(b) Periodic referenda

The Secretary may periodically conduct a referendum to determine if lime producers, producer-handlers, and importers favor the continuation, termination, or suspension of any order issued under section 6203(a) of this title and in effect at the time of such referendum.

(c) Required referenda

The Secretary shall hold a referendum under subsection (b) of this section—

(1) at the request of the Board; or

(2) if not less than 10 percent of the lime producers, producer-handlers, and importers subject to assessment under this chapter submit a petition requesting such a referendum.

(d) Limitation

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(e) Vote

The Secretary shall suspend or terminate the order at the end of the marketing year if the Secretary determines that—

(1) the suspension or termination of the order is favored by not less than a majority of those persons voting in a referendum under subsection (b) of this section; and

(2) the producers, producer-handlers, and importers comprising this majority produce and import more than 50 percent of the volume of limes produced and imported by those voting in the referendum.

(Pub. L. 101–624, title XIX, § 1961, Nov. 28, 1990, 104 Stat. 3880.)

§ 6211. Authorization of appropriations

(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

The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provisions of an order issued under this chapter.

(Pub. L. 101–624, title XIX, § 1962, Nov. 28, 1990, 104 Stat. 3880.)

§ 6212. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 101–624, title XIX, § 1963, Nov. 28, 1990, 104 Stat. 3881.)

CHAPTER 92—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

Sec.
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§ 6301. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and processors and those concerned with marketing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are valuable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, consumer information, and industry information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) Policy

Congress declares 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 assessments on domestically-produced soybeans, and implementing a program of promotion, research, consumer information, and industry information designed to strengthen the soybean industry's position in the marketplace, to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products, and to develop new markets and uses for soybeans and soybean products.

(c) Construction

Nothing in this chapter may be construed to provide for the control of production or other-

wise limit the right of individual producers to produce soybeans.

(Pub. L. 101–624, title XIX, § 1966, Nov. 28, 1990, 104 Stat. 3881.)

SHORT TITLE

Section 1965 of Pub. L. 101–624 provided that: ''This subtitle [subtitle E (§§ 1965–1976) of title XIX of Pub. L. 101–624, enacting this chapter] may be cited as the 'Soybean Promotion, Research, and Consumer Information Act'.''

§ 6302. Definitions

As used in this chapter:

(1) Board

The term ''Board'' means the United Soybean Board established under section 6304(b) of this title.

(2) Commerce

The term ''commerce'' includes interstate, foreign, and intrastate commerce.

(3) Committee

The term ''Committee'' means the Soybean Program Coordinating Committee established under section 6304(g) of this title.

(4) Consumer information

The term ''consumer information'' means information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of soybeans or soybean products.

(5) Department

The term ''Department'' means the Department of Agriculture.

(6) First purchaser

The term ''first purchaser'' means—

(A) except as provided in subparagraph (B), any person buying or otherwise acquiring from a producer soybeans produced by such producer; or

(B) the Commodity Credit Corporation, in any case in which soybeans are pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation.

(7) Industry information

The term ''industry information'' means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the soybean industry, and activities to enhance the image of the soybean industry.

(8) Marketing

The term ''marketing'' means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(9) Net market price

The term ''net market price'' means—

(A) except as provided in subparagraph (B), the sales price or other value received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors, as determined by the Secretary; or

(B) for soybeans pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation, the principal amount of the loan.

(10) Order

The term ''order'' means an order issued under section 6303 of this title.

(11) Person

The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(12) Producer

The term ''producer'' means any person engaged in the growing of soybeans in the United States who owns, or who shares the ownership and risk of loss of, such soybeans.

(13) Promotion

The term ''promotion'' means any action, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets, and any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products.

(14) Qualified State soybean board

The term ''qualified State soybean board'' means a State soybean promotion entity that is authorized by State law. If no such entity exists in a State, the term ''qualified State soybean board'' means a soybean producer-governed entity—

(A) that is organized and operating within a State;

(B) that receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs; and

(C) that meets criteria established by the Board as approved by the Secretary relating to the qualifications of such entity to perform duties under the order and is recognized by the Board as the soybean promotion and research entity within the State.

