

–CITE–

7 USC CHAPTER 91 – LIME PROMOTION, RESEARCH, AND  
CONSUMER INFORMATION 01/06/03

–EXPCITE–

TITLE 7 – AGRICULTURE

CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

.

–HEAD–

CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–MISC1–

Sec.

6201. Findings, purposes, and limitations.

(a) Findings.

(b) Purposes.

(c) Limitations.

6202. Definitions.

6203. Issuance of orders.

(a) In general.

(b) Procedure.

(c) Amendments.

6204. Required terms in orders.

(a) In general.

(b) Lime Board.

(c) Budgets and plans.

(d) Assessments.

- (e) Use of assessments.
- (f) False claims.
- (g) Prohibition on use of funds.
- (h) Books, records, and reports.
- (i) Confidentiality.
- (j) Withholding information.

6205. Permissive terms in orders.

6206. Petition and review.

- (a) Petition.
- (b) Review.

6207. Enforcement.

- (a) Jurisdiction.
- (b) Referral to Attorney General.
- (c) Civil penalties and orders.
- (d) Review by United States district court.
- (e) Failure to obey orders.
- (f) Failure to pay penalties.

6208. Investigations and power to subpoena.

- (a) In general.
- (b) Power to subpoena.
- (c) Aid of courts.
- (d) Contempt.
- (e) Process.
- (f) Hearing site.

6209. Initial referendum.

- (a) Requirement.

- (b) Purpose of referendum.
- (c) Confidentiality.
- (d) Refund of assessments from escrow account.

6210. Suspension and termination.

- (a) Finding of Secretary.
- (b) Periodic referenda.
- (c) Required referenda.
- (d) Limitation.
- (e) Vote.

6211. Authorization of appropriations.

- (a) In general.
- (b) Administrative expenses.

6212. Regulations.

–CITE–

7 USC Sec. 6201 01/06/03

–EXPCITE–

TITLE 7 – AGRICULTURE

CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–HEAD–

Sec. 6201. Findings, purposes, and limitations

–STATUTE–

(a) Findings

Congress finds that –

- (1) domestically produced limes are grown by many individual producers;
- (2) virtually all domestically produced limes are grown in the

States of Florida and California;

(3) limes move in interstate and foreign commerce, and limes that do not move in such channels of commerce directly burden or affect interstate commerce in limes;

(4) in recent years, large quantities of limes have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for limes and the development of additional and improved markets for limes are vital to the welfare of lime producers and other persons concerned with producing, marketing, or processing limes;

(6) a coordinated program of research, promotion, and consumer information regarding limes is necessary for the maintenance and development of such markets; and

(7) lime producers, lime producer–handlers, lime handlers, and lime importers are unable to implement and finance such a program without cooperative action.

(b) Purposes

The purposes of this chapter are –

(1) to authorize the establishment of an orderly procedure for the development and financing (through an adequate assessment) of an effective and coordinated program of research, promotion, and consumer information regarding limes designed –

(A) to strengthen the position of the lime industry in domestic and foreign markets, and

(B) to maintain, develop, and expand markets for limes; and

(2) to treat domestically produced and imported limes

equitably.

(c) Limitations

Nothing in this chapter shall be construed to require quality standards for limes, control the production of limes, or otherwise limit the right of the individual producers to produce limes.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1952, Nov. 28, 1990, 104 Stat. 3870.)

–MISC1–

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–194, Sec. 1, Dec. 14, 1993, 107 Stat. 2294, provided that: "This Act (amending sections 6202, 6204, and 6209 of this title and enacting provisions set out as a note below) may be cited as the 'Lime Research, Promotion, and Consumer Information Improvement Act'."

SHORT TITLE

Section 1951 of Pub. L. 101–624 provided that: "This subtitle (subtitle D (Sec. 1951–1963) of title XIX of Pub. L. 101–624, enacting this chapter) may be cited as the 'Lime Research, Promotion, and Consumer Information Act of 1990'."

