

AMENDMENTS

1998—Pub. L. 105-185 designated existing provisions as subsec. (a), inserted heading, and added par. (8) and subsecs. (b) to (d).

§ 4608. Collection of assessments; refunds**(a) Handlers**

Except as otherwise provided in this section, a first handler of honey shall be responsible, at the time of first purchase—

(1) for the collection, and payment to the Honey Board, of the assessment payable by a producer under section 4606(e)(2)(A) of this title or, if approved in a referendum conducted under this chapter, under section 4606(e)(3)(A)(i) of this title; and

(2) if approved in a referendum conducted under this chapter, for the payment to the Honey Board of an additional assessment payable by the handler under section 4606(e)(3)(A)(ii) of this title.

(b) Records

The first handler shall maintain a separate record on each producer's honey so handled, including honey owned by the handler.

(c) Importers

Except as otherwise provided in this section, at the time of entry of honey and honey products into the United States, an importer shall remit to the Honey Board through the United States Customs Service—

(1) the assessment on the imported honey and honey products required under section 4606(e)(2)(B) of this title; or

(2) if approved in a referendum conducted under this chapter, the assessment on the imported honey and honey products required under section 4606(e)(3)(B) of this title, of which the amount payable under section 4606(e)(3)(A)(ii) of this title represents the assessment due from the handler to be paid by the importer on behalf of the handler.

(d) Loan and loan deficiency payments; deduction from disbursement of loan funds or loan deficiency payment made to producer

In any case in which a loan, or a loan deficiency payment is made with respect to honey under the honey price support loan program established under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], or successor statute, the Secretary shall provide for the assessment to be deducted from the disbursement of any loan funds or from the loan deficiency payment made to the producer and for the amount of such assessment to be forwarded to the Honey Board. The Secretary shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds or loan deficiency payment promptly after each occasion when an assessment is deducted from any such loan funds or payment under this subsection.

(e) Producer-packers

Except as otherwise provided in this section, a producer-packer shall be responsible for the collection, and payment to the Honey Board, of—

(1) the assessment payable by the producer-packer under section 4606(e)(2)(A) of this title or, if approved in a referendum conducted

under this chapter, under section 4606(e)(3)(A)(i) of this title on honey produced by the producer-packer;

(2) at the time of first purchase, the assessment payable by a producer under section 4606(e)(2)(A) of this title or, if approved in a referendum conducted under this chapter, under section 4606(e)(3)(A)(i) of this title on honey purchased by the producer-packer as a first handler; and

(3) if approved in a referendum conducted under this chapter, an additional assessment payable by the producer-packer under section 4606(e)(3)(A)(ii) of this title.

(f) Inspection; books and records**(1) In general**

To make available to the Secretary and the Honey Board such information and data as are necessary to carry out this chapter (including an order or regulation issued under this chapter), a handler, importer, producer, or producer-packer responsible for payment of an assessment under this chapter, and a person receiving an exemption from an assessment under section 4606(e)(4) of this title, shall—

(A) maintain and make available for inspection by the Secretary and the Honey Board such books and records as are required by the order and regulations issued under this chapter; and

(B) file reports at the times, in the manner, and having the content prescribed by the order and regulations, which reports shall include the total number of bee colonies maintained, the quantity of honey produced, and the quantity of honey and honey products handled or imported.

(2) Employee or agent

To conduct an inspection or review a report of a handler, importer, producer, or producer-packer under paragraph (1), an individual shall be an employee or agent of the Department or the Honey Board, and shall not be a member or alternate member of the Honey Board.

(3) Confidentiality

An employee or agent described in paragraph (2) shall be subject to the confidentiality requirements of subsection (g) of this section.

(g) Confidentiality of information; disclosure**(1) In general**

All information obtained under subsection (f) of this section shall be kept confidential by all officers, employees, and agents of the Department or of the Honey Board.

(2) Disclosure

Information subject to paragraph (1) may be disclosed—

(A) 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, that involves the order with respect to which the information was furnished or acquired; and

(B) only if the Secretary determines that the information is relevant to the suit or administrative hearing.