(15) Research

The term ''research'' means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybeans and soybean products.

(16) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(17) Soybean products

The term ''soybean products'' means products produced in whole or in part from soybeans or soybean by-products.

(18) Soybeans

The term ''soybeans'' means all varieties of Glycine max or Glycine soya.

(19) State

The terms ''State'' and ''United States'' consist of the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 101–624, title XIX, § 1967, Nov. 28, 1990, 104 Stat. 3882.)

§ 6303. Issuance and amendment of orders

(a) In general

To effectuate the declared policy of section 6301(b) of this title, the Secretary, subject to the procedures provided in subsection (b) of this section, shall issue orders under this chapter applicable to producers and first purchasers of soybeans. Any such order shall be national in scope, and not more than one order shall be in effect under this chapter at any one time.

(b) Procedure

(1) Proposal or request for issuance

The Secretary may propose the issuance of an order under this chapter, or an association of soybean producers or any other person that would be affected by an order issued pursuant to this chapter may request the issuance of, and submit a proposal for, such an order.

(2) Notice and comment concerning proposed order

Not later than 30 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order

After notice and opportunity for public comment are given as provided in paragraph (2), 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 under this chapter. Such order shall be issued and become effective not later than 180 days following publication of the proposed order.

(c) Amendments

The Secretary, from time to time, may amend any order issued under this section. The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 101–624, title XIX, § 1968, Nov. 28, 1990, 104 Stat. 3883.)

§ 6304. Required terms in orders

(a) In general

Any order issued under this chapter shall contain the terms and conditions specified in this section.

(b) Establishment and membership of United Soybean Board

(1) In general

The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State or combined units, as provided in this subsection. The cumulative number of seats on the Board shall be the total number of seats to which all the units are entitled.

(2) Seats

The Secretary shall establish State units and combined units and seats on the Board for such units, as follows:

(A) State units

Except as provided in subparagraph (B), each State shall be considered as a unit.

(B) Combined units

A State in which average annual soybean production is less than 3,000,000 bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3,000,000 bushels shall be grouped with other States with average annual soybean production of less than 3,000,000 bushels into a combined unit, in a manner prescribed in the order, and each combined unit shall consist of geographically contiguous States. To the extent practicable, each combined unit shall have an average annual production of soybeans of at least 3,000,000 bushels.

(C) Number of seats per unit

Subject to subparagraph (F), each unit, as established under subparagraph (A) or (B)—

(i) if its average annual soybean production is less than 15,000,000 bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is 15,000,000 bushels or more but less than 70,000,000 bushels, shall be entitled to 2 seats on the Board;

(iii) if its average annual soybean production is 70,000,000 bushels or more but less than 200,000,000 bushels, shall be entitled to 3 seats on the Board; and

(iv) if its average annual soybean production is 200,000,000 bushels or more, shall be entitled to 4 seats on the Board.

(D) Determination of average annual soybean production

For purposes of subparagraphs (A), (B), (C), and (F), the Secretary shall determine average annual soybean production applicable to a crop year by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(E) Reapportionment of seats

At the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any unit to conform with subparagraphs (A) and (B). If the Secretary makes such an adjustment, the Secretary shall reapportion the seats on the Board to conform with subparagraph (C) and any modifications made under subparagraph

(F). If payment of refunds following the initial referendum conducted under section 6305(a) of this title is authorized by producers, in making such adjustments, the Secretary shall exclude, from each State's annual soybean production, those bushels of soybeans on which such refunds are paid.

(F) Adjustment of levels of production

At the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent it determines appropriate, changes in the levels of production used in subparagraphs (A), (B), and (C) to determine per-unit representation on the Board. The Secretary may amend the order to make such changes in levels of production used to determine per-unit representation. Any such amendment to the order shall not be subject to a referendum of producers. A unit may not, as a result of any modification under this subparagraph, lose Board seats to which it is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (D), declines below the levels required for representation, as specified in subparagraphs (A), (B), and (C).

