

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.

6401.	Findings and declaration of policy.
6402.	Definitions.
6403.	Authority to issue orders.
6404.	Notice and comment.
6405.	Findings and issuance of orders.
6406.	Regulations.
6407.	Required terms in orders.
6408.	Permissive terms.
6409.	Assessments.
6410.	Petition and review.
6411.	Enforcement.
6412.	Investigations and power to subpoena.
6413.	Requirement of initial referendum.
6414.	Suspension or termination of orders.
6415.	Amendments.
6416.	Independent evaluation of programs.
6417.	Authorization of appropriations.

**§ 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;

(8) it is appropriate to finance the cooperative program described in paragraph (6)<sup>1</sup> with self-help assessments paid by the fluid milk processors; and

(9) fluid milk products move in interstate and foreign commerce, and fluid milk products that do not move in such channels of commerce directly burden or affect interstate commerce in fluid milk products.

**(b) Policy**

It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of powers provided in this chapter, of an orderly procedure for developing, financing, through adequate assessments on fluid milk products produced in the United States and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to strengthen the position of the dairy industry in the marketplace and maintain and expand domestic and foreign markets and uses for fluid milk products, the purpose of which is not to compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name fluid milk products, but rather to maintain and expand the markets for all fluid milk products, with the goal and purpose of this chapter being a national governmental goal that authorizes and funds programs that result in government speech promoting government objectives.

(Pub. L. 101-624, title XIX, §1999B, Nov. 28, 1990, 104 Stat. 3914; Pub. L. 104-127, title I, §146(a), (b), Apr. 4, 1996, 110 Stat. 918.)

AMENDMENTS

1996—Subsec. (a)(6) to (9). Pub. L. 104-127, §146(a), added par. (6) and redesignated former pars. (6) to (8) as (7) to (9), respectively.

Subsec. (b). Pub. L. 104-127, §146(b), amended heading and text of subsec. (b) generally. Text read as follows: “It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing (through adequate assessments on fluid milk products produced in the United States) and carrying out an effective and coordinated program of advertising designed to strengthen the position of the dairy industry in the marketplace and to maintain and expand markets and uses for fluid milk products produced in the United States. Nothing in this chapter shall be construed to provide for the control of production or otherwise limit the right of individual milk producers to produce milk.”

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-72, §1, Aug. 11, 1993, 107 Stat. 717, provided that: “This Act [amending sections 6402 and 6409 of this title] may be cited as the ‘Fluid Milk Promotion Amendments Act of 1993.’”

SHORT TITLE

Section 1999A of Pub. L. 101-624 provided that: “This subtitle [subtitle H (§§ 1999A—1999R) of title XIX of Pub. L. 101-624, enacting this chapter] may be cited as the ‘Fluid Milk Promotion Act of 1990.’”

**§ 6402. Definitions**

As used in this chapter:

**(1) Advertising**

The term “advertising” means any advertising or promotion program involving only fluid milk products and directed toward increasing the general demand for fluid milk products.

**(2) Board**

The term “Board” means the National Processor Advertising and Promotion Board established under section 6407(b) of this title.

**(3) Fluid milk product**

The term “fluid milk product” has the meaning given the term in—

(A) section 1000.15 of title 7, Code of Federal Regulations, subject to such amendments as may be made by the Secretary; or

(B) any successor regulation.

**(4) Fluid milk processor**

The term “fluid milk processor” means any person who processes and markets commercially more than 3,000,000 pounds of fluid milk products in consumer-type packages per month (excluding products delivered directly to the place of residence of a consumer).

**(5) Department**

The term “Department” means the Department of Agriculture.

**(6) Research**

The term “research” means market research to support advertising and promotion efforts, including educational activities, research directed to product characteristics, product development, including new products or improved technology in production, manufacturing or processing of milk and the products of milk.

**(7) Secretary**

The term “Secretary” means the Secretary of Agriculture.

**(8) United States**

The term “United States”, except as used in sections 6410 through 6412 of this title, means the 48 contiguous States in the continental United States and the District of Columbia.

(Pub. L. 101-624, title XIX, §1999C, Nov. 28, 1990, 104 Stat. 3915; Pub. L. 103-72, §2(a), Aug. 11, 1993, 107 Stat. 717; Pub. L. 104-127, title I, §146(c), Apr. 4, 1996, 110 Stat. 918; Pub. L. 107-171, title I, §1506(a), (b), May 13, 2002, 116 Stat. 210.)

AMENDMENTS

2002—Par. (3). Pub. L. 107-171, §1506(a), added par. (3) and struck out heading and text of former par. (3). Text read as follows: “The term ‘fluid milk product’—

“(A) means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

“(B) does not include evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas specially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey.”

<sup>1</sup> So in original. Probably should be paragraph “(7)”.