LEGISLATIVE FINDINGS AND PURPOSE OF PUB. L. 103–194

Pub. L. 103–194, Sec. 2, Dec. 14, 1993, 107 Stat. 2294, provided that:

"(a) Findings. – Congress finds the following:

"(1) The Lime Research, Promotion, and Consumer Information

Act of 1990 (7 U.S.C. 6201 et seq.) was enacted on November 28, 1990, for the purpose of establishing an orderly procedure for the development and financing of an effective and coordinated program of research, promotion, and consumer information to strengthen the domestic and foreign markets for limes.

"(2) The lime research, promotion, and consumer information order required by such Act became effective on January 27, 1992.

"(3) Although the intent of such Act was to cover seedless limes, the definition of the term 'lime' in section 1953(6) of such Act (7 U.S.C. 6202(6)) applies to seeded limes. Therefore, the Act and the order need to be revised before a research, promotion, and consumer information program on seedless limes can go into effect.

"(4) Since the enactment of the Lime Research, Promotion, and Consumer Information Act of 1990, the United States production of fresh market limes has plummeted and the volume of imports has risen dramatically. The drop in United States production is primarily due to damage to lime orchards in the State of Florida by Hurricane Andrew in August 1992. United States production is not expected to reach pre-Hurricane Andrew levels for possibly two to three years because a majority of the United States production of limes is in Florida.

"(b) Purposes. – The purpose of this Act (see Short Title of 1993 Amendment note above) is –

"(1) to revise the definition of the term 'lime' in order to cover seedless and not seeded limes;

"(2) to increase the exemption level;

"(3) to delay the initial referendum date; and

"(4) to alter the composition of the Lime Board."

–CITE–

7 USC Sec. 6202 01/06/03

–EXPCITE–

## TITLE 7 – AGRICULTURE

### CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–HEAD–

#### Sec. 6202. Definitions

–STATUTE–

As used in this chapter:

##### (1) Board

The term "Board" means the Lime Board provided for under section 6204(b) of this title.

##### (2) Consumer information

The term "consumer information" means any action taken to provide information to, and broaden the understanding of, the general public regarding the use, nutritional attributes, and care of limes.

##### (3) Handle

The term "handle" means to sell, purchase, or package limes.

##### (4) Handler

The term "handler" means any person in the business of handling limes.

##### (5) Importer

The term "importer" means any person who imports limes into the United States.

(6) Lime

The term "lime" means the fruit of a citrus latifolia tree for the fresh market.

(7) Marketing

The term "marketing" means the sale or other disposition of limes in commerce.

(8) Order

The term "order" means a lime research, promotion, and consumer information order issued by the Secretary under section 6203(a) of this title.

(9) Person

The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) Producer

The term "producer" means any person who produces limes in the United States for sale in commerce.

(11) Producer–handler

The term "producer–handler" means any person who is both a producer and handler of limes.

(12) Promotion

The term "promotion" means any action taken under this chapter (including paid advertising) to present a favorable image for limes to the general public with the express intent of

improving the competitive position and stimulating the sale of limes.

(13) Research

The term "research" means any type of research relating to the use and nutritional value of limes and designed to advance the image, desirability, marketability, or quality of limes.

(14) Secretary

The term "Secretary" means the Secretary of Agriculture.

(15) State and United States

The term –

(A) "State" means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) "United States" means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1953, Nov. 28, 1990, 104 Stat. 3871; Pub. L. 103–194, Sec. 3, Dec. 14, 1993, 107 Stat. 2295.)

–MISC1–

AMENDMENTS

1993 – Par. (6). Pub. L. 103–194 substituted "citrus latifolia" for "citrus aurantifolia".

–CITE–

7 USC Sec. 6203 01/06/03

–EXPCITE–

TITLE 7 – AGRICULTURE

CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–HEAD–

Sec. 6203. Issuance of orders

–STATUTE–

(a) In general

Subject to this chapter, and to effectuate the declared purposes of this chapter, the Secretary shall issue and, from time to time, amend lime research, promotion, and consumer information orders applicable to handlers, producers, producer–handlers, and importers of limes. Any such order shall be national in scope. Not more than one order shall be in effect under this chapter at any one time.

