

support the advertising efforts for fluid milk products, and the use of funds collected under the order for such projects and studies.

(d) Reserve funds

The order may provide authority to accumulate reserve funds from assessments collected pursuant to the order, to permit an effective and continuous coordinated program of research and advertising in years when the assessment income may be reduced, except that the total reserve fund may not exceed 25 percent of the amount budgeted for the operation in the current fiscal year of the order.

(e) Other terms

The order may contain such other terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter as are necessary to effectuate the other provisions of the order.

(Pub. L. 101-624, title XIX, §1999I, Nov. 28, 1990, 104 Stat. 3920.)

§ 6409. Assessments

(a) In general

The order shall provide that each fluid milk processor shall pay an assessment on each unit of fluid milk product that such person processes and markets commercially in consumer-type packages in the United States.

(b) No effect on producer prices

Such assessments shall not—

- (1) reduce the prices paid under the Federal milk marketing orders issued under section 608c of this title;
- (2) otherwise be deducted from the amounts that handlers must pay to producers for fluid milk products sold to a processor; or
- (3) otherwise be deducted from the price of milk paid to a producer by a handler, as determined by the Secretary.

(c) Remitting assessments

(1) In general

Assessments required under subsection (a) shall be remitted by the fluid milk processor directly to the Board in accordance with the order and regulations issued by the Secretary.

(2) Time to remit assessment

Each processor who is responsible for the remittance of an assessment under paragraph (1) shall remit the assessment to the Board not later than the last day of the month following the month that the milk being assessed was marketed.

(3) Verification

Remittances shall be verified by market administrators and State regulatory officials, and local and State Agricultural Stabilization and Conservation Service offices, as provided by the Secretary.

(d) Limitation on assessments

Not more than one assessment may be assessed under this section for the purposes of this chapter on a processor for any unit of fluid milk product.

(e) Producer-handlers

Producer-handlers that are required to pay the assessment imposed under section 4504(g) of this

title, and that are fluid milk processors, shall also be responsible for the additional assessment imposed by this section.

(f) Processor assessment rate

Except as provided in section 6415(b) of this title, the rate of assessment prescribed by the order shall be 20 cents per hundredweight of fluid milk products marketed.

(Pub. L. 101-624, title XIX, §1999J, Nov. 28, 1990, 104 Stat. 3921; Pub. L. 103-72, §2(b), Aug. 11, 1993, 107 Stat. 717.)

Editorial Notes

AMENDMENTS

1993—Subsec. (e). Pub. L. 103-72 inserted “, and that are fluid milk processors,” after “section 4504(g) of this title”.

§ 6410. Petition and review

(a) Petition

(1) In general

A person subject to an order issued under this chapter may file with the Secretary a petition—

- (A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and
- (B) requesting a modification of the order or an exemption from the order.

(2) Hearings

The petitioner shall be given the 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 the person who is a petitioner under subsection (a) 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).

(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 such 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 proceedings as, in the opinion of the court, the law requires.

(Pub. L. 101-624, title XIX, §1999K, Nov. 28, 1990, 104 Stat. 3921.)