(3) Nominations

(A) In general

The Secretary shall appoint soybean producers to seats established under paragraph (2) from nominations submitted by each unit. Each unit shall submit to the Secretary at least two nominations for each appointment to the Board to which the unit is entitled, as determined under paragraph (2).

(B) Method for obtaining nominations

(i) Initially-established Board

(I) State units

The Secretary shall solicit nominations for each seat on the initially-established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of subparagraph (A) or (B) of section 6302(14) of this title. If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(II) Combined units

The Secretary shall solicit nominations for each seat on the initially-established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits to the Secretary satisfactory evidence that such board meets the criteria described in subparagraph (A) or (B) of section 6302(14) of this title.

(ii) Subsequent appointment

(I) State units

Nominations for each subsequent appointment to a seat on the Board to which a State unit is entitled shall be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(II) Combined units

The Secretary shall solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(iii) Rejection

The Secretary may reject any nomination submitted by a unit under this paragraph. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit shall submit additional nominations, as provided in this paragraph.

(4) Terms

Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially-established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than three consecutive 3-year terms.

(5) Compensation

Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(6) Temporary appointments

(A) Appointment

Notwithstanding paragraphs (1) through (5), the Secretary, under procedures established by the Secretary, shall appoint to the initially-established Board up to three temporary members to serve in addition to the members appointed as otherwise provided in this subsection, as the Secretary determines appropriate for transition purposes under the criteria set out in subparagraph (B). Each such temporary member shall be appointed for a single term not to exceed 3 years.

(B) Representation of certain States

The Secretary shall make temporary appointments to the initially-established Board to ensure, to the extent practicable, that each State with a State soybean board that, prior to November 28, 1990, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

(7) Meetings

The order shall provide for at least one meeting of the Board annually and specify the

circumstances under which additional special meetings of the Board may be held.

(c) Powers and duties of Board

The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) if the Board exercises its authority to establish the Committee described in subsection (g) of this section—

(A) to elect members of the Board to serve on the Committee; and

(B) if the Board assigns to the Committee the power to develop and submit budgets as provided for in subsection (h)(1) of this section, to approve, modify, or reject budgets submitted by the Committee;

(4) to submit budgets to the Secretary for the approval or disapproval of the Secretary;

(5) to contract with appropriate persons to implement plans or projects;

(6) to contract with qualified State soybean boards to implement programs in their States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order;

(8) to recommend to the Secretary amendments to the order;

(9) to provide the Secretary with prior notice of meetings of the Board and meetings of committees of the Board to permit the Secretary, or a designated representative, to attend such meetings; and

(10) to provide not less than annually a report to producers accounting for funds and describing programs implemented, and such reports shall be made available to the public on request.

(d) Board voting procedures

(1) In general

The order shall establish procedures for the conduct of voting by the Board, as provided in this subsection. On or after the end of the 3-year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in the voting procedures of the Board and the Secretary may amend the order to make such changes. Such changes shall not be subject to a referendum of producers.

(2) Number of votes per member

Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) In general

Each member shall be entitled to cast one vote unless a roll call vote is conducted. On a roll call vote, each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) Additional votes

The additional votes that each member is assigned for roll call votes shall be computed as follows:

(i) Assessment level

Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit (net of any refunds made under subsection (*l*)(2) of this section), on the average, during each of the 3 previous fiscal years of the Board.

(ii) First three fiscal years

(I) First fiscal year

During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the 3 immediately preceding crop years.

(II) Second and third fiscal years

The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) Division of votes within units

A unit's total votes under clause (i) or (ii) shall be divided equally among all the members present and voting representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

(3) Motions

(A) In general

Except as provided in subparagraph (B), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) Roll call votes

Any member of the Board may call for a roll call vote on any motion. Except as otherwise provided in the bylaws adopted by the Board, whenever a roll call vote is conducted, the motion shall carry only if it is approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each unit determined by a simple majority of all votes cast by members in that unit).

