

(C) In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from violating such order, rule, or regulation.

(D) No penalty may be assessed or cease-and-desist order issued unless the Secretary gives such person notice and opportunity for a hearing on the record with respect to such violation.

(E) An order issued under this paragraph by the Secretary shall be final and conclusive unless such person files an appeal from such order with the appropriate United States court of appeals not later than 30 days after such person receives notice of such order.

(2)(A) A person against whom an order is issued under paragraph (1) may obtain review of such order in the court of appeals of the United States for the circuit in which such person resides or does business, or in the United States Court of Appeals for the District of Columbia Circuit, by—

(i) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(ii) simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall file promptly in such court a certified copy of the record on which such violation was found.

(C) A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(3)(A) A person who fails to obey a valid cease-and-desist order issued under paragraph (1) by the Secretary, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than \$500 for each offense.

(B) Each day during which such failure continues shall be considered a separate violation of such order.

(4)(A) If a person fails to pay a valid civil penalty imposed under this subsection by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States.

(B) In such action, the validity and appropriateness of the order imposing such civil penalty shall not be subject to review.

(c) Availability of additional remedies

The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 99-198, title XVI, § 1626, Dec. 23, 1985, 99 Stat. 1620.)

§ 4816. Investigations

(a) Purposes

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this chapter; or

(2) to determine whether a person subject to this chapter has engaged, or is about to engage, in an act that constitutes, or will constitute, a violation of this chapter or an order, rule, or regulation issued under this chapter.

(b) Oaths and affirmations; subpoenas

(1) 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.

(2) Such attendance of witnesses and the production of such records may be required from any place in the United States.

(c) Judicial enforcement; contempt proceedings; service of process

(1) In the case of contumacy, or refusal to obey a subpoena, by a person, the Secretary may invoke the aid of a court of the United States with jurisdiction over such investigation or proceeding, or where such person resides or does business, in requiring the attendance and testimony of such person and the production of such records.

(2) The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony touching the matter under investigation.

(3) A failure to obey an order issued under this section by the court may be punished by the court as a contempt thereof.

(4) Process in 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. 99-198, title XVI, § 1627, Dec. 23, 1985, 99 Stat. 1621.)

§ 4817. Preemption

(a) Promotion and consumer education; funds from pork producers

This chapter is intended to occupy the field of—

(1) promotion and consumer education involving pork and pork products; and

(2) obtaining funds therefor from pork producers.

(b) Additional or different State regulation prohibited

The regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from this chapter may not be imposed by a State.

(c) Application of section

This section shall apply only during a period beginning on the date of the commencement of the collection of assessments under section 4809 of this title and ending on the date of the termination of the collection of assessments under section 4811(a)(3) or 4811(b)(1)(B)¹ of this title.

(Pub. L. 99-198, title XVI, § 1628, Dec. 23, 1985, 99 Stat. 1621.)

§ 4818. Administrative provision

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 99-198, title XVI, § 1629, Dec. 23, 1985, 99 Stat. 1621.)

¹ So in original. Probably should be “section 4811(b)(2)(A) or 4812(b)(1)(B)”.

§ 4819. Authorization of appropriations

(a) There are authorized to be appropriated such sums as may be necessary for the Secretary to carry out this chapter, subject to reimbursement from the Board under section 4809(c)(3)(B)(iv) of this title.

(b) Sums appropriated to carry out this chapter shall not be available for payment of an expense or expenditure incurred by the Board in administering an order.

(Pub. L. 99-198, title XVI, §1630, Dec. 23, 1985, 99 Stat. 1621.)

**CHAPTER 80—WATERMELON RESEARCH
AND PROMOTION**

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§ 4901. Congressional findings and declaration of policy

(a) Congress finds that—

(1) the per capita consumption of watermelons in the United States has declined steadily in recent years;

(2) watermelons are an important cash crop to many farmers in the United States and are an economical, enjoyable, and healthful food for consumers;

(3) approximately 2,607,600,000 pounds of watermelons with a farm value of \$158,923,000 were produced in 1981 in the United States;

(4) watermelons move in the channels of interstate commerce, and watermelons that do not move in such channels directly affect interstate commerce;

(5) the maintenance and expansion of existing markets and the establishment of new or improved markets and uses for watermelons are vital to the welfare of watermelon growers and those concerned with marketing, using, handling, and importing watermelons, as well as the general economic welfare of the Nation; and

(6) the development and implementation of coordinated programs of research, development, advertising, and promotion are necessary to maintain and expand existing markets and establish new or improved markets and uses for watermelons.

(b) It is declared to be the policy of Congress that it is essential in the public interest, through the exercise of the powers provided herein, to authorize the establishment of an orderly procedure for the development, financing (through adequate assessments on watermelons harvested in the United States, or imported into the United States, for commercial use), and carrying out of an effective, continuous, and coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's competitive position in the marketplace, and establish, maintain, and expand domestic and foreign markets for watermelons. The purpose of this chapter is to so authorize the establishment of such procedure and the development, financing, and carrying out of such program. Nothing in this chapter may be construed to dictate quality standards nor provide for the control of production or otherwise limit the right of individual watermelon producers to produce watermelons.

(Pub. L. 99-198, title XVI, §1642, Dec. 23, 1985, 99 Stat. 1622; Pub. L. 103-189, §8(k)(1), (2), Dec. 14, 1993, 107 Stat. 2263.)

AMENDMENTS

1993—Subsec. (a)(5). Pub. L. 103-189, §8(k)(1), substituted “handling, and importing” for “and handling”.

Subsec. (b). Pub. L. 103-189, §8(k)(2), inserted “, or imported into the United States,” after “harvested in the United States” and struck out “produced in the United States” after “foreign markets for watermelons”.

SHORT TITLE OF 1993 AMENDMENT

Section 1(a) of Pub. L. 103-189 provided that: “This Act [amending this section and sections 4902 to 4904, 4906, 4908, and 4911 to 4914 of this title] may be cited as the ‘Watermelon Research and Promotion Improvement Act of 1993’.”