(b) Procedure

(1) Proposal for issuance of order

Any person that will be affected by this chapter may request the issuance of, and submit a proposal for, an order under this chapter.

(2) Proposed order

Not later than 60 days after the receipt of a request and proposal by an interested person for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order

After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue an order,

taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this chapter.

(4) Effective date of order

Such order shall be issued and become effective not later than 150 days following publication of the proposed order.

(c) Amendments

The Secretary, from time to time, may amend any order issued under this section. The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

~~–SOURCE–~~

(Pub. L. 101–624, title XIX, Sec. 1954, Nov. 28, 1990, 104 Stat. 3872.)

~~–SECREf–~~

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6202, 6204, 6205, 6210 of this title.

~~–CITE–~~

7 USC Sec. 6204 01/06/03

~~–EXPCITE–~~

TITLE 7 – AGRICULTURE

CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

~~–HEAD–~~

Sec. 6204. Required terms in orders

~~–STATUTE–~~

(a) In general

An order issued by the Secretary under section 6203(a) of this title shall contain the terms and conditions described in this section and, except as provided in section 6205 of this title, no other terms or conditions.

(b) Lime Board

Such order shall provide for the establishment of a Lime Board as follows:

(1) Membership

The Board shall be composed of –

(A) 3 members who are producers and who are not exempt from an assessment under subsection (d)(5)(A) of this section;

(B) 3 members who are importers and who are not exempt from an assessment under subsection (d)(5)(A) of this section; and

(C) one member appointed from the general public.

(2) Appointment and nomination

(A) Appointment

The Secretary shall appoint the members of the Board.

(B) Producers

The 3 members who are producers shall be appointed from individuals nominated by lime producers.

(C) Importers

The 3 members who are importers shall be appointed from individuals nominated by lime importers.

(D) Public

The public representative shall be appointed from nominations of the Board.

(E) Failure to nominate

If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order. If the Board fails to nominate a public representative, such member may be appointed by the Secretary without a nomination.

(F) Initial Board

The Secretary shall establish an initial Board from among nominations solicited by the Secretary. For the purpose of obtaining nominations for the members of the initial Board described in paragraph (1), the Secretary shall perform the functions of the Board under this subsection as the Secretary determines necessary and appropriate. The Secretary shall terminate the initial Board established under this subsection as soon as practicable after December 14, 1993.

(G) Board allocation

The producer and importer representation on the Board shall be allocated on the basis of 2 producer members and 1 importer member from the district east of the Mississippi River and 1 producer member and 2 importer members from the district west of the Mississippi River.

(3) Alternates

The Secretary shall appoint an alternate for each member of the Board. An alternate shall –

(A) be appointed in the same manner as the member for whom such individual is an alternate; and

(B) serve on the Board if such member is absent from a meeting or is disqualified under paragraph (5).

(4) Terms

The initial members of the Board appointed under the amended order shall serve a term of 30 months. Subsequent appointments to the Board shall be for a term of 3 years, except that –

- (A) 2 members shall be appointed for a term of 1 year;
  - (B) 2 members shall be appointed for a term of 2 years; and
  - (C) 3 members shall be appointed for a term of 3 years;
- as designated by the Secretary at the time of appointment.

(5) Replacement

If a member or alternate of the Board who was appointed as a producer, importer, or public representative ceases to belong to the group for which such member was appointed, such member or alternate shall be disqualified from serving on the Board.

(6) Compensation

Members and alternates of the Board shall serve without pay.

(7) Travel expenses

While away from their homes or regular places of business in the performance of duties for the Board, members and alternates shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5.

(8) Powers and duties

The Board shall –

(A) administer orders issued by the Secretary under section 6203(a) of this title, and amendments to such orders, in accordance with their terms and provisions and consistent with this chapter;

(B) prescribe rules and regulations to effectuate the terms and provisions of such orders;

(C) receive, investigate, and report to the Secretary accounts of violations of such orders;

(D) make recommendations to the Secretary with respect to amendments that should be made to such orders; and

(E) employ a manager and staff.