(4) Committee votes

In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) Proxies

A member may not cast votes by proxy.

(e) Budgets

(1) In general

The order shall provide that the Board shall develop budgets on a fiscal year basis of anticipated expenses and disbursements under the order, including probable costs of adminis-

tration and promotion, research, consumer information, and industry information projects. The Board shall submit such budgets or any substantial modification thereof to the Secretary for the Secretary's approval.

(2) Limitation

No expenditure of funds may be made by the Board unless such expenditure is authorized under a budget or modification approved by the Secretary.

(f) Plans and projects

The order shall provide that the Board shall review or, on its own initiative, develop plans or projects of promotion, research, consumer information, and industry information, to be paid for with funds received by the Board. Such plans or projects shall not become effective until approved by the Secretary.

(g) Soybean Program Coordinating Committee

(1) Establishment

The order may authorize the Board to establish a Soybean Program Coordinating Committee to assist in the administration of the order, as provided in this subsection.

(2) Membership

(A) Composition

The Committee shall be composed of members such that—

(i) not less than two-thirds of the Committee shall be members of the Board, including—

(I) the Chairperson and Treasurer of the Board; and

(II) additional members of the Board elected by the Board; and

(ii) not more than one-third of the Committee shall be producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of State soybean boards and that, on November 28, 1990, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Agricultural Service of the Department.

(B) Certification

To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization shall be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

(3) Terms

Terms of appointment to the Committee shall be for 1 year. No person may serve on the Committee for more than 6 consecutive terms.

(4) Compensation

Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing duties for the Committee.

(5) Chairperson

The Chairperson of the Board shall serve as Chairperson of the Committee.

(6) Quorum

A quorum of the Committee shall consist of the number of members of the Committee equal to three-fourths of the total membership of the Committee.

(h) Powers and duties of Committee

The order shall define the powers and duties that the Board may assign to the Committee, which may include the following:

(1) Budgets

The Board may assign to the Committee the power to develop and submit to the Board, for approval, budgets on a fiscal year basis, as provided for in subsection (e) of this section. The Board shall review and approve, reject, modify, or substitute a budget proposed by the Committee, and submit budgets to the Secretary for the Secretary's approval under subsection (e) of this section.

(2) Plans and projects

The Board may assign to the Committee the power to review, or on its own initiative develop, plans or projects for promotion, research, consumer information, and industry information activities, to be paid for with funds received by the Board as provided for in subsection (f) of this section. Each such plan or project shall be presented to the Board for approval.

(3) Voting

A recommendation to be presented to the Board relating to proposed budgets or proposed plans and projects shall require the concurring vote of at least two-thirds of the members present at a meeting of the Committee.

(i) Administration

(1) Expenses

The order shall provide that the Board shall be responsible for all expenses of the Board.

(2) Staff

(A) In general

The order shall provide that the Board may establish an administrative staff or facilities of its own or contract for the use of the staff and facilities of national, nonprofit, producer-governed organizations that represent producers of soybeans.

(B) Limitation on salaries

If the Board establishes an administrative staff of its own, the Board is authorized to expend for administrative staff salaries and benefits an amount not to exceed one percent of the projected level of assessments to be collected by the Board, net of any refunds to be made under subsection (*l*)(2) of this section, for that fiscal year.

(C) Reimbursement of organization

If the staff of national, nonprofit, producer-governed organizations that represent producers of soybeans are used by the Board, the staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of, and authorized by, the Board.

(3) Limitation on administrative costs

The order shall provide that costs incurred by the Board in administering the order (in-

cluding the cost of staff but not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 percent of the projected level of assessments to be collected by the Board, net of any refunds to be made under subsection (*l*)(2) of this section, for that fiscal year.

(j) Contracts and agreements

(1) Authority

To ensure coordination and efficient use of funds, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of the activities authorized by this chapter with national, nonprofit, producer-governed organizations that represent producers of soybeans, and for the payment thereof with funds received by the Board under the order.

