

the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.] that the Secretary estimates the producer would otherwise have received during the period beginning at the time the contract is entered into under this section and ending September 30, 2002.

(d) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section (other than subsection (e) of this section) through the Commodity Credit Corporation.

(e) Additional payments

(1) In general

Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a) of this section, in addition to the payments provided under subsection (c) of this section, to offset other estimated Federal Government outlays on frequently flooded land.

(2) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

(f) Limitation on payments

Amounts made available for production flexibility contracts under section 7213 of this title shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

(Pub. L. 104-127, title III, §385, Apr. 4, 1996, 110 Stat. 1016.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsecs. (a), (b)(1), and (c), is title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (b)(4), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the ‘‘Sodbuster Law’’, is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of title III of the Federal Agriculture Improvement and Reform Act of 1996, and not as part of title I of the Act, known as the Agricultural Market Transition Act, which comprises this chapter.

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SUBCHAPTER I—COMMODITY PROMOTION AND EVALUATION

§ 7401. Commodity promotion and evaluation

(a) ‘‘Commodity promotion law’’ defined

In this section, the term ‘‘commodity promotion law’’ means a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary). The term includes—

- (1) the marketing promotion provisions under section 608c(6)(I) of this title;

- (2) Public Law 89-502 (7 U.S.C. 2101 et seq.);
- (3) title III of Public Law 91-670 (7 U.S.C. 2611 et seq.);
- (4) Public Law 93-428 (7 U.S.C. 2701 et seq.);
- (5) Public Law 94-294 (7 U.S.C. 2901 et seq.);
- (6) subtitle B of title I of Public Law 98-180 (7 U.S.C. 4501 et seq.);
- (7) Public Law 98-590 (7 U.S.C. 4601 et seq.);
- (8) subtitle B of title XVI of Public Law 99-198 (7 U.S.C. 4801 et seq.);
- (9) subtitle C of title XVI of Public Law 99-198 (7 U.S.C. 4901 et seq.);
- (10) subtitle B of title XIX of Public Law 101-624 (7 U.S.C. 6101 et seq.);
- (11) subtitle E of title XIX of Public Law 101-624 (7 U.S.C. 6301 et seq.);
- (12) subtitle H of title XIX of Public Law 101-624 (7 U.S.C. 6401 et seq.);
- (13) Public Law 103-190 (7 U.S.C. 6801 et seq.);
- (14) Public Law 103-407 (7 U.S.C. 7101 et seq.);
- (15) subchapter II of this chapter;
- (16) subchapter III of this chapter;
- (17) subchapter IV of this chapter;
- (18) subchapter V of this chapter; or
- (19) any other provision of law enacted after April 4, 1996, that provides for the establishment and operation of a promotion program described in the first sentence.

(b) Findings

Congress finds the following:

- (1) It is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, generic commodity promotion programs established under commodity promotion laws.
- (2) These generic commodity promotion programs, funded by the agricultural producers or processors who most directly reap the benefits of the programs and supervised by the Secretary of Agriculture, provide a unique opportunity for producers and processors to inform consumers about their products.
- (3) The central congressional purpose underlying each commodity promotion law has always been to maintain and expand markets for the agricultural commodity covered by the law, rather than to maintain or expand the share of those markets held by any individual producer or processor.
- (4) The commodity promotion laws were neither designed nor intended to prohibit or restrict, and the promotion programs established and funded pursuant to these laws do not prohibit or restrict, individual advertising or promotion of the covered commodities by any producer, processor, or group of producers or processors.
- (5) It has never been the intent of Congress for the generic commodity promotion programs established and funded by the commodity promotion laws to replace the individual advertising and promotion efforts of producers or processors.
- (6) An individual producer's or processor's own advertising initiatives are typically designed to increase the share of the market held by that producer or processor rather than

to increase or expand the overall size of the market.

(7) In contrast, a generic commodity promotion program is intended and designed to maintain or increase the overall demand for the agricultural commodity covered by the program and increase the size of the market for that commodity, often by utilizing promotion methods and techniques that individual producers and processors typically are unable, or have no incentive, to employ.

