

fails to remit an assessment in accordance with subsection (b).

(2) Rate

The rate for late-payment and interest charges shall be specified by the Secretary.

(e) Investment of assessments

Pending disbursement of assessments under a budget approved by the Secretary, the Board may invest assessments collected under this section in—

(1) obligations of the United States or any agency of the United States;

(2) general obligations of any State or any political subdivision of a State;

(3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(f) Assessment funds for regional initiatives

(1) In general

The order shall provide that not less than 50 percent of the assessments (less administration expenses) paid by a manufacturer shall be used to support research, education, and promotion programs and projects in support of the geographic region of the manufacturer.

(2) Geographic regions

The order shall provide for the following geographic regions:

(A) Region I shall comprise Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia.

(B) Region II shall comprise Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

(C) Region III shall comprise Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

(D) Region IV shall comprise Arizona, Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

(E) Region V shall comprise Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

(3) Adjustment of geographic regions

The order shall provide that the Secretary may, upon recommendation of the Board, modify the composition of the geographic regions described in paragraph (2).

(Pub. L. 115–254, div. E, § 1306, Oct. 5, 2018, 132 Stat. 3478.)

§ 8706. Referenda

(a) Initial referendum

(1) Referendum required

During the 60-day period immediately preceding the proposed effective date of the order issued under section 8703 of this title, the Secretary shall conduct a referendum among manufacturers eligible under subsection (b)(2)

subject to assessments under section 8705 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 majority of manufacturers voting who also represent a majority of the machine cavities in operation of those manufacturers voting in the referendum.

(b) Votes permitted

(1) In general

Each manufacturer eligible to vote in a referendum conducted under this section shall be entitled to cast 1 vote.

(2) Eligibility

For purposes of paragraph (1), a manufacturer shall be considered to be eligible to vote if the manufacturer has manufactured concrete masonry products during a period of at least 180 days prior to the first day of the period during which voting in the referendum will occur.

(c) Manner of conducting referenda

(1) In general

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

(2) Advance registration

A manufacturer who chooses to vote in any referendum conducted under this section shall register with the Secretary prior to the voting period, after receiving notice from the Secretary concerning the referendum under paragraph (4).

(3) Voting

The Secretary shall establish procedures for voting in any referendum conducted under this section. 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

Not later than 30 days before a referendum is conducted under this section with respect to an order, the Secretary shall notify all manufacturers, in such a manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this subsection.

(d) Subsequent referenda

If an order is approved in a referendum conducted under subsection (a), the Secretary shall conduct a subsequent referendum—

(1) at the request of the Board, subject to the voting requirements of subsections (b) and (c), to ascertain whether eligible manufacturers favor suspension, termination, or continuance of the order; or

(2) effective beginning on the date that is 5 years after the date of the approval of the order, and at 5-year intervals thereafter, at the request of 25 percent or more of the total number of persons eligible to vote under subsection (b).

(e) Suspension or termination

If, as a result of a referendum conducted under subsection (d), the Secretary determines that suspension or termination of the order is favored by a majority of all votes cast in the referendum as provided in subsection (a)(2), 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, programs and projects under the order as soon as practicable and in an orderly manner.

(f) Costs of referendum

The Board established under an order with respect to which a referendum is conducted under this section shall reimburse the Secretary from assessments for any expenses incurred by the Secretary to conduct the referendum.

(Pub. L. 115-254, div. E, §1307, Oct. 5, 2018, 132 Stat. 3479.)

§ 8707. Petition and review**(a) Petition****(1) In general**

A person subject to an order issued under this chapter 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 established in accordance with law; and
- (B) requesting a modification of the order or an exemption from the order.

(2) Hearing

The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling

After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final, subject to review as set forth in subsection (b).

(4) Limitation on petition

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 not less than 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) 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 30 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) Remands

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 of 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 8708 of this title.

(Pub. L. 115-254, div. E, §1308, Oct. 5, 2018, 132 Stat. 3480.)

§ 8708. 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 authorized to be brought under this section shall be referred to the Attorney General of the United States for appropriate action.

(c) Civil penalties and orders**(1) Civil penalties**

A person who willfully violates an order or regulation issued by the Secretary under this chapter may be assessed by the Secretary a civil penalty of not more than \$5,000 for each violation.

(2) Separate offense

Each violation and each day during which there is a failure to comply with an order or regulation issued by the Secretary shall be considered to be a separate offense.

(3) Cease-and-desist orders

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

(4) Notice and hearing

No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) Finality

An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the appropriate district court of the United States.

(d) Additional remedies

The remedies provided in this chapter shall be in addition to, and not exclusive of, other remedies that may be available.