(2) Coordination

To enhance coordination, the Board, when entering into contracts or agreements for the implementation and carrying out of activities authorized by this chapter, shall ensure that all plans or projects implemented for consumer information, industry information, promotion, or research are each implemented by a single entity. There shall not be in force, at any one time, more than one contract or agreement for implementation of plans or projects for consumer information, for industry information, for promotion, or for research, except that, upon approval of the Secretary, the Board may contract with qualified State soybean boards to implement plans or projects within their respective States.

(3) Terms

Any contract or agreement entered into under this subsection shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall not become effective until it has been approved by the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(4) Communications to producers

The order may provide that—

(A) the Board may enter into contracts or agreements with qualified State soybean boards that apply therefor and agree to the terms thereof, for the implementation of plans or projects to coordinate and facilitate communications to producers regarding the conduct of activities under the order and for the payment of the costs of the plans or projects with funds received by the Board under the order; and

(B) to facilitate the funding of plans or projects described in subparagraph (A), if the order does not authorize the payment of refunds, the Board shall allocate for such funding each year an amount not less than the cumulative amount of all producer contributions to qualified State soybean boards during the previous year that the State boards were unable to retain, and forwarded to the Board, because producers received refunds on such State contributions, as determined by the Board based on information submitted by the qualified State soybean boards.

(5) Apportionment of funds to qualified State soybean boards

(A) In general

In using the funds allocated each year under paragraph (4)(B) for payment of the costs of contracts or agreements described in paragraph (4)(A), subject to subparagraph (B), the Board shall apportion such allocated funds among States so that each qualified State soybean board receives an amount equal to the amount of such allocated funds attributable to refunds in the State during the previous year, as determined by the Board based on information submitted by the qualified State soybean boards.

(B) Exception

The Board shall not be required to apportion funds to a qualified State soybean board, as provided in subparagraph (A), if—

(i) the qualified State soybean board has not entered into a contract or agreement with the Board for the implementation of plans or projects described in paragraph (4)(A); or

(ii) the amount to be apportioned to the qualified State soybean board is less than the cost to the Board of overseeing the use of such apportionment during the year involved, and the contract or agreement shall so provide.

(k) Books and records of Board

The order shall require the Board to—

(1) maintain such books and records, which shall be available to the Secretary for inspection and audit, as the Secretary may prescribe;

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year and a report of such audit to be submitted to the Secretary. The Secretary shall make such report available to the public upon request.

(*l*) Assessments

(1) In general

(A) First purchasers

(i) Collection

The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the

Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate.

(ii) Rate

The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser.

(iii) One assessment

No more than one assessment shall be made on any soybeans.

(B) Direct processing

The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2) Refunds

(A) Refunds prior to initial referendum

(i) In general

The order shall provide that, during the period prior to the approval of the continuation of the initial order in the referendum provided for in section 6305(a) of this title, as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if—

(I) such producer is responsible for paying the assessment; and

(II) such producer does not support the programs, projects, or activities implemented under the order.

(ii) By Board

During the period referred to in clause (i), refunds shall be provided equally from the Board and, where applicable, the qualified State soybean board, as determined by the Secretary.

(B) Administration

Subject to subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period (not to exceed 90 days) prescribed by the Board.

(C) Submission of refund demands

(i) In general

In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board. Such board shall provide notice to producers, in a manner prescribed by the Board, of their right to such refunds, and shall process such submissions under procedures established by State law applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State law, such submissions shall be processed under procedures established under this paragraph.

(ii) No qualified State soybean board

In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

(D) Time limit for making refund

Subject to subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no event more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(E) Order not favored

If the Secretary determines that producers do not favor the continuation of the order in the referendum provided for in section 6305(a) of this title, refunds shall be made under this paragraph on collected assessments until such collections are terminated, as provided in section 6305(a) of this title.

