title.

Section 2918, Pub. L. 94-294, §20, May 28, 1976, 90 Stat. 538, authorized appropriations to carry out this chapter. See section 2911 of this title.

CHAPTER 63—FARMER-TO-CONSUMER DIRECT MARKETING

Sec.

3001. Congressional statement of purpose.

3002. Definitions.