

(12) The order shall contain terms and conditions, not inconsistent with the provisions of this chapter, as necessary to effectuate the provisions of the order.

(Pub. L. 94-294, § 5, May 28, 1976, 90 Stat. 530; Pub. L. 99-198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1599.)

Editorial Notes

AMENDMENTS

1985—Pub. L. 99-198 amended section generally, substituting provisions relating to required terms in orders for provisions relating to notice and hearing upon proposed orders.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99-198, set out as a note under section 2901 of this title.

§ 2905. Certification of organizations to nominate

(a) Eligibility of State organization certified by Secretary; eligibility criteria

The eligibility of any State organization to represent producers and to participate in the making of nominations under section 2904(1) of this title shall be certified by the Secretary. The Secretary shall certify any State organization that the Secretary determines meets the eligibility criteria established under subsection (b) and such determination as to eligibility shall be final.

(b) State cattle association or State general farm organization

A State cattle association or State general farm organization may be certified as described in subsection (a) if such association or organization meets all of the following eligibility criteria:

(1) The association or organization's total paid membership is comprised of at least a majority of cattle producers or the association or organization's total paid membership represents at least a majority of the cattle producers in the State.

(2) The association or organization represents a substantial number of producers that produce a substantial number of cattle in the State.

(3) The association or organization has a history of stability and permanency.

(4) A primary or overriding purpose of the association or organization is to promote the economic welfare of cattle producers.

(c) Factual report basis for certification of State cattle association and State general farm association

Certification of State cattle associations and State general farm organizations shall be based on a factual report submitted by the association or organization involved.

(d) Certification of more than one State organization; caucus

If more than one State organization is certified in a State (or in a unit referred to in section 2904(1) of this title), such organizations may

caucus to determine any of such State's (or such unit's) nominations under section 2904(1) of this title.

(Pub. L. 94-294, § 6, May 28, 1976, 90 Stat. 531; Pub. L. 99-198, title XVI, § 1601(b), Dec. 23, 1985, 99 Stat. 1603.)

Editorial Notes

AMENDMENTS

1985—Pub. L. 99-198 amended section generally, substituting provisions relating to certification of organizations to nominate for provisions relating to findings and issuance of orders.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99-198, set out as a note under section 2901 of this title.

§ 2906. Requirement of referendum

(a) Continuation or termination of order

For the purpose of determining whether the initial order shall be continued, not later than 22 months after the issuance of the order (or any earlier date recommended by the Board), the Secretary shall conduct a referendum among persons who have been producers or importers during a representative period, as determined by the Secretary. The order shall be continued only if the Secretary determines that it has been approved by not less than a majority of the producers voting in the referendum who, during a representative period as determined by the Secretary, have been engaged in the production of cattle. If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within six months after the Secretary determines that continuation of the order is not favored by a majority voting in the referendum and shall terminate the order in an orderly manner as soon as practicable after such determination.

(b) Additional referendum to determine suspension or termination of order

After the initial referendum, the Secretary may conduct a referendum on the request of a representative group comprising 10 per centum or more of the number of cattle producers to determine whether cattle producers favor the termination or suspension of the order. The Secretary shall suspend or terminate collection of assessments under the order within six months after the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum who, during a representative period as determined by the Secretary, have been engaged in the production of cattle and shall terminate or suspend the order in an orderly manner as soon as practicable after such determination.

(c) Reimbursement for cost of referendum; time and place of referendum; certification by producers; absentee mail ballot

The Department shall be reimbursed from assessments collected by the Board for any ex-

penses incurred by the Department in connection with conducting any referendum under this section, except for the salaries of Government employees. Any referendum conducted under this section shall be conducted on a date established by the Secretary, whereby producers shall certify that they were engaged in the production of cattle during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum. Each referendum shall be conducted at county extension offices, and there shall be provision for an absentee mail ballot on request.

(Pub. L. 94-294, § 7, May 28, 1976, 90 Stat. 531; Pub. L. 99-198, title XVI, §1601(b), Dec. 23, 1985, 99 Stat. 1604.)

Editorial Notes

AMENDMENTS

1985—Pub. L. 99-198 amended section generally, substituting provisions relating to requirement of referendum for provisions relating to permissive terms and conditions in orders.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99-198, set out as a note under section 2901 of this title.

§ 2907. Refunds

(a) Establishment of escrow account

During the period prior to the approval of the continuation of an order pursuant to the referendum required under section 2906(a) of this title, subject to subsection (f), the Board shall—

- (1) establish an escrow account to be used for assessment refunds;
- (2) place funds in such account in accordance with subsection (b); and
- (3) refund assessments to persons in accordance with this section.

(b) Funding escrow account

Subject to subsection (f), the Board shall place in such account, from assessments collected under section 2906 of this title during the period referred to in subsection (a), an amount equal to the product obtained by multiplying—

- (1) the total amount of assessments collected under section 2906 of this title during such period; by
- (2) the greater of—
 - (A) the average rate of assessment refunds provided to producers under State beef promotion, research, and consumer information programs financed through producer assessments, as determined by the Board; or
 - (B) 15 percent.

(c) Demand and receipt of one-time refund

Subject to subsections (d), (e), and (f) and notwithstanding any other provision of this chapter,¹ any person shall have the right to demand and receive from the Board a one-time refund of all assessments collected under section 2906 of this title from such person during the period referred to in subsection (a) if such person—

- (1) is responsible for paying such assessment; and

(2) does not support the program established under this chapter.

(d) Form and time period for demand for one-time refund

Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(e) Submission of proof for one-time refund

Such refund shall be made on submission of proof satisfactory to the Board that the producer, person, or importer—

- (1) paid the assessment for which refund is sought; and
- (2) did not collect such assessment from another producer, person, or importer.

(f) Insufficiency of funds in escrow account; proration of funds among eligible persons

(1) If the amount in the escrow account required to be established by subsection (a) is not sufficient to refund the total amount of assessments demanded by all eligible persons under this section and the continuation of an order is approved pursuant to the referendum required under section 2906(a)¹ of this title, the Board shall—

(A) continue to place in such account, from assessments collected under section 2904 of this title, the amount required under subsection (b), until such time as the Board is able to comply with subparagraph (B); and

(B) provide to all eligible persons the total amount of assessments demanded by all eligible producers.

(2) If the amount in the escrow account required to be established by subsection (a) is not sufficient to refund the total amount of assessments demanded by all eligible persons under this section and the continuation of an order is not approved pursuant to the referendum required under section 2906(a) of this title, the Board shall prorate the amount of such refunds among all eligible persons who demand such refund.

(Pub. L. 94-294, § 8, May 28, 1976, 90 Stat. 532; Pub. L. 99-198, title XVI, §1601(b), Dec. 23, 1985, 99 Stat. 1604.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in provisions preceding par. 1 of subsec. (c), was in the original “this subtitle”, and was translated as reading “this Act” to reflect the probable intent of Congress.

Section 2906(a) of this title, referred to in subsec. (f)(1), was in the original a reference to section 10(a) of Pub. L. 94-294, section 2909(a) of this title, and was translated as section 2906(a) of this title as the probable intent of Congress, in view of section 2909 of this title not containing a subsec. (a) and the subject matter of section 2906(a) which relates to a referendum.

AMENDMENTS

1985—Pub. L. 99-198 amended section generally, substituting provisions relating to refunds for provisions relating to required terms and conditions in orders.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective Jan. 1, 1986, see section 1601(c) of Pub. L. 99-198, set out as a note under section 2901 of this title.

¹ See References in Text note below.