(F) Refunds after the initial referendum

(i) In general

The order shall contain provisions relating to refunds after the approval of the order in the initial referendum under section 6305(a) of this title as required in this subparagraph.

(ii) Availability

Effective for the period beginning on the date the Secretary determines the result of the initial referendum under section 6305(a) of this title and ending on a date (not later than 18 months thereafter) established by the Secretary, the qualified State soybean board and, where no qualified State soybean board exists, the Board shall make refunds available to soybean producers at the end of the fiscal year from escrowed funds, as provided for in clause (vii). Such refunds shall be made available, under the procedures specified in subparagraphs (A) through (D) to the extent not inconsistent with this subparagraph, to producers who have requested refunds during such period.

(iii) Poll

Not later than the end of the period provided for in clause (ii), the Secretary shall conduct a poll of soybean producers, using the procedures provided for in section 6305(b)(3) of this title, to determine if producers support the conduct of a referendum on the continuance of the payment of refunds under the order.

(iv) Referendum

If the Secretary determines, based on the poll conducted under clause (iii), that the conduct of a referendum is supported by at least 20 percent of the producers (not in excess of one-fifth of which may be producers in any one State) who, during a rep-

resentative period, have been engaged in the production of soybeans, the Secretary shall conduct a referendum among all such producers for the purpose of determining whether such producers favor the continuation of the payment of refunds under the order. Such referendum shall be conducted, under the procedures provided for in section 6305 of this title, not later than 1 year after the Secretary determines, based on the poll, that the referendum is required.

(v) Continued refunds

If the Secretary conducts a referendum under clause (iv), the qualified State soybean board and, where no qualified State soybean board exists, the Board shall continue to make refunds available to producers as provided for in clause (ii) during the period prior to the conduct of the referendum, which shall be payable at the end of the period from the escrowed funds, as provided in clause (vii).

(vi) Continuation or cessation of refunds

If the Secretary determines, in the referendum conducted under clause (iv), that continuation of the payment of refunds is favored by a majority of the producers voting in such referendum, the qualified State soybean board and, where no qualified State soybean board exists, the Board shall continue to make refunds available to producers as provided for in clause (ii) for each 1-year period that follows until such time as soybean producers approve an amendment to the order to eliminate such refunds. Such refunds shall be payable at the end of each such 1-year period from escrowed funds, as provided in clause (vii). If the Secretary determines in the referendum that continuation of such refunds is not favored by a majority of producers voting in the referendum, the right to such refunds shall cease immediately.

(vii) Escrow accounts

(I) Establishment

The qualified State soybean board and, for producers in States where no qualified State soybean board exists, the Board shall establish escrow accounts to be used to pay refunds under clause (ii) and, if necessary, clauses (v) and (vi).

(II) Separate accounts

The qualified State soybean board and, where no qualified State soybean board exists, the Board shall establish separate escrow accounts for each State from which producer assessments are collected for the purpose of making refunds under clauses (ii), (v), and (vi), respectively.

(III) Deposits

The qualified State soybean board and, where no qualified State soybean board exists, the Board shall deposit into its escrow account for refunds under clause (ii), (v), or (vi), as appropriate, 10 percent of the total assessment collected by the qualified State soybean board and, where no qualified State soybean board exists, the Board (including the assessment provided under paragraph (2) and contributions by producers to qualified State soybean boards under paragraph (4)), during the time period involved.

(IV) Refunds made from escrow account

Refunds requested by producers from a State under clause (ii) (or if refunds are available under clause (v) or (vi)) during the time period involved shall be made from the escrow account that is applicable to that clause for such State.

(V) Proration

If the funds deposited in a State account established under subclause (I) for purposes described under clauses (ii), (v), and (vi) are not sufficient to honor all requests for refunds made by producers from that State during the time period involved, the qualified State soybean board and, where no qualified State soybean board exists, the Board shall prorate the amount of such refunds from the State's account among all producers from that State that request refunds.

(VI) Surplus funds

Any funds not refunded to producers in a State under this clause shall be divided equally between the Board and the qualified State soybean board of such State. Such funds shall be used to carry out programs under this chapter.