(c) Budgets and plans

Such order shall provide for periodic budgets and plans as follows:

(1) Budgets

The Board shall prepare and submit to the Secretary a budget (on a fiscal period basis determined by the Secretary) of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall take effect on the approval of the Secretary.

(2) Plans

Each budget shall include a plan for research, promotion, and consumer information regarding limes. A plan under this paragraph shall take effect on the approval of the Secretary. The Board may enter into contracts and agreements, with the approval

of the Secretary, for –

(A) the development and carrying out of such plan; and

(B) the payment of the cost of such plan with funds collected pursuant to this chapter.

(d) Assessments

Such order shall provide for the imposition and collection of assessments with regard to the production and importation of limes as follows:

(1) Rate

The assessment rate shall not exceed \$.01 per pound of limes.

(2) Collection by first handlers

Except as provided in paragraph (4), the first handler of limes shall –

(A) be responsible for the collection from the producer, and payment to the Board, of assessments under this subsection; and

(B) maintain a separate record of the limes of each producer whose limes are so handled, including the limes owned by the handler.

(3) Producer–handlers

For purposes of paragraph (2), a producer–handler shall be considered the first handler of limes produced by such producer–handler.

(4) Importers

The assessment on imported limes shall be paid by the importer at the time of entry into the United States and shall be remitted to the Board.

(5) De minimis exception

The following persons are exempt from an assessment under this subsection –

(A) a producer who produces less than 200,000 pounds of limes per year;

(B) a producer–handler who produces and handles less than 200,000 pounds of limes per year; and

(C) an importer who imports less than 200,000 pounds of limes per year.

(6) Claiming an exemption

To claim an exemption under paragraph (5) for a particular year, a person shall submit an application to the Board –

(A) stating the basis for such exemption; and

(B) certifying that such person will not exceed the limitation required for such exemption in such year.

(e) Use of assessments

(1) In general

Such order shall provide that funds paid to the Board as assessments under subsection (d) of this section –

(A) may be used by the Board to –

(i) pay for research, promotion, and consumer information described in the budget of the Board under subsection (c) of this section and for other expenses incurred by the Board in the administration of an order;

(ii) pay such other expenses for the administration, maintenance, and functioning of the Board as may be

authorized by the Secretary; and

(iii) fund a reserve established under section 6205(4) of this title; and

(B) shall be used to pay the expenses incurred by the Secretary, including salaries and expenses of Government employees in implementing and administering the order, except as provided in paragraph (2).

(2) Referenda

Such order shall provide that the Board shall reimburse the Secretary, from assessments collected under subsection (d) of this section, for any expenses incurred by the Secretary in conducting referenda under this chapter, except for the salaries of Government employees.

(f) False claims

Such order shall provide that any promotion funded with assessments collected under subsection (d) of this section may not make –

(1) any false or unwarranted claims on behalf of limes; and

(2) any false or unwarranted statements with respect to the attributes or use of any product that competes with limes for sale in commerce.

(g) Prohibition on use of funds

Such order shall provide that funds collected by the Board under this chapter through assessments authorized by this chapter may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making

recommendations to the Secretary as provided for in this chapter.

(h) Books, records, and reports

(1) By the Board

Such order shall require the Board –

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report regarding the activities of the Board during such fiscal year.

(2) By others

So that information and data will be available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this chapter (or any order or regulation issued under this chapter), such order shall require handlers, producer–handlers, and importers who are responsible for the collection, payment, or remittance of assessments under subsection (d) of this section –

(A) to maintain and make available for inspection by the employees of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times, in the manner, and having the content prescribed by the order, reports regarding the collection, payment, or remittance of such assessments.

(i) Confidentiality

(1) In general

Such order shall require that all information obtained pursuant to subsection (h)(2) of this section shall be kept confidential by all officers and employees of the Department and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public 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 respect to which the information was furnished or acquired.

(2) Limitations

Nothing in this subsection prohibits –

(A) issuance of general statements based on the reports of a number of handlers, producer–handlers, and importers 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 violating an order issued under section 6203(a) of this title, together with a statement of the particular provisions of the order violated by such person.

