

empted therefrom. He 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 the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of 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 him 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 2714(a) of this title.

(Pub. L. 93-428, § 14, Oct. 1, 1974, 88 Stat. 1177.)

#### § 2714. Civil enforcement proceedings

##### (a) Enforcement of orders by district court; referral of civil actions to 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 made or issued pursuant to this chapter. Any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General violations of this chapter whenever he believes that the administration and enforcement of the program would be adequately served by administrative action pursuant to subsection (b) of this section or suitable written notice or warning to any person committing such violations.

##### (b) Civil penalty; review by court of appeals; noncompliance with final order; referral to Attorney General

(1) Any person who violates any provisions of any order or regulation issued by the Secretary pursuant to this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of him thereunder, may be assessed a civil penalty by the Secretary of not less than \$500 or more than \$5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violation or violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless

the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review pursuant to the procedures specified in paragraphs (1) and (2) of this subsection, of not more than \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Pub. L. 93-428, § 15, Oct. 1, 1974, 88 Stat. 1177; Pub. L. 96-276, § 6, June 17, 1980, 94 Stat. 541.)

#### AMENDMENTS

1980—Subsec. (a). Pub. L. 96-276 substituted "civil action authorized to be brought under this subsection" for "civil action authorized to be brought under this chapter", struck out "minor" before "violation of this chapter", and inserted reference to administrative action pursuant to subsection (b).

Subsec. (b). Pub. L. 96-276 substituted provisions authorizing Secretary to assess civil penalty of not less than \$500 or more than \$5,000 per violation, to issue cease and desist orders for violations of regulations or orders issued by Secretary, and, after review in court of appeals, to assess civil penalty of \$500 per offense for failure to abide by duly issued cease and desist order, and authorized actions by Attorney General in appropriate district courts to collect assessed penalties, for provisions authorizing penalties of up to \$1,000 per offense for willful violations of this chapter, recoverable in civil action brought by the United States.

#### § 2715. Certification of organizations; required contents of report as criteria

The eligibility of any organization to represent commercial egg producers of any egg producing area of the United States to request the issuance of an order under section 2704 of this title, and to participate in the making of nomi-