(VII) Refund period

In applying this clause to refunds under clause (vi), each annual refund period shall be treated separately.

(3) Use

The assessments (net of any refunds under paragraph (2)) shall be used for—

(A) payment of the expenses incurred in implementation and administration of the order;

(B) the establishment of a reasonable reserve; and

(C) reimbursement to the Secretary of administrative costs incurred by the Secretary to implement and administer the order, other than one-half of the cost incurred for the referendum conducted under paragraph (2)(F).

(4) Credit for contributions to qualified State soybean boards

A producer who can establish that such producer is contributing to a qualified State soybean board shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. For purposes of this chapter, there shall be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified

State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as are appropriate to ensure effective coordination of collection procedures among States.

(5) Single process of assessment

The procedures in the order for the collection of assessments shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order.

(m) Credit for certain costs to States

The order shall provide that the Board may provide a credit to each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by State law enacted prior to November 28, 1990, except that the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 percent of the amount of assessments collected and remitted to the Board under subsection (*l*) of this section.

(n) Minimum level of assessments to States

(1) Pre-referendum period

The order shall contain provisions to ensure that, during the period prior to the conduct of the referendum provided for in section 6305(a) of this title, each qualified State soybean board receives annually an amount of funds equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph (3).

(2) Post-referendum period

The order shall provide, effective after the conduct of the referendum provided for in section 6305(a) of this title, subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which—

(A) the amount equal to 1 cent times the average number of bushels of soybeans produced in the State during each of the preceding 5 years (excluding the year in which the production is the highest and the year in which the production is the lowest); exceeds

(B) the total amount collected by the qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (*l*) of this section.

(3) Limitation

The total amount of credits under paragraph (1) or (2) and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in that State under subsection (*l*) of this section (net of any refunds made under paragraph (2) of subsection (*l*) of this section) in that year.

(*o*) Investment of funds

(1) In general

The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending their disbursement, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) Income

Income from any such investment may be used for any purpose for which the invested funds may be used.

(p) Prohibition on use of funds to influence governmental action

(1) In general

Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order; or

(C) any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof.

(q) Books and records of first purchasers and certain producers

(1) Recordkeeping

(A) In general

The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection by the Board or the Secretary such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. The order shall exempt small producers processing soybeans of their own production from such recordkeeping and reporting requirements if they are not required to pay assessments under the order.

(B) "Small producer" defined

The order shall define the term ''small producer'' as such term is used in subparagraph (A).

(2) Use of information

(A) In general

Information maintained under paragraph (1) shall be made available to the Secretary

as is appropriate for the administration or enforcement of this chapter, or any order or regulation issued under this chapter.

(B) Other information

The Secretary shall authorize the use under this chapter of information regarding first purchasers that is accumulated under a law or regulation other than this chapter or regulations under this chapter.

(3) Confidentiality

(A) In general

Except as otherwise provided in this chapter, commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department, members of the Board, and agents of the Board.

(B) Permitted uses

Information obtained under the authority of this chapter shall be made available to any agency or officer of the Federal Government for—

(i) the implementation of this chapter;

(ii) any investigatory or enforcement action necessary for the implementation of this chapter; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(C) Other exceptions

Nothing in subparagraph (A) may be deemed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

(4) Penalty

Any person who willfully violates the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and, if a member or an agent of the Board or an officer or employee of the Department, shall be removed from office.

(r) Incidental terms and conditions

The order shall provide terms and conditions, not inconsistent with the provisions of this chapter, as necessary to effectuate the provisions of the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (*l*) of this section.

(Pub. L. 101–624, title XIX, § 1969, Nov. 28, 1990, 104 Stat. 3884; Pub. L. 102–237, title VIII, § 806(1), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (g)(2)(A)(ii). Pub. L. 102–237, § 806(1)(A), substituted ''Agricultural'' for ''Argicultural''.