(j) Withholding information

Nothing in this chapter shall be construed to authorize the withholding of information from Congress.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1955, Nov. 28, 1990, 104 Stat. 3872; Pub. L. 102–237, title VIII, Sec. 805(1), Dec. 13, 1991, 105

Stat. 1882; Pub. L. 103–194, Sec. 4, Dec. 14, 1993, 107 Stat.

2295.)

–MISC1–

#### AMENDMENTS

1993 – Subsec. (b)(1)(A), (2)(B). Pub. L. 103–194, Sec. 4(a)(1), (2), substituted "3" for "7".

Subsec. (b)(2)(F). Pub. L. 103–194, Sec. 4(a)(3), inserted at end "The Secretary shall terminate the initial Board established under this subsection as soon as practicable after December 14, 1993."

Subsec. (b)(2)(G). Pub. L. 103–194, Sec. 4(a)(4), added subpar. (G).

Subsec. (b)(4). Pub. L. 103–194, Sec. 4(b)(1), substituted "The initial members of the Board appointed under the amended order shall serve a term of 30 months. Subsequent appointments to the Board shall be for a term of 3 years, except that – " for "Members of the Board shall be appointed for a term of 3 years. Of the members first appointed – ".

Subsec. (b)(4)(A). Pub. L. 103–194, Sec. 4(b)(2), substituted "2" for "3".

Subsec. (b)(4)(B). Pub. L. 103–194, Sec. 4(b)(3), substituted "2" for "4" before "members".

Subsec. (b)(4)(C). Pub. L. 103–194, Sec. 4(b)(4), substituted "3" for "4" before "members".

Subsec. (d)(5). Pub. L. 103–194, Sec. 4(c), substituted "200,000" for "35,000", wherever appearing.

1991 – Subsec. (e)(1)(B). Pub. L. 102–237 substituted

"Government employees" for "government employees".

~~–SECRET–~~

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6202, 6205, 6209 of this title.

~~–CITE–~~

7 USC Sec. 6205 01/06/03

~~–EXPCITE–~~

#### TITLE 7 – AGRICULTURE

#### CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

~~–HEAD–~~

Sec. 6205. Permissive terms in orders

~~–STATUTE–~~

On the recommendation of the Board and with the approval of the Secretary, an order issued under section 6203(a) of this title may

–

- (1) provide authority to the Board to exempt from such order limes exported from the United States, subject to such safeguards as the Board may establish to ensure proper use of the exemption;
- (2) provide authority to the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures;
- (3) provide that the Board may convene from time to time working groups drawn from producers, handlers, producer–handlers, importers, exporters, or the general public to assist in the development of research and marketing programs for limes;

(4) provide authority to the Board to accumulate reserve funds from assessments collected pursuant to section 6204(d) of this title to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years in which production and assessment income may be reduced, except that any reserve fund so established may not exceed the amount budgeted for operation of this chapter for 1 year;

(5) provide authority to the Board to use, with the approval of the Secretary, funds collected under section 6204(d) of this title for the development and expansion of lime sales in foreign markets; and

(6) provide for terms and conditions –

(A) incidental to, and not inconsistent with, the terms and conditions specified in this chapter; and

(B) necessary to effectuate the other provisions of such order.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1956, Nov. 28, 1990, 104 Stat. 3876.)

–SECREP–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6204 of this title.

–CITE–

7 USC Sec. 6206 01/06/03

–EXPCITE–

TITLE 7 – AGRICULTURE

CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–HEAD–

Sec. 6206. Petition and review

–STATUTE–

(a) Petition

(1) In general

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

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order is not in accordance with law; and

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

(2) Hearings

A person submitting a petition under paragraph (1) shall be given 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 which shall be final if in accordance with law.

(b) Review

(1) Commencement of action

The district courts of the United States in any district in which such person who is a petitioner under subsection (a) of this section resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition,

if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a) of this section.

(2) Process

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

(3) Remands

If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either –

(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.

