

(3) Standard of review

A finding of the Secretary under this section shall be set aside only if such 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 under this section after such 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 \$5,000 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

(f) Failure to pay penalties

If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, 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 in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

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

(Pub. L. 101-624, title XIX, §1972, Nov. 28, 1990, 104 Stat. 3901.)

§ 6308. Investigations and power to subpoena**(a) Investigations**

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

- (1) for the effective administration of this chapter; and
- (2) to determine whether any person has engaged or is engaging in any act that constitutes a violation of this chapter, or any order, rule, or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations**(1) In general**

For the purpose of an investigation under subsection (a) of this section, the Secretary may administer oaths and affirmations, and 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 6306 or 6307 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 the case of contumacy by, or refusal to obey a subpoena issued 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 an order of the court under this section may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district in 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 6306 or 6307 of this title shall be within the judicial district where such person resides or has a principal place of business.

(Pub. L. 101-624, title XIX, §1973, Nov. 28, 1990, 104 Stat. 3902.)

§ 6309. Administrative provisions**(a) Construction**

Except as provided in subsection (b) of this section, nothing in this chapter may be construed to—

- (1) preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State; or
- (2) authorize the withholding of any information from Congress.

(b) State laws**(1) Referenda on qualified State soybean boards**

To ensure the proper administration of this chapter, no State may conduct a referendum relating to the continuation or termination of a qualified State soybean board or State soybean assessment—

- (A) during the period beginning on the date an order is issued under section 6303 of this title and ending 18 months after the referendum on such order is conducted under section 6305(a) of this title; or
- (B) if such order is approved under the referendum conducted under section 6305(a) of this title by a majority of producers voting in such State, such State law shall be suspended for an additional 36 months.

(2) Exception

Paragraph (1) shall not be construed to apply to—

- (A) a State referendum concerning the approval of modifications to a State soybean

promotion program that does not involve termination of the qualified State soybean board or State soybean assessment; and

(B) any State referendum regarding a State soybean promotion program that is originated by soybean producers.

(3) Assessments collected by qualified State soybean boards

To ensure adequate funding of the operations of qualified State soybean boards under this chapter, whenever an order is in effect under this chapter, no State law or regulation that limits the rate of assessment that the qualified State soybean board in that State may collect from producers on soybeans produced in such State, or that has the effect of limiting such rate, may be applied to prohibit such State board from collecting, and expending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 6304(l)(4) of this title.

(c) Amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 101-624, title XIX, §1974, Nov. 28, 1990, 104 Stat. 3903; Pub. L. 102-237, title VIII, §806(3), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-237, §806(3)(B), redesignated second subsec. (b), relating to amendments to orders, as (c).

Subsec. (b)(3). Pub. L. 102-237, §806(3)(A), substituted “section 6304(l)(4)” for “section 6304(k)(4)”.

Subsec. (c). Pub. L. 102-237, §806(3)(B), redesignated second subsec. (b), relating to amendments of orders, as (c).

§ 6310. Suspension or termination of orders

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or provision. The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 101-624, title XIX, §1975, Nov. 28, 1990, 104 Stat. 3904.)

§ 6311. Authorization of appropriations; regulations

(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

Funds appropriated under subsection (a) of this section shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this chapter.

(c) Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter, includ-

ing regulations relating to the assessment of late payment charges.

(Pub. L. 101-624, title XIX, §1976, Nov. 28, 1990, 104 Stat. 3904.)

CHAPTER 93—PROCESSOR-FUNDED MILK PROMOTION PROGRAM

Sec.

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§ 6401. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) fluid milk products are basic foods and are a primary source of required nutrients such as calcium, and otherwise are a valuable part of the human diet;

(2) fluid milk products must be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(3) the dairy industry plays a significant role in the economy of the United States, in that milk is produced by thousands of milk producers and dairy products (including fluid milk products) are consumed every day by millions of people in the United States;

(4) the processing of milk into fluid milk products and the marketing of such products are important to the dairy industry because the fluid milk segment of the dairy market contributes substantially to ensuring that the prices paid to milk producers for raw milk are stable and adequate to maintain the overall strength of the dairy industry;

(5) the maintenance and expansion of markets for fluid milk products are vital to the Nation’s fluid milk processors and milk producers, as well as to the general economy of the United States;

(6) the congressional purpose underlying this chapter is to maintain and expand markets for fluid milk products, not to maintain or expand any processor’s share of those markets and that the chapter does not prohibit or restrict individual advertising or promotion of fluid milk products since the programs created and funded by this chapter are not extended to replace individual advertising and promotion efforts;

(7) the cooperative development, financing, and implementation of a coordinated program of advertising and promotion of fluid milk products is necessary to maintain and expand markets for fluid milk products;