

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.”

Par. (4). Pub. L. 107-171, §1506(b), substituted “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)” for “500,000 pounds of fluid milk products in consumer-type packages per month”.

1996—Par. (6). Pub. L. 104-127 amended heading and text of par. (6) generally. Text read as follows: “The term ‘research’—

“(A) means market research limited to the support of advertising and promotion efforts, including educational activities; and

“(B) does not include research directed to product characteristics such as nutrients; product development including new products; or improved technology in production, manufacturing or processing; or any other efforts not directly applicable to measuring or increasing the effectiveness of advertising activities in expanding sales of fluid milk products.”

1993—Par. (4). Pub. L. 103-72 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The term ‘fluid milk processor’ means any person who processes and markets commercially fluid milk products in consumer-type packages.”

#### § 6403. Authority to issue orders

##### (a) In general

To effectuate the declared policy under section 6401(b) of this title, the Secretary shall issue and from time to time may amend, orders applicable to all fluid milk processors, authorizing—

- (1) the collection of assessments on fluid milk products subject to this chapter; and
- (2) the use of the assessments to provide research and advertising in a manner prescribed by this chapter.

##### (b) Scope

Any order issued under this chapter shall be national in scope.

##### (c) One order

Not more than one order shall be in effect under this chapter at any one time.

(Pub. L. 101-624, title XIX, §1999D, Nov. 28, 1990, 104 Stat. 3916.)

#### § 6404. Notice and comment

Not later than 60 days after the Secretary receives a request for the issuance of an order under this chapter, and a specific proposal for an order from individual fluid milk processors that marketed during a representative period, as determined by the Secretary, not less than 30 percent of the volume of fluid milk products marketed by all processors, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(Pub. L. 101-624, title XIX, §1999E, Nov. 28, 1990, 104 Stat. 3916.)

#### § 6405. Findings and issuance of orders

##### (a) In general

After notice and opportunity for public comment are given, as provided in section 6404 of this title, 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 and the declared policy of this chapter.

##### (b) Effective date

Such order shall be issued and, if approved by fluid milk processors as provided in section 6413 of this title, shall become effective not later than 180 days following publication of the proposed order.

(Pub. L. 101-624, title XIX, §1999F, Nov. 28, 1990, 104 Stat. 3916.)

#### § 6406. Regulations

The Secretary may issue such regulations as may be necessary to carry out this chapter and the powers vested in the Secretary by this chapter.

(Pub. L. 101-624, title XIX, §1999G, Nov. 28, 1990, 104 Stat. 3916.)

#### § 6407. Required terms in orders

##### (a) In general

Each order issued under this chapter shall contain the terms and conditions prescribed in this section.

##### (b) National Processor Advertising and Promotion Board

###### (1) Establishment

The order shall establish a National Processor Advertising and Promotion Board to administer the order.

###### (2) Service to entire industry

In administering the order, the Board shall carry out programs and projects that will provide maximum benefit to the fluid milk industry and promote only fluid milk products. The Board shall, to the extent practicable, ensure that advertising coverage in each region is proportionate to the funds collected from each region.

###### (3) Regions

The Secretary shall establish not less than 12 nor more than 15 regions in order to ensure appropriate geographic representation on the Board.

###### (4) Board membership

The Board shall consist of one member appointed by the Secretary, from among fluid milk processors, to represent each of the regions established under paragraph (3), with the membership representing, to the extent practicable, differing sizes of operations. The Secretary shall appoint five additional at-large members to the Board, of which at least three shall be fluid milk processors and at least one shall be from the general public.

###### (5) Terms of office

The members of the Board shall serve for terms of 3 years, except that the members ap-