Subsec. (*l*)(2)(F)(vii)(V). Pub. L. 102–237, § 806(1)(B), substituted ''that request'' for ''that requests''.

Subsec. (q)(4). Pub. L. 102–237, § 806(1)(C), inserted a comma after ''and'' and struck out semicolon after ''Board''.

§ 6305. Referenda

(a) Initial referendum

(1) Requirement

Not earlier than 18 months or later than 36 months following issuance of an order under section 6303 of this title, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued.

(2) Advance notice

The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. Any such notice shall be provided without advertising expenses by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Extension Service offices and county Agricultural Stabilization and Conservation Service offices, and by other appropriate means specified in the order. Such notice shall include information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent facts.

(3) Approval of order

Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) Disapproval of order

If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) Additional referenda

(1) In general

(A) Requirement

After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) Representative group of producers

An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth may be producers in any one State, as determined by the Secretary.

(C) Eligible producers

Each additional referendum shall be conducted among all producers who, during a

representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

(2) Disapproval of order

If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 6 months after such determination and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

(3) Opportunity to request additional referenda

(A) In general

To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this chapter and every 5 years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

(B) Method of making request

(i) In-person requests

To carry out subparagraph (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices or county Agricultural Stabilization and Conservation Service offices during a period established by the Secretary, or as provided in clause (ii).

(ii) Mail-in requests

In lieu of making such requests in person, producers may make requests by mail. Mail-in requests shall be postmarked no later than the end of the period established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) Notifications

The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedure specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers may act to request the additional referenda under this paragraph. The Secretary shall take such other actions as the Secretary determines are necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) Action by Secretary

As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as are required under paragraph (1).

(E) Time limit

Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) Procedures

(1) Reimbursement of Secretary

The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under this section, except for the salaries of Government employees associated with the conduct of a referendum under subsections (a) and (b) of this section.

(2) Date

Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) Place

Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided on request. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

(Pub. L. 101–624, title XIX, § 1970, Nov. 28, 1990, 104 Stat. 3898; Pub. L. 102–237, title VIII, § 806(2), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b)(3)(A). Pub. L. 102–237 made technical amendment to reference to this chapter to correct reference to corresponding provision of original act.

§ 6306. 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 a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) Ruling

After a hearing under paragraph (2), the Secretary shall make a ruling on the petition that is the subject of the hearing, which shall be final if such ruling is in accordance with applicable law.

(b) Review

(1) Commencement of action

The district court of the United States in any district in which the person who is a petitioner under subsection (a) of this section resides or carries on business shall have jurisdiction to review a ruling on the petition of such person under such subsection, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under such subsection (a) of this section.

(2) Process

Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) of this section is not in accordance with applicable 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.

(4) Enforcement

The pendency of proceedings instituted under subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 6307 of this title.

(Pub. L. 101–624, title XIX, § 1971, Nov. 28, 1990, 104 Stat. 3900.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 6307. Enforcement

(a) Jurisdiction

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this chapter.

(b) Referral to Attorney General

A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by providing a suitable written notice or warning to the person who committed such violation or by administrative action under section 6306 of this title.

(c) Civil penalties and orders

(1) Civil penalties

Any person who willfully violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulations, may be assessed—

(A) a civil penalty by the Secretary of not more than $1,000 for each such violation; and

(B) in the case of a willful failure to pay, collect, or remit an assessment as required by the order or regulation, an additional penalty equal to the amount of such assessment.

Each violation shall be a separate offense.

(2) Cease-and-desist orders

In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing any such violation.

(3) Notice and hearing

No penalty shall be assessed or cease-and-desist order issued by the Secretary under this subsection unless the person against whom the penalty is assessed or the order is issued is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the Secretary's order with the appropriate district court of the United States in accordance with subsection (d) of this section.

(d) Review by district court

(1) Commencement of action

Any person who has been determined to be in violation of this chapter, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c) of this section, may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or conducts business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record

The Secretary shall file promptly in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary has determined that the person had committed a violation.

(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, including 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;