(8) The commodity promotion laws establish promotion programs that operate as "self-help" mechanisms for producers and processors to fund generic promotions for covered commodities which, under the required supervision and oversight of the Secretary of Agriculture—

(A) further specific national governmental goals, as established by Congress; and

(B) produce nonideological and commercial communication the purpose of which is to further the governmental policy and objective of maintaining and expanding the markets for the covered commodities.

(9) While some commodity promotion laws grant a producer or processor the option of crediting individual advertising conducted by the producer or processor for all or a portion of the producer's or processor's marketing promotion assessments, all promotion programs established under the commodity promotion laws, both those programs that permit credit for individual advertising and those programs that do not contain such provisions, are very narrowly tailored to fulfill the congressional purposes of the commodity promotion laws without impairing or infringing the legal or constitutional rights of any individual producer or processor.

(10) These generic commodity promotion programs are of particular benefit to small producers who often lack the resources or market power to advertise on their own and who are otherwise often unable to benefit from the economies of scale available in promotion and advertising.

(11) Periodic independent evaluation of the effectiveness of these generic commodity promotion programs will assist Congress and the Secretary of Agriculture in ensuring that the objectives of the programs are met.

(c) Independent evaluation of promotion program effectiveness

Except as otherwise provided by law, each commodity board established under the supervision and oversight of the Secretary of Agriculture pursuant to a commodity promotion law shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the board, an independent evaluation of the effectiveness of the generic commodity promotion programs and other programs conducted by the board pursuant to a commodity promotion law. The board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this subsection.

(d) Administrative costs

The Secretary shall annually provide to the Committee on Agriculture of the House of Rep-

representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information on administrative expenses on programs established under commodity promotion laws.

(e) Exemption of certified organic products from assessments

(1) In general

Notwithstanding any provision of a commodity promotion law, a person that produces and markets solely 100 percent organic products, and that does not produce any conventional or nonorganic products, shall be exempt from the payment of an assessment under a commodity promotion law with respect to any agricultural commodity that is produced on a certified organic farm (as defined in section 6502 of this title).

(2) Regulations

Not later than 1 year after May 13, 2002, the Secretary shall promulgate regulations concerning eligibility and compliance for an exemption under paragraph (1).

(Pub. L. 104-127, title V, §501, Apr. 4, 1996, 110 Stat. 1029; Pub. L. 107-171, title X, §10607, May 13, 2002, 116 Stat. 514.)

REFERENCES IN TEXT

Public Law 89-502, referred to in subsec. (a)(2), is Pub. L. 89-502, July 13, 1966, 80 Stat. 279, as amended, known as the Cotton Research and Promotion Act, which is classified generally to chapter 53 (§2101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

Public Law 91-670, referred to in subsec. (a)(3), is Pub. L. 91-670, Jan. 11, 1971, 84 Stat. 2040, as amended. Title III of Pub. L. 91-670, known as the Potato Research and Promotion Act, is classified generally to chapter 58 (§2611 et seq.) of this title. For complete classification of title III to the Code, see Short Title note set out under section 2611 of this title and Tables.

Public Law 93-428, referred to in subsec. (a)(4), is Pub. L. 93-428, Oct. 1, 1974, 88 Stat. 1171, as amended, known as the Egg Research and Consumer Information Act, which is classified generally to chapter 60 (§2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

Public Law 94-294, referred to in subsec. (a)(5), is Pub. L. 94-294, May 28, 1976, 90 Stat. 529, as amended, known as the Beef Research and Information Act, which is classified generally to chapter 62 (§2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

Public Law 98-180, referred to in subsec. (a)(6), is Pub. L. 98-180, Nov. 29, 1983, 97 Stat. 1128, as amended. Title I of Pub. L. 98-180 is known as the Dairy Production Stabilization Act of 1983. Subtitle B of title I is classified generally to subchapter I (§4501 et seq.) of chapter 76 of this title. For complete classification of title I to the Code, see Short Title note set out under section 4501 of this title and Tables.