(3) Exceptions

Nothing in this subsection prohibits—

(A) the issuance of general statements based on the reports of a number of handlers subject to an order, if the 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 that violates any order issued under this chapter, together with a statement of the particular provisions of the order violated by the person.

(4) Violation

Any person that knowingly violates this subsection, on conviction—

(A) shall be fined not more than \$1,000, imprisoned not more than 1 year, or both; and

(B) if the person is an officer or employee of the Honey Board or the Department, shall be removed from office.

(h) Administration and remittance

Administration and remittance of the assessments under this chapter shall be conducted—

(1) in the manner prescribed in the order and regulations issued under this chapter; and

(2) if approved in a referendum conducted under this chapter, in a manner that ensures that all honey and honey products are assessed a total of, but not more than, \$0.015 per pound, including any producer or importer assessment.

(i) Liability for assessments**(1) Producers**

If a first handler or the Secretary fails to collect an assessment from a producer under this section, the producer shall be responsible for the payment of the assessment to the Honey Board.

(2) Importers

If the United States Customs Service fails to collect an assessment from an importer or an importer fails to pay an assessment at the time of entry of honey and honey products into the United States under this section, the importer shall be responsible for the remission of the assessment to the Honey Board.

(Pub. L. 98-590, §9, Oct. 30, 1984, 98 Stat. 3120; Pub. L. 101-624, title XIX, §1984(b), Nov. 28, 1990, 104 Stat. 3906; Pub. L. 102-237, title VIII, §807(1), Dec. 13, 1991, 105 Stat. 1883; Pub. L. 104-127, title V, §591, Apr. 4, 1996, 110 Stat. 1084; Pub. L. 105-185, title VI, §605(h), June 23, 1998, 112 Stat. 597.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (d), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-185, §605(h)(1)(A), added subsec. (a) and struck out former subsec. (a) which read as follows: “Except as provided by subsections (c), (d), (e), and (i) of this section, the first handler of honey

shall be responsible for the collection from the producer, and payment to the Honey Board, of assessments authorized by this chapter.”

Subsec. (c). Pub. L. 105-185, §605(h)(1)(B), added subsec. (c) and struck out former subsec. (c) which read as follows: “The assessment on imported honey and honey products shall be paid by the importer at the time of entry into the United States and shall be remitted to the Honey Board.”

Subsec. (e). Pub. L. 105-185, §605(h)(1)(C), added subsec. (e) and struck out former subsec. (e) which read as follows: “Producer-packers shall pay to the Honey Board the assessment on the honey they produce.”

Subsec. (f). Pub. L. 105-185, §605(h)(2), added subsec. (f) and struck out former subsec. (f) which read as follows: “Handlers, importers, producers, and producer-packers responsible for payment of assessments, and persons receiving an exemption from assessments under section 4606(e)(2) of this title, shall maintain and make available for inspection by the Secretary such books and records as are required by the order and file reports at the times, in the manner, and having the content prescribed by the order, so that information and data shall be made available to the Honey Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of the chapter or of any order or regulation issued pursuant to this chapter.”

Subsec. (g). Pub. L. 105-185, §605(h)(3), added subsec. (g) and struck out former subsec. (g) which read as follows: “All information obtained pursuant to subsection (f) of this section shall be kept confidential by all officers and employees of the Department of Agriculture and of the Honey Board. Only such information as the Secretary deems relevant shall be disclosed and 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 involving the order with reference to which the information was furnished or acquired. Nothing in this section prohibits—

“(1) issuance of general statements based upon the reports of a number of handlers subject to any order, if such statements do not identify the information furnished by any person; or

“(2) the publication by direction of the Secretary, of the name of any person violating any order issued under this chapter, together with a statement of the particular provisions of the order violated by such person.”

Subsec. (h). Pub. L. 105-185, §605(h)(4), (5), added subsec. (h) and struck out former subsec. (h) which read as follows: “(h)(1)(A) Except as otherwise provided in paragraph (2), any producer or importer may obtain a refund of the assessment collected from the producer or importer if demand is made within the time and in the manner prescribed by the Honey Board and approved by the Secretary; except that, during any year, the amount of refunds made to an importer, as a percentage of total assessments collected from such importer, shall not exceed the amount of refunds made to domestic producers, as a percentage of total assessments collected from such producers. Such refund shall be made by the Honey Board in June and December of each year.

“(B) A producer that has obtained a honey price support loan under the Agricultural Act of 1949, or successor statute, may obtain a refund if the producer has submitted to the Honey Board the statement received under subsection (d) of this section of the amount of assessment deducted from the loan funds and has otherwise complied with this subsection, even though the loan with respect to which the assessment was collected may still be outstanding and final settlement has not been made.

“(2) With respect to the order in effect on November 28, 1990, following the referendum on such order required under section 4612(b)(2) of this title, a producer or importer may obtain a refund of an assessment under such order as provided in paragraph (1) only if the Secretary determines that the proposal to termi-

nate refunds under the order is defeated in such referendum.”

Subsec. (i). Pub. L. 105-185, § 605(h)(6), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

1996—Subsec. (f). Pub. L. 104-127 inserted “producers,” after “importers.”

1991—Subsec. (h)(1)(A). Pub. L. 102-237 inserted “to” before “an importer”.

1990—Subsec. (a). Pub. L. 101-624, § 1984(b)(1), inserted reference to subsec. (i) of this section.

Subsec. (d). Pub. L. 101-624, § 1984(b)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In any case in which a loan is made with respect to any honey under the Honey Loan Price Support Program, the Secretary shall provide that the assessment shall be deducted from the proceeds of the loan and that the amount of such assessment shall be forwarded to the Honey Board. When such loan is redeemed, the Secretary shall provide the producer with proof of payment of the assessment.”

Subsec. (f). Pub. L. 101-624, § 1984(b)(3), inserted “, and persons receiving an exemption from assessments under section 4606(e)(2) of this title,” after “payment of assessments”.

Subsec. (h). Pub. L. 101-624, § 1984(b)(4), designated existing provisions as par. (1)(A); substituted “Except as otherwise provided in paragraph (2), any” for “Any”, “an importer” for “to importers”, and “from such importer” for “from importers”; added subpar. (B); and added par. (2).

Subsec. (i). Pub. L. 101-624, § 1984(b)(5), added subsec. (i).

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4609. Petition and review

(a) Filing of petition; hearing

(1) In general

Subject to paragraph (4), a person subject to an order may file a written petition with the Secretary—

(A) that states that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) that requests—

(i) a modification of the order, provision, or obligation; or

(ii) to be exempted from the order, provision, or obligation.

(2) Hearing

In accordance with regulations issued by the Secretary, the petitioner shall be given an opportunity for a hearing on the petition.

(3) Ruling

After the hearing, the Secretary shall make a ruling on the petition that shall be final, if in accordance with law.

(4) Statute of limitations

A petition filed under this subsection that challenges an order, any provision of the order, or any obligation imposed in connection

with the order, shall be filed not later than 2 years after the later of—

(A) the effective date of the order, provision, or obligation challenged in the petition; or

(B) the date on which the petitioner became subject to the order, provision, or obligation challenged in the petition.

(b) District court; jurisdiction; review; rulings

The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to the Secretary a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 4610 of this title.

(Pub. L. 98-590, § 10, Oct. 30, 1984, 98 Stat. 3121; Pub. L. 105-185, title VI, § 605(i), June 23, 1998, 112 Stat. 599.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-185 added subsec. (a) and struck out former subsec. (a) which read as follows: “Any person subject to an order may file, within a period prescribed by the Secretary, a written petition with the Secretary, stating that such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and requesting a modification thereof or to be exempted therefrom. Such person shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon such petition which shall be final, if in accordance with law.”

§ 4610. Enforcement

(a) District courts; jurisdiction; Attorney General

The several 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 issued under this chapter. The facts relating to any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. Nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General violations of this chapter whenever the Secretary believes that the administration and enforcement of any such order or regulation would be adequately served by administrative action under subsection (b) of this section or suitable written notice or warning to any person committing such violations.