(4) Enforcement

The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 6207 of this title.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1957, Nov. 28, 1990, 104 Stat. 3876.)

–REFTEXT–

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.

~~–SECRET–~~

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6208 of this title.

~~–CITE–~~

7 USC Sec. 6207 01/06/03

~~–EXPCITE–~~

## TITLE 7 – AGRICULTURE

### CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

~~–HEAD–~~

Sec. 6207. Enforcement

~~–STATUTE–~~

#### (a) Jurisdiction

Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or 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 for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or any 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 any person

committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

Any person who willfully violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than \$500 nor more than \$5,000 for each such violation. Each violation shall be a separate offense.

(2) Cease and desist orders

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.

(3) 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 gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to such violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person against whom the order is issued files an appeal from such order with the appropriate district court of the United States, in accordance with subsection (d) of this section.

(d) Review by United States district court

(1) Commencement of action

Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) of this section may obtain review of the penalty or order in the district court of the United States for the district in which such person resides or does business, or the United States District Court for the District of Columbia, by –

(A) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(B) simultaneously sending a copy of such notice by certified mail to the Secretary.

(2) Record

The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) Standard of review

A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

Any person who fails to obey a cease and desist order issued by the Secretary after the order has become final and unappealable, or after the appropriate United States district court has entered a 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 under the procedures specified in

subsections (c) and (d) of this section, of not more than \$500 for each offense. Each day during which such failure continues shall be considered a separate violation of such order.

(f) Failure to pay penalties

If a person fails to pay an assessment of a civil penalty after it has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing such civil penalty shall not be subject to review.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1958, Nov. 28, 1990, 104 Stat. 3877; Pub. L. 102–237, title VIII, Sec. 805(2), Dec. 13, 1991, 105 Stat. 1882.)

–MISC1–

AMENDMENTS

1991 – Subsec. (d)(1). Pub. L. 102–237 substituted "United States District Court" for "United States district court".

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6206, 6208 of this title.

–CITE–

7 USC Sec. 6208 01/06/03

–EXPCITE–

TITLE 7 – AGRICULTURE

CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–HEAD–

Sec. 6208. Investigations and power to subpoena

–STATUTE–

(a) In general

The Secretary may make such investigations as the Secretary considers necessary –

(1) for the effective carrying out of the responsibilities of the Secretary under this chapter; or

(2) to determine whether a person subject to the provisions of this chapter has engaged or is engaging in any act that constitutes a violation of any provision of this chapter, or any order, rule, or regulation issued under this chapter.

(b) Power to subpoena

(1) Investigations

For the purpose of an investigation made under subsection (a) of this section, the Secretary may administer oaths and affirmations and may issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 6206 or 6207 of this title, the presiding officer is authorized

to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

(d) Contempt

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district of which such person resides or conducts business or wherever such person may be found.

(f) Hearing site

The site of any hearings held under section 6206 or 6207 of this title shall be within the judicial district where such person is an inhabitant or has a principal place of business.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1959, Nov. 28, 1990, 104 Stat.

3878; Pub. L. 102–237, title VIII, Sec. 805(3), Dec. 13, 1991, 105

Stat. 1882.)

–MISC1–

## AMENDMENTS

1991 – Subsec. (b)(2). Pub. L. 102–237 struck out "section"

after "6206 or".

–CITE–

7 USC Sec. 6209 01/06/03

–EXPCITE–

## TITLE 7 – AGRICULTURE

### CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–HEAD–

Sec. 6209. Initial referendum

–STATUTE–

#### (a) Requirement

Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 6204(d) of this title, the Secretary shall conduct a referendum among producers, producer–handlers, and importers who –

(1) are not exempt from assessment under section 6204(d)(5) of this title; and

(2) produced or imported limes during a representative period as determined by the Secretary.

#### (b) Purpose of referendum

The referendum referred to in subsection (a) of this section is for the purpose of determining whether the issuance of the order is

approved or favored by not less than a majority of the producers, producer–handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.

(c) Confidentiality

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this section, or section 6210 of this title, shall be held strictly confidential and shall not be disclosed.