Public Law 98-590, referred to in subsec. (a)(7), is Pub. L. 98-590, Oct. 30, 1984, 98 Stat. 3115, as amended, known as the Honey Research, Promotion, and Consumer Information Act, which is classified generally to chapter 77 (§4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

Public Law 99-198, referred to in subsec. (a)(8), (9), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended, known as the Food Security Act of 1985. Subtitle B of title XVI of Pub. L. 99-198, known as the Pork Pro-

motion, Research, and Consumer Information Act of 1985, is classified generally to chapter 79 (§4801 et seq.) of this title. Subtitle C of title XVI of Pub. L. 99-198, known as the Watermelon Research and Promotion Act, is classified generally to chapter 80 (§4901 et seq.) of this title. For complete classification of subtitles B and C to the Code, see Short Title notes set out under sections 4801 and 4901, respectively, of this title and Tables.

Public Law 101-624, referred to in subsec. (a)(10), (11), (12), is Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3359, as amended, known as the Food, Agriculture, Conservation, and Trade Act of 1990. Subtitle B of title XIX of Pub. L. 101-624, known as the Mushroom Promotion, Research, and Consumer Information Act of 1990, is classified generally to chapter 90 (§6101 et seq.) of this title. Subtitle E of title XIX of Pub. L. 101-624, known as the Soybean Promotion, Research, and Consumer Information Act, is classified generally to chapter 92 (§6301 et seq.) of this title. Subtitle H of title XIX of Pub. L. 101-624, known as the Fluid Milk Promotion Act of 1990, is classified generally to chapter 93 (§6401 et seq.) of this title. For complete classification of subtitles B, E, and H to the Code, see Short Title notes set out under sections 6101, 6301, and 6401, respectively, of this title and Tables.

Public Law 103-190, referred to in subsec. (a)(13), is Pub. L. 103-190, Dec. 14, 1993, 107 Stat. 2266, known as the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993, which is classified generally to chapter 97 (§6801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

Public Law 103-407, referred to in subsec. (a)(14), is Pub. L. 103-407, Oct. 22, 1994, 108 Stat. 4210, known as the Sheep Promotion, Research, and Information Act of 1994, which is classified generally to chapter 99 (§7101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

AMENDMENTS

2002—Subsec. (a)(19). Pub. L. 107-171, §10607(b), added par. (19).

Subsec. (e). Pub. L. 107-171, §10607(a), added subsec. (e).

SHORT TITLE

Section 511 of title V of Pub. L. 104-127 provided that: “This subtitle [subtitle B (§§511-526) of title V of Pub. L. 104-127, enacting subchapter II of this chapter] may be cited as the ‘Commodity Promotion, Research, and Information Act of 1996.’”

Section 531 of title V of Pub. L. 104-127 provided that: “This subtitle [subtitle C (§§531-543) of title V of Pub. L. 104-127, enacting subchapter III of this chapter] may be cited as the ‘Canola and Rapeseed Research, Promotion, and Consumer Information Act.’”

Section 551 of title V of Pub. L. 104-127 provided that: “This subtitle [subtitle D (§§551-564) of title V of Pub. L. 104-127, enacting subchapter IV of this chapter] may be cited as the ‘National Kiwifruit Research, Promotion, and Consumer Information Act.’”

Section 571 of title V of Pub. L. 104-127 provided that: “This subtitle [subtitle E (§§571-582) of title V of Pub. L. 104-127, enacting subchapter V of this chapter] may be cited as the ‘Popcorn Promotion, Research, and Consumer Information Act.’”

SUBCHAPTER II—ISSUANCE OF ORDERS FOR PROMOTION, RESEARCH, AND INFORMATION ACTIVITIES REGARDING AGRICULTURAL COMMODITIES

§ 7411. Findings and purpose

(a) Findings

Congress finds the following: