States Customs Service shall provide to the Secretary or the Board lists of importers of Hass avocados.

(n) Consultations with industry experts

(1) In general

The order shall provide that the Board may seek advice from and consult with experts from the production, import, wholesale, and retail segments of the Hass avocado industry to assist in the development of promotion, industry information, consumer information, and related research plans and projects.

(2) Special committees

(A) In general

For the purposes described in paragraph (1), the order shall authorize the appointment of special committees composed of persons other than Board members.

(B) Consultation

A committee appointed under subparagraph (A) shall consult directly with the Board.

(*o*) Other terms of the order

The order shall contain such other terms and provisions, consistent with this chapter, as are necessary to carry out this chapter (including provision for the assessment of interest and a charge for each late payment of assessments under subsection (h) of this section).

(Pub. L. 106–387, § 1(a) [title XII, § 1205], Oct. 28, 2000, 114 Stat. 1549, 1549A–82.)

REFERENCES IN TEXT

The Commodity Promotion, Research, and Information Act of 1996, referred to in subsec. (c)(7), is subtitle B of title V of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 1032, which is classified generally to subchapter II (§ 7411 et seq.) of chapter 101 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

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.

§ 7805. Referenda

(a) Requirements for initial referendum

(1) Referendum required

During the 60-day period immediately preceding the proposed effective date of an order issued under section 7803(b)(3) of this title, the Secretary shall conduct a referendum among producers and importers required to pay assessments under the order, as provided in section 7804(h)(1) of this title.

(2) Approval of order needed

The order shall become effective only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum.

(b) Votes permitted

(1) In general

Each producer and importer eligible to vote in a referendum conducted under this section shall be entitled to cast one vote if they satisfy the eligibility requirements as defined in paragraph (2).

(2) Eligibility

For purposes of paragraph (1), producers and importers, as these terms are defined in section 7802 of this title, shall be considered to be eligible to vote if they have been producers or importers with sales of Hass avocados during a period of at least 1 year prior to the referendum.

(c) Manner of conducting referenda

(1) In general

Referenda conducted pursuant to this chapter shall be conducted in a manner determined by the Secretary.

(2) Advance registration

A producer or importer of Hass avocados who chooses to vote in any referendum conducted under this chapter shall register with the Secretary prior to the voting period, after receiving notice from the Secretary concerning the referendum under paragraph (4).

(3) Voting

A producer or importer of Hass avocados who chooses to vote in any referendum conducted under this chapter shall vote in accordance with procedures established by the Secretary. The ballots and other information or reports that reveal or tend to reveal the identity or vote of voters shall be strictly confidential.

(4) Notice

The Secretary shall notify all producers and importers at least 30 days prior to the referendum conducted under this chapter. The notice shall explain the procedure established under this subsection.

(d) Subsequent referenda

If an order is approved in a referendum conducted under subsection (a) of this section, effective beginning on the date that is 3 years after the date of the approval, the Secretary—

(1) at the discretion of the Secretary, may conduct at any time a referendum of producers and importers required to pay assessments under the order, as provided in section 7804(h)(1) of this title, subject to the voting requirements of subsections (b) and (c) of this section, to ascertain whether eligible producers and importers favor suspension, termination, or continuance of the order; or

(2) shall conduct a referendum of eligible producers and importers if requested by the Board or by a representative group comprising 30 percent or more of all producers and importers required to pay assessments under the order, as provided in section 7804(h)(1) of this title, subject to the voting requirements of subsections (b) and (c) of this section, to ascertain whether producers and importers favor suspension, termination, or continuance of the order.

(e) Suspension or termination

If, as a result of a referendum conducted under subsection (d) of this section, the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—

(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order as soon as practicable and in an orderly manner.

(Pub. L. 106–387, § 1(a) [title XII, § 1206], Oct. 28, 2000, 114 Stat. 1549, 1549A–91.)

§ 7806. Petition and review

(a) Petition and hearing

(1) Petition

A person subject to an order may file with the Secretary a petition—

(A) stating 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) requesting a modification of the order or an exemption from the order.

(2) Hearing

The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 7808(b)(2) of this title and be held within the United States judicial district in which the residence or principal place of business of the person is located.

(3) Ruling

After a hearing under paragraph (2), the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(4) Limitation

Any petition filed under this subsection challenging an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) Review

(1) Commencement of action

The district courts of the United States in any district in which a person who is a petitioner under subsection (a) of this section resides or conducts business shall have jurisdiction to review the ruling of the Secretary on the petition of the person, if a complaint requesting the review is filed no later than 20 days after the date of the entry of the ruling by the Secretary.

(2) Process

Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remand

If the court in a proceeding under this subsection determines that the ruling of the Secretary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion the court, the law requires.

(c) Enforcement

The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 7807 of this title.

(Pub. L. 106–387, § 1(a) [title XII, § 1207], Oct. 28, 2000, 114 Stat. 1549, 1549A–92.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 7807. Enforcement

(a) Jurisdiction

A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this chapter or an order or regulation issued by the Secretary under this chapter.

(b) Referral to Attorney General

A civil action brought under subsection (a) of this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or an order or regulation issued under this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) of this section or suitable written notice or warning to the person who committed or is committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

(A) In general

A person who violates a provision of this chapter, or an order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person under an order or regulation issued under this chapter, may be assessed by the Secretary—

(i) a civil penalty of not less than $1,000 nor more than $10,000 for each violation; and

(ii) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) Separate offenses

Each violation shall be a separate offense.

(2) Cease and desist orders

In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this chapter, or an order or regulation issued under this chapter.