(d) Refund of assessments from escrow account

(1) In general

A portion of the assessments collected from producers, producer–handlers, and importers prior to announcement of the results of the referendum provided for in this section shall be held in an escrow account until the results of the referendum are published by the Secretary. The amount in the escrow account shall be equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(2) Approval of order

If the order is approved by a majority of the producers, producer–handlers, and importers voting in the initial referendum under subsection (a) of this section, the funds in the escrow account shall be released to be used for the purposes of this chapter.

(3) Disapproval of order

(A) Proration

If –

(i) the amount in the escrow account required by paragraph

(1) is not sufficient to refund the total amount of

assessments demanded by producers, producer–handlers, or importers; and

(ii) the plan is not approved pursuant to the referendum

conducted under subsection (a) of this section;

the Board shall prorate the amount of such refunds among all

eligible producers, producer–handlers, or importers who demand such refund.

(B) Right to refund

A producer, producer–handler, or importer shall be eligible to receive a refund –

(i) if demand is made personally, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event less than 90 days after the date of publication of the results of the referendum; and

(ii) on submission of proof satisfactory to the Board that the person paid the assessment for which refund is sought and did not collect the assessment from another person.

(C) Surplus funds

Any funds not refunded under this paragraph shall be released to be used to carry out this chapter.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1960, Nov. 28, 1990, 104 Stat. 3879; Pub. L. 103–194, Sec. 5, Dec. 14, 1993, 107 Stat. 2295.)

–MISC1–

## AMENDMENTS

1993 – Subsec. (a). Pub. L. 103–194 substituted "Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 6204(d) of this title," for "Not later than 2 years after the date on which the Secretary first issues an order under section 6203(a),".

–CITE–

7 USC Sec. 6210 01/06/03

–EXPCITE–

## TITLE 7 – AGRICULTURE

### CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–HEAD–

Sec. 6210. Suspension and termination

–STATUTE–

#### (a) Finding of Secretary

If the Secretary finds that an order issued under section 6203(a) of this title, or a provision of such order, obstructs or does not tend to effectuate the purposes of this chapter, the Secretary shall terminate or suspend the operation of such order or provision.

#### (b) Periodic referenda

The Secretary may periodically conduct a referendum to determine if lime producers, producer–handlers, and importers favor the continuation, termination, or suspension of any order issued under section 6203(a) of this title and in effect at the time of such referendum.

(c) Required referenda

The Secretary shall hold a referendum under subsection (b) of this section –

- (1) at the request of the Board; or
- (2) if not less than 10 percent of the lime producers, producer–handlers, and importers subject to assessment under this chapter submit a petition requesting such a referendum.

(d) Limitation

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(e) Vote

The Secretary shall suspend or terminate the order at the end of the marketing year if the Secretary determines that –

- (1) the suspension or termination of the order is favored by not less than a majority of those persons voting in a referendum under subsection (b) of this section; and
- (2) the producers, producer–handlers, and importers comprising this majority produce and import more than 50 percent of the volume of limes produced and imported by those voting in the referendum.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1961, Nov. 28, 1990, 104 Stat. 3880.)

–SECREP–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6209 of this title.

–CITE–

7 USC Sec. 6211 01/06/03

–EXPCITE–

TITLE 7 – AGRICULTURE

CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–HEAD–

Sec. 6211. Authorization of appropriations

–STATUTE–

(a) In general

There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this chapter.

(b) Administrative expenses

The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provisions of an order issued under this chapter.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1962, Nov. 28, 1990, 104 Stat. 3880.)

–CITE–

7 USC Sec. 6212 01/06/03

–EXPCITE–

TITLE 7 – AGRICULTURE

CHAPTER 91 – LIME PROMOTION, RESEARCH, AND CONSUMER INFORMATION

–HEAD–

Sec. 6212. Regulations

–STATUTE–

The Secretary may issue such regulations as are necessary to carry out this chapter.

–SOURCE–

(Pub. L. 101–624, title XIX, Sec. 1963, Nov. 28, 1990, 104 Stat. 3881.)

–CITE–