for sale or advertise, by variety name, seed not certified by an official seed certifying agency, when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act [7 U.S.C. 2321 et seq.] specifies sale only as a class of certified seed: *Provided*, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owners of the variety.

(Aug. 9, 1939, ch. 615, title V, § 501, as added Pub. L. 91–577, title III, § 142(a), Dec. 24, 1970, 84 Stat. 1558; amended Pub. L. 97–98, title XI, § 1118, Dec. 22, 1981, 95 Stat. 1272.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in text, is Pub. L. 91–577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§ 2321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97–98 substituted ''sell or offer for sale or advertise, by variety name, seed'' for ''sell by variety name seed'', ''certifying agency, when'' for ''certifying agency when'', and ''owners of the variety'' for ''owner of the variety''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective Dec. 24, 1970, see section 141 of Pub. L. 91–577, set out as a note under section 2321 of this title.

CHAPTER 38—DISTRIBUTION AND MARKETING OF AGRICULTURAL PRODUCTS

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SUBCHAPTER I—GENERAL PROVISIONS

§ 1621. Congressional declaration of purpose; use of existing facilities; cooperation with States

The Congress declares that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential to a prosperous agriculture and is indispensable to the maintenance of full employment and to the welfare, prosperity, and health of the Nation. It is further declared to be the policy of Congress to promote through research, study, experimentation, and through cooperation among Federal and State agencies, farm organizations, and private industry a scientific approach to the problems of marketing, transportation, and distribution of agricultural products similar to the scientific methods which have been utilized so successfully during the past eighty-four years in connection with the production of agricultural products so that such products capable of being produced in abundance may be marketed in an orderly manner and efficiently distributed. In order to attain these objectives, it is the intent of Congress to provide for (1) continuous research to improve the marketing, handling, storage, processing, transpor-

tation, and distribution of agricultural products; (2) cooperation among Federal and State agencies, producers, industry organizations, and others in the development and effectuation of research and marketing programs to improve the distribution processes; (3) an integrated administration of all laws enacted by Congress to aid the distribution of agricultural products through research, market aids and services, and regulatory activities, to the end that marketing methods and facilities may be improved, that distribution costs may be reduced and the price spread between the producer and consumer may be narrowed, that dietary and nutritional standards may be improved, that new and wider markets for American agricultural products may be developed, both in the United States and in other countries, with a view to making it possible for the full production of American farms to be disposed of usefully, economically, profitably, and in an orderly manner. In effectuating the purposes of this chapter, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. To the maximum extent practicable marketing research work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural experiment stations; marketing educational and demonstrational work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural extension service; market information, inspection, regulatory work and other marketing service done under this chapter in cooperation with the State agencies shall be done in cooperation with the State departments of agriculture, and State bureaus and departments of markets.

(Aug. 14, 1946, ch. 966, title II, § 202, 60 Stat. 1087.)

REFERENCES IN TEXT

Under this chapter, referred to in text, was in the original ''hereunder'', and was translated as meaning under title II of act Aug. 14, 1946, which is classified generally to this chapter.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–532, § 1, Nov. 22, 2000, 114 Stat. 2541, provided that: ''This Act [enacting subchapter III of this chapter] may be cited as the 'Dairy Market Enhancement Act of 2000'.''

SHORT TITLE

Section 201 of title II of act Aug. 14, 1946, provided that: ''This title [enacting this chapter] may be cited as the 'Agricultural Marketing Act of 1946'.''

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SPECIALTY CROPS COMPETITIVENESS

Pub. L. 108–465, §§ 2, 3, title I, § 101, Dec. 21, 2004, 118 Stat. 3882, 3883, as amended by Pub. L. 110–234, title X, § 10109, May 22, 2008, 122 Stat. 1338; Pub. L. 110–246, § 4(a), title X, § 10109, June 18, 2008, 122 Stat. 1664, 2100, provided that:

''SEC. 2. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds the following:

''(1) A secure domestic food supply is a national security imperative for the United States.

''(2) A competitive specialty crop industry in the United States is necessary for the production of an abundant, affordable supply of highly nutritious fruits, vegetables, and other specialty crops, which are vital to the health and well-being of all Americans.

''(3) Increased consumption of specialty crops will provide tremendous health and economic benefits to both consumers and specialty crop growers.

''(4) Specialty crop growers believe that there are numerous areas of Federal agriculture policy that could be improved to promote increased consumption of specialty crops and increase the competitiveness of producers in the efficient production of affordable specialty crops in the United States.

''(5) As the globalization of markets continues, it is becoming increasingly difficult for United States producers to compete against heavily subsidized foreign producers in both the domestic and foreign markets.

''(6) United States specialty crop producers also continue to face serious tariff and non-tariff trade barriers in many export markets.

''(b) PURPOSE.—It is the purpose of this Act [see Short Title of 2004 Amendment note set out under section 3101 of this title] to make necessary changes in Federal agriculture policy to accomplish the goals of increasing fruit, vegetable, and nut consumption and improving the competitiveness of United States specialty crop producers.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) The term 'specialty crop' means fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops (including floriculture).

''(2) The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

''(3) The term 'State department of agriculture' means the agency, commission, or department of a State government responsible for agriculture within the State.

''TITLE I—STATE ASSISTANCE FOR SPECIALTY CROPS

''SEC. 101. SPECIALTY CROP BLOCK GRANTS.

''(a) AVAILABILITY AND PURPOSE OF GRANTS.—Using the funds made available under subsection (j), the Secretary of Agriculture shall make grants to States for each of the fiscal years 2005 through 2012 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops.

''(b) GRANTS BASED ON VALUE OF PRODUCTION.—Subject to subsection (c), the amount of the grant for a fiscal year to a State under this section shall bear the same ratio to the total amount made available under subsection (j) for that fiscal year as the value of specialty crop production in the State during the preceding calendar year bears to the value of specialty crop production during the preceding calendar year in all States whose application for a grant for that fiscal year is accepted by the Secretary under subsection (f).

''(c) MINIMUM GRANT AMOUNT.—Notwithstanding subsection (b), each State shall receive a grant under this section for each fiscal year in an amount that is at least equal to the higher of—

''(1) $100,000; or

''(2) ⅓ of 1 percent of the total amount of funding made available to carry out this section for the fiscal year.

''(d) ELIGIBILITY.—To be eligible to receive a grant under this section, a State department of agriculture shall prepare and submit, for approval by the Secretary of Agriculture, an application at such time, in such a manner, and containing such information as the Secretary shall require by regulation, including—

''(1) a State plan that meets the requirements of subsection (e);

''(2) an assurance that the State will comply with the requirements of the plan; and

''(3) an assurance that grant funds received under this section shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.

''(e) PLAN REQUIREMENTS.—The State plan shall identify the lead agency charged with the responsibility of carrying out the plan and indicate how the grant funds will be utilized to enhance the competitiveness of specialty crops.

''(f) REVIEW OF APPLICATION.—In reviewing the application of a State submitted under subsection (d), the Secretary of Agriculture shall ensure that the State plan would carry out the purpose of grant program, as specified in subsection (a). The Secretary may accept or reject applications for a grant under this section.

''(g) EFFECT OF NONCOMPLIANCE.—If the Secretary of Agriculture, after reasonable notice to a State, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, the Secretary may disqualify, for one or more years, the State from receipt of future grants under this section.

''(h) AUDIT REQUIREMENTS.—For each year that a State receives a grant under this section, the State shall conduct an audit of the expenditures of grant funds by the State. Not later than 30 days after the completion of the audit, the State shall submit a copy of the audit to the Secretary of Agriculture.

''(i) REALLOCATION.—

''(1) IN GENERAL.—The Secretary shall reallocate to other States in accordance with paragraph (2) any amounts made available for a fiscal year under this section that are not obligated or expended by a date during that fiscal year determined by the Secretary.

''(2) PRO RATA ALLOCATION.—The Secretary shall allocate funds described in paragraph (1) pro rata to the remaining States that applied during the specified grant application period.

''(3) USE OF REALLOCATED FUNDS.—Funds allocated to a State under this subsection shall be used by the State only to carry out projects that were previously approved in the State plan of the State.

''(j) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make grants under this section, using—

''(1) $10,000,000 for fiscal year 2008;

''(2) $49,000,000 for fiscal year 2009; and

''(3) $55,000,000 for each of fiscal years 2010 through 2012.''

NATIONAL COMMISSION ON FOOD MARKETING

Pub. L. 88–354, July 3, 1964, 78 Stat. 269, as amended by Pub. L. 89–20, May 15, 1965, 79 Stat. 111, provided for the establishment of a bipartisan National Commission on Food Marketing composed of fifteen members, five from the Senate, five from the House of Representatives and five from outside the Federal Government, to study and appraise the marketing structure of the food industry and to make a final report of its findings and conclusions to the President and to the Congress by July 1, 1966. The Commission ceased to exist ninety days after submission of its final report.

§ 1622. Duties of Secretary relating to agricultural products

The Secretary of Agriculture is directed and authorized:

(a) Determination of methods of processing, packaging, marketing, etc.; publication of results

To conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products: *Provided*, That the results of such research shall be made available to the public for the purpose of expanding the use of American agricultural products in such manner as the Secretary of Agriculture may determine.

(b) Determination of costs

To determine costs of marketing agricultural products in their various forms and through the various channels and to foster and assist in the development and establishment of more efficient marketing methods (including analyses of methods and proposed methods), practices, and facilities, for the purpose of bringing about more efficient and orderly marketing, and reducing the price spread between the producer and the consumer.

(c) Improvement of standards of quality, condition, etc.; standard of quality for ice cream

To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices. Within thirty days after September 29, 1977, the Secretary shall by regulation adopt a standard of quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon and contain not less than 20 percent total milk solids, constituted of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. Whey shall not, by weight, be more than 25 percent of the milk solids not fat. Only those products which meet the standard issued by the Secretary may bear a symbol thereon indicating that they meet the Department of Agriculture standard for ''ice cream''.

(d) Elimination of artificial barriers to free movement

To conduct, assist, foster, and direct studies and informational programs designed to eliminate artificial barriers to the free movement of agricultural products.

(e) Development of new markets

(1) In general

To foster and assist in the development of new or expanded markets (domestic and foreign) and new and expanded uses and in the moving of larger quantities of agricultural products through the private marketing system to consumers in the United States and abroad.

(2) Fees and penalties

(A) In general

In carrying out paragraph (1), the Secretary may assess and collect reasonable fees and late payment penalties to mediate and arbitrate disputes arising between parties in connection with transactions involving agricultural products moving in foreign commerce under the jurisdiction of a multinational entity.

(B) Deposit

Fees and penalties collected under subparagraph (A) shall be deposited into the ac-

count that incurred the cost of providing the mediation or arbitration service.

(C) Availability

Fees and penalties collected under subparagraph (A) shall be available to the Secretary without further Act of appropriation and shall remain available until expended to pay the expenses of the Secretary for providing mediation and arbitration services under this paragraph.

(D) No requirement for use of services

No person shall be required by the Secretary to use the mediation and arbitration services provided under this paragraph.

(f) Increasing consumer education

To conduct and cooperate in consumer education for the more effective utilization and greater consumption of agricultural products: *Provided*, That no money appropriated under the authority of this Act shall be used to pay for newspaper or periodical advertising space or radio time in carrying out the purposes of this section and subsection (e) of this section.

(g) Collection and dissemination of marketing information

To collect and disseminate marketing information, including adequate outlook information on a market-area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and bringing about a balance between production and utilization of agricultural products.

(h) Inspection and certification of products in interstate commerce; credit and future availability of funds; investment; certificates as evidence; penalties

(1) To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, except that no person shall be required to use the service authorized by this subsection.

(2)(A) Any fees collected under this subsection, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the trust fund account that incurs the cost of the services provided under this subsection and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services.

(B) Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

(3) Any official certificate issued under the authority of this subsection shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(4) Whoever knowingly shall falsely make, issue, alter, forge, or counterfeit any official certificate, memorandum, mark, or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under this section or knowingly cause or procure, or aid, assist in, or be a party to, such false making, issuing, altering, forging, or counterfeiting, or whoever knowingly shall possess, without promptly notifying the Secretary of Agriculture or his representative, utter, publish, or use as true, or cause to be uttered, published, or used as true, any such falsely made, altered, forged, or counterfeited official certificate, memorandum, mark, identification, or device, or whoever knowingly represents that an agricultural product has been officially inspected or graded (by an authorized inspector or grader) under the authority of this section when such commodity has in fact not been so graded or inspected shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(5) Shell eggs packed under the voluntary grading program of the Department of Agriculture shall not have been shipped for sale previous to being packed under the program, as determined under a regulation promulgated by the Secretary.

(6) IDENTIFICATION OF HONEY.—

(A) IN GENERAL.—The use of a label or advertising material on, or in conjunction with, packaged honey that bears any official certificate of quality, grade mark or statement, continuous inspection mark or statement, sampling mark or statement, or any combination of the certificates, marks, or statements of the Department of Agriculture is hereby prohibited under this Act unless there appears legibly and permanently in close proximity (such as on the same side(s) or surface(s)) to the certificate, mark, or statement, and in at least a comparable size, the 1 or more names of the 1 or more countries of origin of the lot or container of honey, preceded by the words ''Product of'' or other words of similar meaning.

(B) VIOLATION.—A violation of the requirements of subparagraph (A) may be deemed by the Secretary to be sufficient cause for debarment from the benefits of this Act only with respect to honey.

(i) Development of facilities for assembling, processing, transporting, etc.

To determine the needs and develop or assist in the development of plans for efficient facilities and methods of operating such facilities for the proper assembly, processing, transportation, storage, distribution, and handling of agricultural products.

(j) Improvement of transportation facilities and rates

To assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Com-

merce Commission, the Maritime Commission,,[1] or other Federal or State transportation regulatory body, or the Secretary of Transportation, with respect to rates, charges, tariffs, practices, and services, or by working directly with individual carriers or groups of carriers.

(k) Collection and dissemination of marketing statistics

To collect, tabulate, and disseminate statistics on marketing agricultural products, including, but not restricted to statistics on market supplies, storage stocks, quantity, quality, and condition of such products in various positions in the marketing channel, utilization of such products, and shipments and unloads thereof.

(*l*) Development of procurement standards and specifications

To develop and promulgate, for the use and at the request of any Federal agency or State, procurement standards and specifications for agricultural products, and submit such standards and specifications to such agency or State for use or adoption for procurement purposes.

(m) Promotion of research for handling, storing, preserving, etc.

To conduct, assist, encourage, and promote research, investigation, and experimentation to determine the most efficient and practical means, methods, and processes for the handling, storing, preserving, protecting, processing, and distributing of agricultural commodities to the end that such commodities may be marketed in an orderly manner and to the best interest of the producers thereof.

(n) Grading program

To establish within the Department of Agriculture a voluntary fee based grading program for—

(1) catfish (as defined by the Secretary under paragraph (2) of section 601(w) of title 21); and

(2) any additional species of farm-raised fish or farm-raised shellfish—

(A) for which the Secretary receives a petition requesting such voluntary fee based grading; and

(B) that the Secretary considers appropriate.

(*o*) General research, services, and activities

To conduct such other research and services and to perform such other activities as will facilitate the marketing, distribution, processing, and utilization of agricultural products through commercial channels.

(Aug. 14, 1946, ch. 966, title II, § 203, 60 Stat. 1087; Aug. 9, 1955, ch. 632, § 1, 69 Stat. 553; Pub. L. 95–113, title II, § 206, Sept. 29, 1977, 91 Stat. 920; Pub. L. 97–31, § 12(2), Aug. 6, 1981, 95 Stat. 153; Pub. L. 98–403, § 2, Aug. 28, 1984, 98 Stat. 1480; Pub. L. 98–443, § 9(j), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 105–277, div. A, § 101(a) [title VII, § 755(a)], Oct. 21, 1998, 112 Stat. 2681, 2681–34; Pub. L. 106–472, title III, § 303, Nov. 9, 2000, 114 Stat. 2069; Pub. L. 110–234, title X, § 10402(a), title XI, § 11016(a), May 22, 2008, 122 Stat. 1349, 1368; Pub. L. 110–246, § 4(a), title X, § 10402(a), title XI, § 11016(a), June 18, 2008, 122 Stat. 1664, 2110, 2130.)

[1] So in original.

REFERENCES IN TEXT

This Act, referred to in subsecs. (f) and (h)(6), is act Aug. 14, 1946, ch. 966, 60 Stat. 1082, which enacted this chapter and sections 427h to 427j of this title and amended section 427 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (h). Pub. L. 110–246, § 10402(a), designated the first to sixth sentences of existing provisions as pars. (1), (2)(A), (2)(B), and (3) to (5), respectively, and added par. (6).

Subsecs. (n), (*o*). Pub. L. 110–246, § 11016(a), added subsec. (n) and redesignated former subsec. (n) as (*o*).

2000—Subsec. (e). Pub. L. 106–472 inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

1998—Subsec. (h). Pub. L. 105–277 inserted at end ''Shell eggs packed under the voluntary grading program of the Department of Agriculture shall not have been shipped for sale previous to being packed under the program, as determined under a regulation promulgated by the Secretary.''

1984—Subsec. (h). Pub. L. 98–403 inserted provisions relating to the credit of certain funds to the trust fund account which incurs the cost of services provided under this subsection, the future availability of those funds, and investment thereof by the Secretary of Agriculture or the Secretary of the Treasury.

Subsec. (j). Pub. L. 98–443 struck out ''the Civil Aeronautics Board'' after ''the Maritime Commission,''.

1981—Subsec. (j). Pub. L. 97–31 inserted reference to Secretary of Transportation.

1977—Subsec. (c). Pub. L. 95–113 inserted provisions relating to the setting of a standard of quality for ice cream.

1955—Subsec. (h). Act Aug. 9, 1955, inserted sentence to provide penalties for forgery or alteration of inspection certificates, unauthorized use of official grade marks or designations, and false or deceptive reference to United States grade standards or services.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

Pub. L. 110–234, title X, § 10402(b), May 22, 2008, 122 Stat. 1349, and Pub. L. 110–246, § 4(a), title X, § 10402(b), June 18, 2008, 122 Stat. 1664, 2111, provided that: ''The amendments made by subsection (a) [amending this section] take effect on the date that is 1 year after the date of enactment of this Act [June 18, 2008].''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of this title.]

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise

provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

Section 304 of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840, set out in the Appendix to Title 5, Government Organization and Employees, abolished Federal Maritime Board, including offices of members of Board. Functions of Board transferred either to Federal Maritime Commission or to Secretary of Commerce by sections 103 and 202 of 1961 Reorg. Plan No. 7.

United States Maritime Commission abolished by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, set out in the Appendix of Title 5, Government Organization and Employees, which transferred part of its functions and part of functions of its Chairman to Federal Maritime Board and Chairman thereof, such Board having created by that Plan as an agency within Department of Commerce with an independent status in some respects, and transferred remainder of such Commission's functions and functions of its Chairman to Secretary of Commerce, with power vested in Secretary to authorize their performance by Maritime Administrator, head of Maritime Administration, which likewise was established by Plan in Department of Commerce with provision that chairman of said Federal Maritime Board should, ex officio, be such Administrator.

Executive and administrative functions of Maritime Commission transferred to Chairman of Maritime Commission by 1949 Reorg. Plan No. 6, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069, set out in the Appendix to Title 5.

AGRICULTURAL PROCESSING EQUIPMENT; INSPECTION AND CERTIFICATION; FEE

Pub. L. 106–387, § 1(a) [title VII, § 729], Oct. 28, 2000, 114 Stat. 1549, 1549A–33, provided that: ''Hereafter, none of the funds appropriated by this Act or any other Act may be used to:

''(1) carry out the proviso under 7 U.S.C. 1622(f); or

''(2) carry out 7 U.S.C. 1622(h) unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products under that section, as determined by the Secretary: *Provided*, That this provision shall not affect the authority of the Secretary to carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–78, title VII, § 734, Oct. 22, 1999, 113 Stat. 1165.

Pub. L. 105–277, div. A, § 101(a) [title VII, § 747], Oct. 21, 1998, 112 Stat. 2681, 2681–32, as amended by Pub. L. 106–31, title V, § 5001(c), May 21, 1999, 113 Stat. 109.

COLLECTION AND DISSEMINATION OF INFORMATION ON PRICES RECEIVED FOR BULK CHEESE

Pub. L. 105–18, title II, § 1001, June 12, 1997, 111 Stat. 172, provided that not later than 30 days after June 12, 1997, Secretary of Agriculture was to collect and disseminate, on weekly basis, statistically reliable information, obtained from cheese manufacturing areas in United States, on prices received and terms of trade involving bulk cheese, including information on national average price for bulk cheese sold through spot and forward contract transactions, and further provided for confidentiality of information provided to, or acquired by, Secretary, report to Congress not later than 150 days after June 12, 1997, on rate of reporting compliance by cheese manufacturers with respect to information collected, and for termination of authority to collect information on Apr. 5, 1999.

LAMB PRICE AND SUPPLY REPORTING SERVICES REPORT AND SYSTEM

Pub. L. 102–237, title I, § 124, Dec. 13, 1991, 105 Stat. 1844, provided that:

''(a) REPORT.—Not later than 90 days after the date of enactment of this Act [Dec. 13, 1991], the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry. In preparing the report, the Secretary shall examine measures to improve information on—

''(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

''(A) California (including San Francisco);

''(B) the East Coast region (including Washington, D.C.);

''(C) the Midwest region (including Chicago, Illinois);

''(D) Texas;

''(E) the Rocky Mountain region; and

''(F) Florida;

''(2) sheep and lamb inventories, including on-feed reports;

''(3) the price and supply relationships between retailers and breakers;

''(4) the viability of voluntary or mandatory reporting for sheep prices; and

''(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

''(b) PRICE DISCOVERY AND REPORTING SYSTEM.—

''(1) SYSTEM REQUIRED.—Based on the report required under subsection (a), the Secretary shall—

''(A) develop a price discovery system formula for the lamb market, such as carcass equivalent pricing; and

''(B) establish a price discovery and reporting system for the lamb market to assist lamb producers to better allocate their resources and make informed production and marketing decisions.

''(2) IMPLEMENTATION.—The price discovery and reporting system for the lamb market shall be implemented by the Secretary not later than 180 days after the date of the submission of the report.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to develop and establish the system required under this subsection.

''(c) CONSULTATION.—In preparing the report required under subsection (a) and establishing the price discovery and reporting system required under subsection (b), the Secretary shall consult with lamb producers and other persons in the national lamb industry.''

RESEARCH TO INVESTIGATE EXTENT TO WHICH GRADE STANDARDS GOVERNING COSMETIC APPEARANCE AFFECT PESTICIDE USE IN PRODUCTION OF PERISHABLE COMMODITIES; ADVISORY COMMITTEE; REPORT

Pub. L. 101–624, title XIII, subtitle C, Nov. 28, 1990, 104 Stat. 3566, as amended by Pub. L. 102–237, title I, § 114(a)(3), Dec. 13, 1991, 105 Stat. 1838, provided that:

''SEC. 1351. DEFINITION.

''As used in this subtitle, the term 'cosmetic appearance' means the exterior appearance of an agricultural commodity, including changes to that appearance resulting from superficial damage or other alteration that do not significantly affect yield, taste, or nutritional value.

''SEC. 1352. RESEARCH.

''(a) REQUIREMENT.—The Secretary of Agriculture shall conduct research to examine the effects, to the extent listed in subsection (b), of grade standards and other regulations, as developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), and other statutes governing cosmetic appearance.

''(b) SCOPE OF RESEARCH.—The primary goal of this research is to investigate the extent to which grade standards and other regulations governing cosmetic appearance affect pesticide use in the production of perishable commodities. The research shall also—

''(1) determine pesticide application levels for United States perishable commodity production and assess trends, and factors influencing those trends, of pesticide application levels since 1975;

''(2) determine the extent to which Federal grade standards and other regulations affect pesticide use in agriculture for cosmetic appearance;

''(3) determine the effect of reducing emphasis on cosmetic appearance in grade standards and other regulations on—

''(A) the application and availability of pesticides in agriculture;

''(B) the adoption of agricultural practices that result in reduced pesticide use;

''(C) production and marketing costs;

''(D) domestic and international markets and trade for perishable commodities;

''(4) determine the extent to which grade standards and other regulations reflect consumer preferences;

''(5) develop options for implementation of food marketing policies and practices that will remove obstacles that may exist to pesticide use reduction, based on the findings of research conducted under this section.

''(c) FIELD RESEARCH.—

''(1) LENGTH OF PROJECTS.—The Secretary of Agriculture shall implement, not later than 12 months after the date of enactment of this Act [Nov. 28, 1990], a minimum of three, 2-year market research projects, in at least three States, to demonstrate and evaluate the feasibility of consumer education and information programs.

''(2) SCOPE OF FIELD RESEARCH.—Research under paragraph (1) shall be conducted to evaluate programs designed to—

''(A) offer consumers choices among perishable commodities produced with different production practices;

''(B) provide consumers with information about agricultural practices used in the production of perishable commodities; or

''(C) educate the public about the relationship, as determined in the research conducted under this subtitle, between the cosmetic appearance of perishable commodities and pesticide use.

''(d) DISSEMINATION OF RESULTS.—The Secretary of Agriculture shall disseminate to concerned parties the results obtained from prior scientifically valid research concerning Federal marketing policies and practices described in this section to avoid any duplication of effort and to ensure that current knowledge concerning such policies and practices is enhanced.

''(e) ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish an advisory committee for the purpose of providing ongoing review of the implementation of the requirements in this section and providing the Secretary of Agriculture with recommendations regarding the implementation of those requirements.

''(2) MEMBERSHIP.—The Advisory Committee shall consist of 12 members comprised of three representatives from not-for-profit consumer organizations, three representatives from not-for-profit environmental organizations, three representatives from production agriculture and the perishable commodity grower and shipper community, and three representatives from the food retailing sector, each with experience in the policy issues discussed in this section.

''(f) REPORT.—The Secretary of Agriculture shall report to Congress on the research conducted under this section no later than September 30, 1992. The Secretary shall report on the research conducted under subsection (c) no later than September 30, 1993.

''SEC. 1353. CHANGES IN PROCEDURAL REGULATIONS.

''With regard to Federal grade standards developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), the Secretary of Agriculture shall:

''(1) Take into account the impact of those standards on the ability of perishable commodity growers to reduce the use of pesticides.

''(2) Provide for citizens outside of the perishable commodity industry fair and reasonable opportunity to formally petition a change in grade standards.

''(3) Provide for a comment period after a formal petition to change grade standards has been made to enable all interested parties to submit information. The Secretary of Agriculture shall evaluate the information and consider it in the revision process.

''(4) Provide interested parties with annual status reports during the period 1992 through 1994, updated upon request, on all pending grade standard changes the Department of Agriculture is considering.

''SEC. 1354. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out the activities required under this subtitle, $4,000,000 for each fiscal year.''

§ 1622a. Authority to assist farmers and elevator operators

The Secretary may provide technical assistance (including information on such financial assistance as may be available) to grain producers and elevator operators to assist such producers and operators in installing or improving grain cleaning, drying or storage equipment.

(Pub. L. 101–624, title XX, § 2014, Nov. 28, 1990, 104 Stat. 3933.)

CODIFICATION

Section was enacted as part of the Grain Quality Incentives Act of 1990, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

§ 1622b. Specialty crops market news allocation

(a) In general

The Secretary shall—

(1) carry out market news activities to provide timely price and shipment information of specialty crops in the United States; and

(2) use funds made available under subsection (b) to increase the reporting levels for specialty crops in effect on the date of enactment of this Act.

(b) Authorization of appropriations

In addition to any other funds made available through annual appropriations for market news services, there is authorized to be appropriated to carry out this section $9,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

(Pub. L. 110–234, title X, § 10107, May 22, 2008, 122 Stat. 1337; Pub. L. 110–246, § 4(a), title X, § 10107, June 18, 2008, 122 Stat. 1664, 2099.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of this title.

DEFINITIONS

''Secretary'' as meaning the Secretary of Agriculture, see section 8701 of this title.

Pub. L. 110–234, title X, § 10001, May 22, 2008, 122 Stat. 1335, and Pub. L. 110–246, § 4(a), title X, § 10001, June 18, 2008, 122 Stat. 1664, 2096, provided that: ''In this title [enacting this section, sections 1622c, 7655a, 7721, and 7761 of this title, and section 2104a of Title 16, Conservation, amending sections 608e–1, 1622, 2204g, 3005, 4606, 5925c, 6104, 6522, 6523, 7715, 7733, 7734, 7751, and 7772 of this title, enacting provisions set out as notes under sections 608c, 1622, and 7701 of this title, and amending provisions set out as a note under section 1621 of this title]:

''(1) SPECIALTY CROP.—The term 'specialty crop' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

''(2) STATE DEPARTMENT OF AGRICULTURE.—The term 'State department of agriculture' means the agency, commission, or department of a State government responsible for protecting and promoting agriculture in the State.''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of this title.]

§ 1622c. Grant program to improve movement of specialty crops

(a) Grants authorized

The Secretary may make grants under this section to an eligible entity described in subsection (b)—

(1) to improve the cost-effective movement of specialty crops to local, regional, national, and international markets; and

(2) to address regional intermodal transportation deficiencies that adversely affect the movement of specialty crops to markets inside or outside the United States.

(b) Eligible grant recipients

Grants may be made under this section to any of, or any combination of:

(1) State and local governments.

(2) Grower cooperatives.

(3) National, State, or regional organizations of producers, shippers, or carriers.

(4) Other entities as determined to be appropriate by the Secretary.

(c) Matching funds

The recipient of a grant under this section shall contribute an amount of non-Federal funds toward the project for which the grant is provided that is at least equal to the amount of grant funds received by the recipient under this section.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

(Pub. L. 110–234, title X, § 10403, May 22, 2008, 122 Stat. 1349; Pub. L. 110–246, § 4(a), title X, § 10403, June 18, 2008, 122 Stat. 1664, 2111.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of this title.

DEFINITIONS

''Secretary'' as meaning the Secretary of Agriculture, see section 8701 of this title.

''Specialty crop'' as having the meaning given the term in section 3 of Pub. L. 108–465, set out as a note under section 1621 of this title, see section 10001(1) of Pub. L. 110–246, set out as a note under section 1622b of this title.

§ 1623. Authorization of appropriations; allotments to States

(a) In order to conduct research and service work in connection with the preparation for market, processing, packaging, handling, storing, transporting, distributing, and marketing of agricultural products as authorized by this chapter, there is hereby authorized to be appropriated the following sums:

(1) $2,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional $2,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional $5,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional $5,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) An additional $5,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.

(6) In addition to the foregoing, such additional funds beginning with the fiscal year ending June 30, 1952, and thereafter, as the Congress may deem necessary.

Such sums appropriated in pursuance of this chapter shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to the Department of Agriculture.

(b) The Secretary of Agriculture is authorized to make available from such funds such sums as he may deem appropriate for allotment to State departments of agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in mar-

keting service and in marketing research to effectuate the purposes of this chapter: *Provided*, That no such allotment and no payment under any such allotment shall be made for any fiscal year to any State agency in excess of the amount which such State agency makes available out of its own funds for such research. The funds which State agencies are required to make available in order to qualify for such an allotment shall be in addition to any funds now available to such agencies for marketing services and for marketing research. The allotments authorized under this section shall be made to the agency or agencies best equipped and qualified to conduct the specific project to be undertaken. Such allotments shall be covered by cooperative agreements between the Secretary of Agriculture and the cooperating agency and shall include appropriate provisions for preventing duplication or overlapping of work within the State or States cooperating. Should duplication or overlapping occur subsequent to approval of a cooperative project or allotment of funds, the Secretary of Agriculture is authorized and directed to withhold unexpended balances on such projects notwithstanding the prior approval thereof.

(Aug. 14, 1946, ch. 966, title II, § 204, 60 Stat. 1089.)

§ 1623a. Omitted

CODIFICATION

Section, Pub. L. 107–76, title VII, § 703, Nov. 28, 2001, 115 Stat. 731, which provided that not less than $1,500,000 of the appropriations of the Department of Agriculture for research and service work authorized by sections 427, 427i, and 1621 et seq. of this title and chapter 63 of title 31 would be available for contracting in accordance with those laws, was from the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–387, § 1(a) [title VII, § 703], Oct. 28, 2000, 114 Stat. 1549, 1549A–28.

Pub. L. 106–78, title VII, § 703, Oct. 22, 1999, 113 Stat. 1160.

Pub. L. 105–277, div. A, § 101(a) [title VII, § 703], Oct. 21, 1998, 112 Stat. 2681, 2681–25.

Pub. L. 105–86, title VII, § 703, Nov. 18, 1997, 111 Stat. 2104.

Pub. L. 104–180, title VII, § 703, Aug. 6, 1996, 110 Stat. 1596.

Pub. L. 104–37, title VII, § 703, Oct. 21, 1995, 109 Stat. 329.

Pub. L. 103–330, title VII, § 703, Sept. 30, 1994, 108 Stat. 2466.

Pub. L. 103–111, title VII, § 703, Oct. 21, 1993, 107 Stat. 1078.

Pub. L. 102–341, title VII, § 703, Aug. 14, 1992, 106 Stat. 906.

Pub. L. 102–142, title VII, § 704, Oct. 28, 1991, 105 Stat. 911.

Pub. L. 101–506, title VI, § 604, Nov. 5, 1990, 104 Stat. 1346.

Pub. L. 101–161, title VI, § 604, Nov. 21, 1989, 103 Stat. 982.

Pub. L. 100–460, title VI, § 604, Oct. 1, 1988, 102 Stat. 2259.

Pub. L. 100–202, § 101(k) [title VI, § 604], Dec. 22, 1987, 101 Stat. 1329–322, 1329–353.

Pub. L. 99–500, § 101(a) [title VI, § 604], Oct. 18, 1986, 100 Stat. 1783, 1783–27, and Pub. L. 99–591, § 101(a) [title VI, § 604], Oct. 30, 1986, 100 Stat. 3341, 3341–27.

Pub. L. 99–190, § 101(a) [H.R. 3037, title VI, § 604], Dec. 19, 1985, 99 Stat. 1185; Pub. L. 100–202, § 106, Dec. 22, 1987, 101 Stat. 1329–433.

Pub. L. 97–370, title VI, § 604, Dec. 18, 1982, 96 Stat. 1810.

Pub. L. 97–103, title VI, § 604, Dec. 23, 1981, 95 Stat. 1487.

Pub. L. 96–528, title VI, § 604, Dec. 15, 1980, 94 Stat. 3116.

Pub. L. 96–108, title VI, § 603, Nov. 9, 1979, 93 Stat. 840.

Pub. L. 95–448, title VI, § 603, Oct. 11, 1978, 92 Stat. 1092.

Pub. L. 95–97, title VI, § 603, Aug. 12, 1977, 91 Stat. 828.

Pub. L. 94–351, title VI, § 603, July 12, 1976, 90 Stat. 868.

Pub. L. 94–122, title VI, § 605, Oct. 21, 1975, 89 Stat. 667.

Pub. L. 93–563, title V, § 505, Dec. 31, 1974, 88 Stat. 1842.

Pub. L. 93–135, title V, § 506, Oct. 24, 1973, 87 Stat. 490.

Pub. L. 92–399, title V, § 506, Aug. 22, 1972, 86 Stat. 611.

Pub. L. 92–73, title V, § 506, Aug. 10, 1971, 85 Stat. 201.

Pub. L. 91–566, title V, § 506, Dec. 22, 1970, 84 Stat. 1496.

Pub. L. 91–127, title V, § 506, Nov. 26, 1969, 83 Stat. 260.

Pub. L. 90–463, title V, § 506, Aug. 8, 1968, 82 Stat. 653.

Pub. L. 90–113, title V, § 506, Oct. 24, 1967, 81 Stat. 335.

Pub. L. 89–556, title V, § 506, Sept. 7, 1966, 80 Stat. 704.

Pub. L. 89–316, title V, § 506, Nov. 2, 1965, 79 Stat. 1179.

Pub. L. 88–573, title V, § 506, Sept. 2, 1964, 78 Stat. 876.

Pub. L. 88–250, title VI, § 606, Dec. 30, 1963, 77 Stat. 833.

Pub. L. 87–879, title VI, § 606, Oct. 24, 1962, 76 Stat. 1215.

Pub. L. 87–112, title V, § 506, July 26, 1961, 75 Stat. 241.

Pub. L. 86–532, title IV, § 406, June 29, 1960, 74 Stat. 244.

Pub. L. 86–80, title IV, § 406, July 8, 1959, 73 Stat. 180.

Pub. L. 85–459, title IV, § 406, June 13, 1958, 72 Stat. 199.

Pub. L. 85–118, title V, § 506, Aug. 2, 1957, 71 Stat. 340.

June 4, 1956, ch. 355, title V, § 506, 70 Stat. 241.

May 23, 1955, ch. 43, title V, § 506, 69 Stat. 63.

June 29, 1954, ch. 409, title V, § 506, 68 Stat. 319.

§ 1624. Cooperation with Government and State agencies, private research organizations, etc.; rules and regulations

(a) In carrying out the provisions of this chapter, the Secretary of Agriculture may cooperate with other branches of the Government, State agencies, private research organizations, purchasing and consuming organizations, boards of trade, chambers of commerce, other associations of business or trade organizations, transportation and storage agencies and organizations, or other persons or corporations engaged in the production, transportation, storing, processing, marketing, and distribution of agricultural products whether operating in one or more jurisdictions. The Secretary of Agriculture shall have authority to enter into contracts and agreements under the terms of regulations promulgated by him with States and agencies of States, private firms, institutions, and individuals for the purpose of conducting research and service work, making and compiling reports and surveys, and carrying out other functions relating thereto when in his judgment the services or functions to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture. Contracts under this section may be made for work to be performed within a period not more than four years from the date of any such contract, and advance, progress, or other payments may be made. The provisions of section 3324(a) and (b) of title 31 and section 5 of title 41 shall not be applicable to contracts or agreements made under the authority of this section. Any unexpended balances of appropriations obligated by contracts as authorized by this section may, notwithstanding the provi-

sions of section 5 of the Act of June 20, 1874, as amended (31 U.S.C., sec. 713), remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Any contract made pursuant to this section shall contain requirements making the result of such research and investigations available to the public by such means as the Secretary of Agriculture shall determine.

(b) The Secretary of Agriculture shall promulgate such orders, rules, and regulations as he deems necessary to carry out the provisions of this chapter.

(Aug. 14, 1946, ch. 966, title II, § 205, 60 Stat. 1090; Aug. 30, 1954, ch. 1076, § 1(7), 68 Stat. 966.)

REFERENCES IN TEXT

Section 5 of the Act of June 20, 1874, as amended (31 U.S.C. sec. 713), referred to in subsec. (a), was repealed by act July 6, 1949, ch. 299, § 3, 63 Stat. 407.

CODIFICATION

In subsec. (a), ''section 3324(a) and (b) of title 31'' substituted for reference to section 3648 (31 U.S.C., sec. 529) of the Revised Statutes on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1954—Subsec. (b). Act Aug. 30, 1954, repealed second sentence requiring Secretary of Agriculture to include in his annual report to Congress a complete statement of research work being performed under contracts or cooperative agreements under this chapter.

DISTRIBUTION OF SURPLUS COMMODITIES

Pub. L. 97–253, title I, § 191, Sept. 8, 1982, 96 Stat. 787, provided that:

''(a) The Congress finds that—

''(1) for an increasing number of people in the United States, these are times of great suffering and deprivation;

''(2) rising unemployment, decreasing appropriations for social services, and increasingly adverse economic conditions have all contributed to produce hunger and want on a scale not experienced since the time of the Great Depression;

''(3) the demand for every conceivable form of assistance for the hungry and needy people of the United States grows more critical daily, while the availability of goods and services to meet the needs of such people is rapidly diminishing;

''(4) soup kitchens, food banks, and other organizations which provide food to the hungry report an astronomical increase in the number of persons seeking the assistance of such organizations;

''(5) according to a study completed by the General Accounting Office [now Government Accountability Office] in 1977, one hundred and thirty-seven million tons of food, or more than 20 per centum of this country's total annual food production, is wasted or discarded in the United States each year;

''(6) at wholesale and retail food distributors, shipping terminals, and other establishments all across the country, enormous quantities of fresh fruits and vegetables and dated dairy and bakery products are discarded each day, while growing numbers of Americans go to bed hungry and undernourished each night;

''(7) in these times of budget constraints and appeals for reductions in Federal spending, the use of private resources to meet the basic food requirements of our citizens should be encouraged; and

''(8) many States and local governments have not enacted laws which limit the liability of food donors, such as so-called Good Samaritan Acts and donor liability laws, and thus have discouraged donation of food to the needy by private persons.

''(b) It is the sense of the Congress that—

''(1) departments and agencies of the Federal Government should take such steps as may be necessary to distribute to hungry people of the United States surplus food or food which would otherwise be discarded;

''(2) State and local governments which have not yet enacted so-called Good Samaritan or donor liability laws to encourage private cooperative efforts to provide food for hungry people within their respective jurisdictions should do so as quickly as possible; and

''(3) wholesale and retail food distributors, shipping terminals, and other establishments should work more closely with religious, community, and other charitable organizations to make wholesome food which is currently being wasted or discarded by such establishments available for immediate distribution to hungry people of the United States.''

§ 1625. Transfer and consolidation of functions, powers, bureaus, etc.

In order to facilitate administration and to increase the effectiveness of the marketing research, service, and regulatory work of the Department of Agriculture to the fullest extent practicable, the Secretary of Agriculture is authorized, notwithstanding any other provisions of law, to transfer, group, coordinate, and consolidate the functions, powers, duties, and authorities of each and every agency, division, bureau, service, section, or other administrative unit in the Department of Agriculture primarily concerned with research, service, or regulatory activities in connection with the marketing, transportation, storage, processing, distribution of, or service or regulatory activities in connection with, the utilization of, agricultural products, into a single administrative agency. In making such changes as may be necessary to carry out effectively the purposes of this chapter, the records, property, personnel, and funds of such agencies, divisions, bureaus, services, sections, or other administrative units in the Department of Agriculture affected are authorized to be transferred to and used by such administrative agency to which the transfer may be made, but such unexpended balances of appropriations so transferred shall be used only for the purposes for which such appropriations were made.

(Aug. 14, 1946, ch. 966, title II, § 206, 60 Stat. 1090.)

§ 1626. Definitions

When used in this chapter, the term ''agricultural products'' includes agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof, and the term ''State'' when used in this chapter[1] shall include the Virgin Islands and Guam.

(Aug. 14, 1946, ch. 966, title II, § 207, 60 Stat. 1091; Pub. L. 92–318, title V, § 506(f), June 23, 1972, 86 Stat. 351.)

[1] See References in Text note below.

REFERENCES IN TEXT

This chapter, referred to in text inserted by Pub. L. 92–318, probably means title II of act Aug. 14, 1946, which is classified generally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 1621 of this title and Tables.

AMENDMENTS

1972—Pub. L. 92–318 inserted ", and the term 'State' when used in this chapter shall include the Virgin Islands and Guam" before period at end.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as a note under section 326a of this title.

§ 1627. Appointment of personnel; compensation; employment of specialists

The Secretary of Agriculture shall have the power to appoint, remove, and fix, in accordance with existing law, the compensation of such officers and employees, and to make such expenditures as he deems necessary, including expenditures for rent outside the District of Columbia, travel, supplies, books, equipment, and such other expenditures as may be necessary to the administration of this chapter: *Provided*, That the Secretary of Agriculture may appoint any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical, or other special services, without regard to the civil-service laws.

(Aug. 14, 1946, ch. 966, title II, § 208, 60 Stat. 1091.)

REFERENCES IN TEXT

The civil-service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

Provisions that authorized the Secretary of Agriculture to "fix the compensation" of any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical or other special services, without regard to the "Classification Act of 1923, as amended" were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

§ 1628. Repealed. Pub. L. 93–86, § 2, Aug. 10, 1973, 87 Stat. 246

Section, acts Aug. 14, 1946, ch. 966, title III, § 301, 60 Stat. 1091; Dec. 29, 1967, Pub. L. 90–233, 81 Stat. 752, provided for establishment and staffing of a national advisory committee to aid in implementing the research and service work authorized under the act of Aug. 14, 1946, and set forth functions of such committee.

§ 1629. Establishment of committees to assist in research and service programs

In the furtherance of the research and service work authorized by this Act, the Secretary of Agriculture may, in addition to the national advisory committee, establish appropriate committees, including representatives of producers, industry, government and science, to assist in effectuating specific research and service programs.

(Aug. 14, 1946, ch. 966, title III, § 302, 60 Stat. 1091.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 14, 1946, ch. 966, 60 Stat. 1082, which enacted this chapter and sections 427h to 427j of this title and amended section 427 of this title. For complete classification of this Act to the Code, see Tables.

The national advisory committee, referred to in text, was established by section 1628 of this title, which was subsequently repealed by Pub. L. 93–86, § 2, Aug. 10, 1973, 87 Stat. 246.

CODIFICATION

Section was not enacted as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

§ 1630. Omitted

CODIFICATION

Section, act June 4, 1956, ch. 355, title V, § 508, 70 Stat. 241, which provided for availability of appropriations for committee expenses in effectuating research and service work, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

May 23, 1955, ch. 43, title V, § 509, 69 Stat. 64.

June 29, 1954, ch. 409, title V, § 509, 68 Stat. 319.

§ 1631. Protection for purchasers of farm products

(a) Congressional findings

Congress finds that—

(1) certain State laws permit a secured lender to enforce liens against a purchaser of farm products even if the purchaser does not know that the sale of the products violates the lender's security interest in the products, lacks any practical method for discovering the existence of the security interest, and has no reasonable means to ensure that the seller uses the sales proceeds to repay the lender;

(2) these laws subject the purchaser of farm products to double payment for the products, once at the time of purchase, and again when the seller fails to repay the lender;

(3) the exposure of purchasers of farm products to double payment inhibits free competition in the market for farm products; and

(4) this exposure constitutes a burden on and an obstruction to interstate commerce in farm products.

(b) Declaration of purpose

The purpose of this section is to remove such burden on and obstruction to interstate commerce in farm products.

(c) Definitions

For the purposes of this section—

(1) The term ''buyer in the ordinary course of business'' means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

(2) The term ''central filing system'' means a system for filing effective financing statements or notice of such financing statements on a statewide basis and which has been certified by the Secretary of the United States Department of Agriculture; the Secretary shall certify such system if the system complies with the requirements of this section; specifically under such system—

(A) effective financing statements or notice of such financing statements are filed with the office of the Secretary of State of a State;

(B) the Secretary of State records the date and hour of the filing of such statements;

(C) the Secretary of State compiles all such statements into a master list—

(i) organized according to farm products;

(ii) arranged within each such product—

(I) in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors; and

(II) in numerical order according to the social security number, or other approved unique identifier, of the individual debtors or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number, or other approved unique identifier, of such debtors, except that the numerical list containing social security or taxpayer identification numbers may be encrypted for security purposes if the Secretary of State provides a method by which an effective search of the encrypted numbers may be conducted to determine whether the farm product at issue is subject to 1 or more liens; and

(III) geographically by county or parish; and

(IV) by crop year;

(iii) containing the information referred to in paragraph (4)(D);

(D) the Secretary of State maintains a list of all buyers of farm products, commission merchants, and selling agents who register with the Secretary of State, on a form indicating—

(i) the name and address of each buyer, commission merchant and selling agent;

(ii) the interest of each buyer, commission merchant, and selling agent in receiving the lists described in subparagraph (E); and

(iii) the farm products in which each buyer, commission merchant, and selling agent has an interest;

(E) the Secretary of State distributes regularly as prescribed by the State to each buyer, commission merchant, and selling agent on the list described in subparagraph (D) a copy in written or printed form of those portions of the master list described in subparagraph (C) that cover the farm products in which such buyer, commission merchant, or selling agent has registered an interest except that—

(i) the distribution of the portion of the master list may be in electronic, written, or printed form; and

(ii) if social security or taxpayer identification numbers on the master list are encrypted, the Secretary of State may distribute the master list only—

(I) by compact disc or other electronic media that contains—

(aa) the recorded list of debtor names; and

(bb) an encryption program that enables the buyer, commission merchant, and selling agent to enter a social security number for matching against the recorded list of encrypted social security or taxpayer identification numbers; and

(II) on the written request of the buyer, commission merchant, or selling agent, by paper copy of the list to the requestor;

(F) the Secretary of State furnishes to those who are not registered pursuant to (2)(D) of this section[1] oral confirmation within 24 hours of any effective financing statement on request followed by written confirmation to any buyer of farm products buying from a debtor, or commission merchant or selling agent selling for a seller covered by such statement.

(3) The term ''commission merchant'' means any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

(4) The term ''effective financing statement'' means a statement that—

(A) is an original or reproduced copy of the statement, or, in the case of a State which (under the applicable State law provisions of the Uniform Commercial Code) allows the electronic filing of financing statements without the signature of the debtor, is an electronically reproduced copy of the statement;

(B) other than in the case of an electronically reproduced copy of the statement, is signed, authorized, or otherwise authenticated by the debtor, and filed with the Secretary of State of a State by the secured party;

(C) contains,

(i) the name and address of the secured party;

(ii) the name and address of the person indebted to the secured party;

(iii) the social security number, or other approved unique identifier, of the debtor or, in the case of a debtor doing business

[1] So in original. Probably should be ''pursuant to subparagraph (D)''.

other than as an individual, the Internal Revenue Service taxpayer identification number, or other approved unique identifier, of such debtor; and

(iv) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable, and the name of each county or parish in which the farm products are produced or located;

(D) must be amended in writing, within 3 months, similarly signed, authorized, or otherwise authenticated by the debtor and filed, to reflect material changes;

(E) remains effective for a period of 5 years from the date of filing, subject to extensions for additional periods of 5 years each by refiling or filing a continuation statement within 6 months before the expiration of the initial 5 year period;

(F) lapses on either the expiration of the effective period of the statement or the filing of a notice signed, authorized, or otherwise authenticated by the secured party that the statement has lapsed, whichever occurs first;

(G) is accompanied by the requisite filing fee set by the Secretary of State; and

(H) substantially complies with the requirements of this subparagraph even though it contains minor errors that are not seriously misleading.

(5)[2] The term ''farm product'' means an agricultural commodity such as wheat, corn, soybeans, or a species of livestock such as cattle, hogs, sheep, horses, or poultry used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state (such as ginned cotton, wool-clip, maple syrup, milk, and eggs), that is in the possession of a person engaged in farming operations.

(6) The term ''knows'' or ''knowledge'' means actual knowledge.

(7) The term ''security interest'' means an interest in farm products that secures payment or performance of an obligation.

(8) The term ''selling agent'' means any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farming operations.

(9) The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(10) The term ''person'' means any individual, partnership, corporation, trust, or any other business entity.

(11) The term ''Secretary of State'' means the Secretary of State or the designee of the State.

(5)[3] The term ''approved unique identifier'' means a number, combination of numbers and letters, or other identifier selected by the Secretary of State using a selection system or method approved by the Secretary of Agriculture.

(d) Purchases free of security interest

Except as provided in subsection (e) of this section and notwithstanding any other provision of Federal, State, or local law, a buyer who in the ordinary course of business buys a farm product from a seller engaged in farming operations shall take free of a security interest created by the seller, even though the security interest is perfected; and the buyer knows of the existence of such interest.

(e) Purchases subject to security interest

A buyer of farm products takes subject to a security interest created by the seller if—

(1)(A) within 1 year before the sale of the farm products, the buyer has received from the secured party or the seller written notice of the security interest organized according to farm products that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number, or other approved unique identifier, of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number, or other approved unique identifier, of such debtor; and

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable, crop year, and the name of each county or parish in which the farm products are produced or located;

(iii) must be amended in writing, within 3 months, similarly signed, authorized, or otherwise authenticated and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed, authorized, or otherwise authenticated by the secured party that the statement has lapsed, whichever occurs first; and

(v) contains any payment obligations imposed on the buyer by the secured party as conditions for waiver or release of the security interest; and

(B) the buyer has failed to perform the payment obligations, or

(2) in the case of a farm product produced in a State that has established a central filing system—

(A) the buyer has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(B) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

[2] So in original. Another par. (5) follows par. (11).

[3] So in original. Another par. (5) follows par. (4).

(3) in the case of a farm product produced in a State that has established a central filing system, the buyer—

(A) receives from the Secretary of State of such State written notice as provided in subsection (c)(2)(E) or (c)(2)(F) that specifies both the seller and the farm product being sold by such seller as being subject to an effective financing statement or notice; and

(B) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise.

(f) Law governing "receipt"

What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(g) Commission merchants or selling agents: sales free of or subject to security interest; law governing "receipt"

(1) Except as provided in paragraph (2) and notwithstanding any other provision of Federal, State, or local law, a commission merchant or selling agent who sells, in the ordinary course of business, a farm product for others, shall not be subject to a security interest created by the seller in such farm product even though the security interest is perfected and even though the commission merchant or selling agent knows of the existence of such interest.

(2) A commission merchant or selling agent who sells a farm product for others shall be subject to a security interest created by the seller in such farm product if—

(A) within 1 year before the sale of such farm product the commission merchant or selling agent has received from the secured party or the seller written notice of the security interest; organized according to farm products, that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number, or other approved unique identifier, of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number, or other approved unique identifier, of such debtor; and

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products, where applicable, crop year, and the name of each county or parish in which the farm products are produced or located;

(iii) must be amended in writing, within 3 months, similarly signed, authorized, or otherwise authenticated and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed, authorized, or otherwise authenticated by the secured party that the statement has lapsed, whichever occurs first; and

(v) contains any payment obligations imposed on the commission merchant or selling agent by the secured party as conditions for waiver or release of the security interest; and

(B) the commission merchant or selling agent has failed to perform the payment obligations;

(C) in the case of a farm product produced in a State that has established a central filing system—

(i) the commission merchant or selling agent has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(ii) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(D) in the case of a farm product produced in a State that has established a central filing system, the commission merchant or selling agent—

(i) receives from the Secretary of State of such State written notice as provided in subsection (c)(2)(E) or (c)(2)(F) of this section that specifies both the seller and the farm products being sold by such seller as being subject to an effective financing statement or notice; and

(ii) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise.

(3) What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(h) Security agreements; identity lists; notice of identity or accounting for proceeds; violations

(1) A security agreement in which a person engaged in farming operations creates a security interest in a farm product may require the person to furnish to the secured party a list of the buyers, commission merchants, and selling agents to or through whom the person engaged in farming operations may sell such farm product.

(2) If a security agreement contains a provision described in paragraph (1) and such person engaged in farming operations sells the farm product collateral to a buyer or through a commission merchant or selling agent not included on such list, the person engaged in farming operations shall be subject to paragraph (3) unless the person—

(A) has notified the secured party in writing of the identity of the buyer, commission merchant, or selling agent at least 7 days prior to such sale; or

(B) has accounted to the secured party for the proceeds of such sale not later than 10 days after such sale.

(3) A person violating paragraph (2) shall be fined $5,000 or 15 per centum of the value or benefit received for such farm product described in the security agreement, whichever is greater.

(i) Regulations

The Secretary of Agriculture shall prescribe regulations not later than 90 days after December 23, 1985, to aid States in the implementation and management of a central filing system.

(j) Effective date

This section shall become effective 12 months after December 23, 1985.

(Pub. L. 99–198, title XIII, § 1324, Dec. 23, 1985, 99 Stat. 1535; Pub. L. 104–127, title VI, § 662, Apr. 4, 1996, 110 Stat. 1107; Pub. L. 107–171, title X, § 10604, May 13, 2002, 116 Stat. 512; Pub. L. 108–447, div. A, title VII, § 776, Dec. 8, 2004, 118 Stat. 2849; Pub. L. 110–234, title XIV, § 14215, May 22, 2008, 122 Stat. 1466; Pub. L. 110–246, § 4(a), title XIV, § 14215, June 18, 2008, 122 Stat. 1664, 2228.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

AMENDMENTS

2008—Subsec. (c)(2)(C)(ii)(II). Pub. L. 110–246, § 14215(1), inserted ‘‘, except that the numerical list containing social security or taxpayer identification numbers may be encrypted for security purposes if the Secretary of State provides a method by which an effective search of the encrypted numbers may be conducted to determine whether the farm product at issue is subject to 1 or more liens’’ after ‘‘such debtors’’.

Subsec. (c)(2)(E). Pub. L. 110–246, § 14215(2), substituted ‘‘subparagraph (C)’’ for ‘‘paragraph (C)’’, inserted ‘‘except that—’’ after ‘‘an interest’’, and added cls. (i) and (ii) before semicolon at end.

2004—Subsec. (c)(2)(C)(ii)(II), (4)(C)(iii). Pub. L. 108–447, § 776(1)(A), (B), inserted ‘‘, or other approved unique identifier,’’ after ‘‘social security number’’ and ‘‘identification number’’.

Subsec. (c)(5). Pub. L. 108–447, § 776(1)(C), added par. (5) defining ‘‘approved unique identifier’’ at end of subsec. (c).

Subsecs. (e)(1)(A)(ii)(III), (g)(2)(A)(ii)(III). Pub. L. 108–447, § 776(2), (3), inserted ‘‘, or other approved unique identifier,’’ after ‘‘social security number’’ and ‘‘identification number’’.

2002—Subsec. (c)(4)(B). Pub. L. 107–171, § 10604(a)(1), substituted ‘‘signed, authorized, or otherwise authenticated by the debtor,’’ for ‘‘signed’’.

Subsec. (c)(4)(C). Pub. L. 107–171, § 10604(a)(2), (6), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ‘‘other than in the case of an electronically reproduced copy of the statement, is signed by the debtor;’’.

Subsec. (c)(4)(D). Pub. L. 107–171, § 10604(a)(6), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Subsec. (c)(4)(D)(iii). Pub. L. 107–171, § 10604(a)(3)(A), inserted ‘‘and’’ after semicolon at end.

Subsec. (c)(4)(D)(iv). Pub. L. 107–171, § 10604(a)(3)(B), substituted ‘‘applicable, and the name of each county or parish in which the farm products are produced or located;’’ for ‘‘applicable; and a reasonable description of the property, including county or parish in which the property is located;’’.

Subsec. (c)(4)(E). Pub. L. 107–171, § 10604(a)(6), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 107–171, § 10604(a)(4), substituted ‘‘signed, authorized, or otherwise authenticated by the debtor’’ for ‘‘signed’’.

Subsec. (c)(4)(F). Pub. L. 107–171, § 10604(a)(6), redesignated subpar. (G) as (F). Former subpar. (F) redesignated (E).

Subsec. (c)(4)(G). Pub. L. 107–171, § 10604(a)(6), redesignated subpar. (H) as (G). Former subpar. (G) redesignated (F).

Pub. L. 107–171, § 10604(a)(5), substituted ‘‘notice signed, authorized, or otherwise authenticated’’ for ‘‘notice signed’’.

Subsec. (c)(4)(H), (I). Pub. L. 107–171, § 10604(a)(6), redesignated subpar. (I) as (H). Former subpar. (H) redesignated (G).

Subsec. (e)(1)(A)(ii)(III). Pub. L. 107–171, § 10604(b)(1)(A), inserted ‘‘and’’ after semicolon at end.

Subsec. (e)(1)(A)(ii)(IV). Pub. L. 107–171, § 10604(b)(1)(B), substituted ‘‘crop year, and the name of each county or parish in which the farm products are produced or located;’’ for ‘‘crop year, county or parish, and a reasonable description of the property; and’’.

Subsec. (e)(1)(A)(iii). Pub. L. 107–171, § 10604(b)(2), substituted ‘‘similarly signed, authorized, or otherwise authenticated’’ for ‘‘similarly signed’’.

Subsec. (e)(1)(A)(iv). Pub. L. 107–171, § 10604(b)(3), substituted ‘‘notice signed, authorized, or otherwise authenticated’’ for ‘‘notice signed’’.

Subsec. (e)(1)(A)(v). Pub. L. 107–171, § 10604(b)(4), inserted ‘‘contains’’ before ‘‘any payment’’.

Subsec. (e)(3)(A). Pub. L. 107–171, § 10604(b)(5)(A), substituted ‘‘subsection’’ for ‘‘subparagraph’’.

Subsec. (e)(3)(B). Pub. L. 107–171, § 10604(b)(5)(B), substituted a period for ‘‘; and’’ at end.

Subsec. (g)(2)(A)(ii)(III). Pub. L. 107–171, § 10604(c)(1)(A), inserted ‘‘and’’ after semicolon at end.

Subsec. (g)(2)(A)(ii)(IV). Pub. L. 107–171, § 10604(c)(1)(B), substituted ‘‘crop year, and the name of each county or parish in which the farm products are produced or located;’’ for ‘‘crop year, county or parish, and a reasonable description of the property, etc.; and’’.

Subsec. (g)(2)(A)(iii). Pub. L. 107–171, § 10604(c)(2), substituted ‘‘similarly signed, authorized, or otherwise authenticated’’ for ‘‘similarly signed’’.

Subsec. (g)(2)(A)(iv). Pub. L. 107–171, § 10604(c)(3), substituted ‘‘notice signed, authorized, or otherwise authenticated’’ for ‘‘notice signed’’.

Subsec. (g)(2)(A)(v). Pub. L. 107–171, § 10604(c)(4), inserted ‘‘contains’’ before ‘‘any payment’’.

1996—Subsec. (c)(4)(A). Pub. L. 104–127, § 662(1), substituted ‘‘of the statement, or, in the case of a State which (under the applicable State law provisions of the Uniform Commercial Code) allows the electronic filing of financing statements without the signature of the debtor, is an electronically reproduced copy of the statement’’ for ‘‘thereof’’.

Subsec. (c)(4)(B), (C). Pub. L. 104–127, § 662(2), inserted ‘‘other than in the case of an electronically reproduced copy of the statement,’’ before ‘‘is’’.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1632. Repealed. Pub. L. 107–171, title VII, § 7303, May 13, 2002, 116 Stat. 455

Section, Pub. L. 99–198, title XIV, § 1436, Dec. 23, 1985, 99 Stat. 1558, related to market expansion research.

§ 1632a. Value-added agricultural product market development grants

(a) Definitions

In this section:

(1) Beginning farmer or rancher

The term ''beginning farmer or rancher'' has the meaning given the term in section 1991(a) of this title.

(2) Family farm

The term ''family farm'' has the meaning given the term in section 761.2 of title 7, Code of Federal Regulations (as in effect on December 30, 2007).

(3) Mid-tier value chain

The term ''mid-tier value chain'' means local and regional supply networks that link independent producers with businesses and cooperatives that market value-added agricultural products in a manner that—

(A) targets and strengthens the profitability and competitiveness of small and medium-sized farms and ranches that are structured as a family farm; and

(B) obtains agreement from an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture that is engaged in the value chain on a marketing strategy.

(4) Socially disadvantaged farmer or rancher

The term ''socially disadvantaged farmer or rancher'' has the meaning given the term in section 2003(e) of this title.

(5) Value-added agricultural product

The term ''value-added agricultural product'' means any agricultural commodity or product that—

(A)(i) has undergone a change in physical state;

(ii) was produced in a manner that enhances the value of the agricultural commodity or product, as demonstrated through a business plan that shows the enhanced value, as determined by the Secretary;

(iii) is physically segregated in a manner that results in the enhancement of the value of the agricultural commodity or product;

(iv) is a source of farm- or ranch-based renewable energy, including E–85 fuel; or

(v) is aggregated and marketed as a locally-produced agricultural food product; and

(B) as a result of the change in physical state or the manner in which the agricultural commodity or product was produced, marketed, or segregated—

(i) the customer base for the agricultural commodity or product is expanded; and

(ii) a greater portion of the revenue derived from the marketing, processing, or physical segregation of the agricultural commodity or product is available to the producer of the commodity or product.

(b) Grant program

(1) In general

From amounts made available under paragraph (7), the Secretary shall award competitive grants—

(A) to an eligible independent producer (as determined by the Secretary) of a value-added agricultural product to assist the producer—

(i) in developing a business plan for viable marketing opportunities for the value-added agricultural product; or

(ii) in developing strategies that are intended to create marketing opportunities for the producer; and

(B) to an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture (as determined by the Secretary) to assist the entity—

(i) in developing a business plan for viable marketing opportunities in emerging markets for a value-added agricultural product; or

(ii) in developing strategies that are intended to create marketing opportunities in emerging markets for the value-added agricultural product.

(2) Amount of grant

(A) In general

The total amount provided under this subsection to a grant recipient shall not exceed $500,000.

(B) Majority-controlled producer-based business ventures

The amount of grants provided to majority-controlled producer-based business ventures under paragraph (1)(B) for a fiscal year may not exceed 10 percent of the amount of funds that are used to make grants for the fiscal year under this subsection.

(3) Grantee strategies

A grantee under paragraph (1) shall use the grant—

(A) to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for a value-added agricultural product; or

(B) to provide capital to establish alliances or business ventures that allow the producer of the value-added agricultural product to better compete in domestic or international markets.

(4) Term

A grant under this subsection shall have a term that does not exceed 3 years.

(5) Simplified application

The Secretary shall offer a simplified application form and process for project proposals requesting less than $50,000.

(6) Priority

In awarding grants under this subsection, the Secretary shall give priority to projects that contribute to increasing opportunities for—

(A) beginning farmers or ranchers;

(B) socially disadvantaged farmers or ranchers; and

(C) operators of small- and medium-sized farms and ranches that are structured as a family farm.

(7) Funding

(A) Mandatory funding

On October 1, 2008, of the funds of the Commodity Credit Corporation, the Secretary

shall make available to carry out this subsection $15,000,000, to remain available until expended.

(B) Discretionary funding

There is authorized to be appropriated to carry out this subsection $40,000,000 for each of fiscal years 2008 through 2012.

(C) Reservation of funds for projects to benefit beginning farmers or ranchers, socially disadvantaged farmers or ranchers, and mid-tier value chains

(i) In general

The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund projects that benefit beginning farmers or ranchers or socially disadvantaged farmers or ranchers.

(ii) Mid-tier value chains

The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund applications of eligible entities described in paragraph (1) that propose to develop mid-tier value chains.

(iii) Unobligated amounts

Any amounts in the reserves for a fiscal year established under clauses (i) and (ii) that are not obligated by June 30 of the fiscal year shall be available to the Secretary to make grants under this subsection to eligible entities in any State, as determined by the Secretary.

(c) Agricultural Marketing Resource Center pilot project

(1) Establishment

Notwithstanding the limitation on grants in subsection (b)(2), the Secretary shall not use more than 5 percent of the funds made available under subsection (b) to establish a pilot project (to be known as the ''Agricultural Marketing Resource Center'') at an eligible institution described in paragraph (2) that will—

(A) develop a resource center with electronic capabilities to coordinate and provide to independent producers and processors (as determined by the Secretary) of value-added agricultural commodities and products of agricultural commodities information regarding research, business, legal, financial, or logistical assistance; and

(B) develop a strategy to establish a nationwide market information and coordination system.

(2) Eligible institution

To be eligible to receive funding to establish the Agricultural Marketing Resource Center, an applicant shall demonstrate to the Secretary—

(A) the capacity and technical expertise to provide the services described in paragraph (1)(A);

(B) an established plan outlining support of the applicant in the agricultural community; and

(C) the availability of resources (in cash or in kind) of definite value to sustain the Center following establishment.

(d) Matching funds

A recipient of funds under subsection (a) or (b) shall contribute an amount of non-Federal funds that is at least equal to the amount of Federal funds received.

(e) Limitation

Funds provided under this section may not be used for—

(1) planning, repair, rehabilitation, acquisition, or construction of a building or facility (including a processing facility); or

(2) the purchase, rental, or installation of fixed equipment.

(Pub. L. 106–224, title II, § 231, June 20, 2000, 114 Stat. 409; Pub. L. 107–171, title VI, § 6401(a), May 13, 2002, 116 Stat. 424; Pub. L. 110–234, title VI, § 6202, May 22, 2008, 122 Stat. 1206; Pub. L. 110–246, § 4(a), title VI, § 6202, June 18, 2008, 122 Stat. 1664, 1967.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Agricultural Risk Protection Act of 2000, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

Section was formerly set out as a note under section 1621 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 6202(a), added subsec. (a) and struck out former subsec. (a) which defined ''value-added agricultural product''.

Subsec. (b)(1). Pub. L. 110–246, § 6202(b)(1), substituted ''paragraph (7)'' for ''paragraph (4)'' in introductory provisions.

Subsec. (b)(4) to (7). Pub. L. 110–246, § 6202(b)(2), added pars. (4) to (7) and struck out former par. (4). Prior to amendment, text read as follows: ''Not later than 30 days after May 13, 2002, on October 1, 2002, and on each October 1 thereafter through October 1, 2006, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $40,000,000, to remain available until expended.''

2002—Subsecs. (a), (b). Pub. L. 107–171, § 6401(a)(2), added subsecs. (a) and (b) and struck out former subsec. (a) which related to establishment of grant program, maximum amount per grant recipient, and producer strategies. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107–171, § 6401(a)(1), (3), redesignated subsec. (b) as (c) and, in par. (1), substituted ''subsection (b)(2)'' for ''subsection (a)(2)'', ''5 percent'' for ''$5,000,000'', and ''subsection (b)'' for ''subsection (a)'' in introductory provisions. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–171, § 6401(a)(4), which directed amendment of subsec. (d) by substituting ''subsections (b) and (c)'' for ''subsections (a) and (b)'', could not be executed because that phrase does not appear.

Pub. L. 107–171, § 6401(a)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 107–171, § 6401(a)(1), redesignated subsec. (d) as (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–171, title VI, § 6401(b), May 13, 2002, 116 Stat. 426, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] apply beginning on October 1, 2002.

''(2) FUNDING.—Funds made available under section 231(b)(4)(A)(i) [probably should be 231(b)(4)] of the Agricultural Risk Protection Act of 2000 [7 U.S.C. 1632a(b)(4)] (as amended by subsection (a)(2)) shall be made available not later than 30 days after the date of enactment of this Act [May 13, 2002].''

§ 1632b. Agriculture Innovation Center Demonstration Program

(a) Purpose

The purpose of this section is to direct the Secretary of Agriculture to establish a demonstration program under which agricultural producers are provided—

(1) technical assistance, consisting of engineering services, applied research, scale production, and similar services, to enable the agricultural producers to establish businesses to produce value-added agricultural commodities or products;

(2) assistance in marketing, market development, and business planning; and

(3) organizational, outreach, and development assistance to increase the viability, growth, and sustainability of businesses that produce value-added agricultural commodities or products.

(b) Definitions

In this section:

(1) Program

The term ''Program'' means the Agriculture Innovation Center Demonstration Program established under subsection (c).

(2) Secretary

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

(c) Establishment of Program

The Secretary shall establish a demonstration program, to be known as the ''Agriculture Innovation Center Demonstration Program'' under which the Secretary shall—

(1) make grants to assist eligible entities in establishing Agriculture Innovation Centers to enable agricultural producers to obtain the assistance described in subsection (a); and

(2) provide assistance to eligible entities in establishing Agriculture Innovation Centers through the research and technical services of the Department of Agriculture.

(d) Eligibility requirements

(1) In general

An entity shall be eligible for a grant and assistance described in subsection (c) to establish an Agriculture Innovation Center if—

(A) the entity—

(i) has provided services similar to the services described in subsection (a); or

(ii) demonstrates the capability of providing such services;

(B) the application of the entity for the grant and assistance includes a plan, in accordance with regulations promulgated by the Secretary, that outlines—

(i) the support for the entity in the agricultural community;

(ii) the technical and other expertise of the entity; and

(iii) the goals of the entity for increasing and improving the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products;

(C) the entity demonstrates that adequate resources (in cash or in kind) are available, or have been committed to be made available, to the entity, to increase and improve the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products; and

(D) the Agriculture Innovation Center of the entity has a board of directors established in accordance with paragraph (2).

(2) Board of directors

Each Agriculture Innovation Center of an eligible entity shall have a board of directors composed of representatives of each of the following groups:

(A) The 2 general agricultural organizations with the greatest number of members in the State in which the eligible entity is located.

(B) The department of agriculture, or similar State department or agency, of the State in which the eligible entity is located.

(C) Entities representing the 4 highest grossing commodities produced in the State, determined on the basis of annual gross cash sales.

(e) Grants and assistance

(1) In general

Subject to subsection (i), under the Program, the Secretary shall make, on a competitive basis, annual grants to eligible entities.

(2) Maximum amount of grants

A grant under paragraph (1) shall be in an amount that does not exceed the lesser of—

(A) $1,000,000; or

(B) twice the dollar amount of the resources (in cash or in kind) that the eligible entity demonstrates are available, or have been committed to be made available, to the eligible entity in accordance with subsection (d)(1)(C).

(3) Maximum number of grants

(A) First fiscal year of Program

In the first fiscal year of the Program, the Secretary shall make grants to not more than 5 eligible entities.

(B) Second fiscal year of Program

In the second fiscal year of the Program, the Secretary may make grants to—

(i) the eligible entities to which grants were made under subparagraph (A); and

(ii) not more than 10 additional eligible entities.

(4) State limitation

(A) In general

Subject to subparagraph (B), in the first 3 fiscal years of the Program, the Secretary shall not make a grant under the Program to more than 1 entity in any 1 State.

(B) Collaboration

Nothing in subparagraph (A) precludes a recipient of a grant under the Program from collaborating with any other institution with respect to activities conducted using the grant.

(f) Use of funds

An eligible entity to which a grant is made under the Program may use the grant only for the following purposes (but only to the extent that the use is not described in section 1632a(d) of this title):

(1) Applied research.

(2) Consulting services.

(3) Hiring of employees, at the discretion of the board of directors of the Agriculture Innovation Center of the eligible entity.

(4) The making of matching grants, each of which shall be in an amount not to exceed $5,000, to agricultural producers, except that the aggregate amount of all such matching grants made by the eligible entity shall be not more than $50,000.

(5) Legal services.

(6) Any other related cost, as determined by the Secretary.

(g) Research on effects on the agricultural sector

(1) In general

Of the amount made available under subsection (i) for each fiscal year, the Secretary shall use $300,000 to support research at a university concerning the effects of projects for value-added agricultural commodities or products on agricultural producers and the commodity markets.

(2) Research elements

Research under paragraph (1) shall systematically examine, using linked, long-term, global projections of the agricultural sector, the potential effects of projects described in subparagraph (A)[1] on—

(A) demand for agricultural commodities;

(B) market prices;

(C) farm income; and

(D) Federal outlays on commodity programs.

(h) Report to Congress

(1) In general

Not later than 3 years after the date on which the last of the first 10 grants is made under the Program, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on—

(A) the effectiveness of the Program in improving and expanding the production of value-added agricultural commodities or products; and

(B) the effects of the Program on the economic viability of agricultural producers.

(2) Required elements

The report under paragraph (1) shall—

(A) include a description of the best practices and innovations found at each of the Agriculture Innovation Centers established under the Program; and

(B) specify the number and type of activities assisted, and the type of assistance provided, under the Program.

(i) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $6,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 107–171, title VI, § 6402, May 13, 2002, 116 Stat. 426; Pub. L. 110–234, title VI, § 6203, May 22, 2008, 122 Stat. 1207; Pub. L. 110–246, § 4(a), title VI, § 6203, June 18, 2008, 122 Stat. 1664, 1969.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Farm Security and Rural Investment Act of 2002, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

Section was formerly set out as a note under section 1621 of this title.

AMENDMENTS

2008—Subsec. (i). Pub. L. 110–246, § 6203, added subsec. (i) and struck out former subsec. (i). Prior to amendment, text read as follows: ''Of the amount made available under section 231(a)(1) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) for each fiscal year, the Secretary shall use to carry out this section—

''(1) not less than $3,000,000 for fiscal year 2002; and

''(2) not less than $6,000,000 for each of fiscal years 2003 and 2004.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

SUBCHAPTER II—LIVESTOCK MANDATORY REPORTING

PART A—PURPOSE; DEFINITIONS

§ 1635. Purpose

The purpose of this subchapter is to establish a program of information regarding the marketing of cattle, swine, lambs, and products of such livestock that—

(1) provides information that can be readily understood by producers, packers, and other market participants, including information with respect to the pricing, contracting for purchase, and supply and demand conditions for livestock, livestock production, and livestock products;

(2) improves the price and supply reporting services of the Department of Agriculture; and

(3) encourages competition in the marketplace for livestock and livestock products.

(Aug. 14, 1946, ch. 966, title II, § 211, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1188.)

LIVESTOCK MANDATORY REPORTING

Pub. L. 106–78, title IX, Oct. 22, 1999, 113 Stat. 1188, as amended by Pub. L. 108–444, § 1, Dec. 3, 2004, 118 Stat.

[1] So in original. Probably should be ''paragraph (1)''.

2635; Pub. L. 109–296, § 1(b), Oct. 5, 2006, 120 Stat. 1464, provided that:

''SEC. 901. SHORT TITLE.

''This title [enacting sections 198 to 198b and 1635 to 1636h of this title and this note, amending sections 192 and 5712 of this title, repealing section 229a of this title, and amending provisions set out as a note under section 1421 of this title] may be cited as the 'Livestock Mandatory Reporting Act of 1999'.

''Subtitle A—Livestock Mandatory Reporting

''SEC. 911. LIVESTOCK MANDATORY REPORTING.

''[Enacted this subchapter.]

''SEC. 912. UNJUST DISQUALIFICATION.

''[Amended section 192 of this title.]

''SEC. 913. CONFORMING AMENDMENTS.

''(a) [Repealed section 229a of this title.]

''(b) [Amended section 101(a) [title XI, § 1127] of Pub. L. 105–277, former 7 U.S.C. 1421 note.]

''Subtitle B—Related Beef Reporting Provisions

''SEC. 921. BEEF EXPORT REPORTING.

''[Amended section 5712 of this title.]

''SEC. 922. EXPORT CERTIFICATES FOR MEAT AND MEAT FOOD PRODUCTS.

''Not later than 1 year after the date of the enactment of this Act [Oct. 22, 1999], the Secretary of Agriculture shall fully implement a program, through the use of a streamlined electronic online system, to issue and report export certificates for all meat and meat products.

''SEC. 923. IMPORTS OF BEEF, BEEF VARIETY MEATS, AND CATTLE.

''(a) IN GENERAL.—The Secretary of Agriculture shall—

''(1) obtain information regarding the import of beef and beef variety meats (consistent with the information categories reported for beef exports under section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a))) and cattle using available information sources; and

''(2) publish the information in a timely manner weekly and in a form that maximizes the utility of the information to beef producers, packers, and other market participants.

''(b) CONTENT.—The published information shall include information reporting the year-to-date cumulative annual imports of beef, beef variety meats, and cattle for the current and prior marketing years.

''SEC. 924. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out sections 922 and 923.

''Subtitle C—Related Swine Reporting Provisions

''SEC. 931. IMPROVEMENT OF HOGS AND PIGS INVENTORY REPORT.

''(a) IN GENERAL.—Effective beginning not later than 90 days after the date of the enactment of this Act [Oct. 22, 1999], the Secretary of Agriculture shall publish on a monthly basis the Hogs and Pigs Inventory Report.

''(b) GESTATING SOWS.—The Secretary shall include in a separate category of the Report the number of bred female swine that are assumed, or have been confirmed, to be pregnant during the reporting period.

''(c) PHASE-OUT.—Effective for a period of eight quarters after the implementation of the monthly report required under subsection (a), the Secretary shall continue to maintain and publish on a quarterly basis the Hogs and Pigs Inventory Report published on or before the date of the enactment of this Act.

''SEC. 932. BARROW AND GILT SLAUGHTER.

''(a) IN GENERAL.—The Secretary of Agriculture shall promptly obtain and maintain, through an appropriate collection system or valid sampling system at packing plants, information on the total slaughter of swine that reflects differences in numbers between barrows and gilts, as determined by the Secretary.

''(b) AVAILABILITY.—The information shall be made available to swine producers, packers, and other market participants in a report published by the Secretary not less frequently than weekly.

''(c) ADMINISTRATION.—

''(1) IN GENERAL.—The Secretary shall administer the collection and compilation of information, and the publication of the report, required by this section.

''(2) NONDELEGATION.—The Secretary shall not delegate the collection, compilation, or administration of the information required by this section to any packer (as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)).

''SEC. 933. AVERAGE TRIM LOSS CORRELATION STUDY AND REPORT.

''(a) IN GENERAL.—The Secretary of Agriculture shall contract with a qualified contractor to conduct a correlation study and prepare a report establishing a baseline and standards for determining and improving average trim loss measurements and processing techniques for pork processors to employ in the slaughter of swine.

''(b) CORRELATION STUDY AND REPORT.—The study and report shall—

''(1) analyze processing techniques that would assist the pork processing industry in improving procedures for uniformity and transparency in how trim loss is discounted (in dollars per hundred pounds carcass weight) by different packers and processors;

''(2) analyze slaughter inspection procedures that could be improved so that trimming procedures and policies of the Secretary are uniform to the maximum extent determined practicable by the Secretary;

''(3) determine how the Secretary may be able to foster improved breeding techniques and animal handling and transportation procedures through training programs made available to swine producers so as to minimize trim loss in slaughter processing; and

''(4) make recommendations that are designed to effect changes in the pork industry so as to achieve continuous improvement in average trim losses and discounts.

''(c) SUBSEQUENT REPORTS ON STATUS OF IMPROVEMENTS AND UPDATES IN BASELINE.—Not less frequently than once every 2 years after the initial publication of the report required under this section, the Secretary shall make subsequent periodic reports that—

''(1) examine the status of the improvement in reducing trim loss discounts in the pork processing industry; and

''(2) update the baseline to reflect changes in trim loss discounts.

''(d) SUBMISSION OF REPORTS TO CONGRESS, PRODUCERS, PACKERS, AND OTHERS.—The reports required under this section shall be made available to—

''(1) the public on the Internet;

''(2) the Committee on Agriculture of the House of Representatives;

''(3) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

''(4) producers and packers; and

''(5) other market participants.

''SEC. 934. SWINE PACKER MARKETING CONTRACTS.

''[Enacted sections 198 to 198b of this title.]

''SEC. 935. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.

''Subtitle D—Implementation

''SEC. 941. REGULATIONS.

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 22, 1999], the Secretary of Agriculture shall publish final regulations

to implement this title and the amendments made by this title.

''(b) PUBLICATION OF PROPOSED REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish proposed regulations to implement this title and the amendments made by this title.

''(c) COMMENT PERIOD.—The Secretary shall provide an opportunity for comment on the proposed regulations during the 30-day period beginning on the date of the publication of the proposed regulations.

''(d) FINAL REGULATIONS.—Not later than 60 days after the conclusion of the comment period, the Secretary shall publish the final regulations and implement this title and the amendments made by this title.

''SEC. 942. TERMINATION OF AUTHORITY.

''The authority provided by this title [enacting sections 198 to 198b and 1635 to 1636h of this title and this note, amending sections 192 and 5712 of this title, repealing section 229a of this title, and amending provisions set out as a note under section 1421 of this title] and the amendments made by this title (other than section 911 of subtitle A [enacting this subchapter] and the amendments made by that section) terminate on September 30, 2010.''

§ 1635a. Definitions

In this subchapter:

(1) Base price

The term ''base price'' means the price paid for livestock, delivered at the packing plant, before application of any premiums or discounts, expressed in dollars per hundred pounds of carcass weight.

(2) Basis level

The term ''basis level'' means the agreed-on adjustment to a future price to establish the final price paid for livestock.

(3) Current slaughter week

The term ''current slaughter week'' means the period beginning Monday, and ending Sunday, of the week in which a reporting day occurs.

(4) F.O.B.

The term ''F.O.B.'' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

(5) Livestock

The term ''livestock'' means cattle, swine, and lambs.

(6) Lot

The term ''lot'' means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller.

(7) Marketing

The term ''marketing'' means the sale or other disposition of livestock, livestock products, or meat or meat food products in commerce.

(8) Negotiated purchase

The term ''negotiated purchase'' means a cash or spot market purchase by a packer of livestock from a producer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(9) Negotiated sale

The term ''negotiated sale'' means a cash or spot market sale by a producer of livestock to a packer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(10) Prior slaughter week

The term ''prior slaughter week'' means the Monday through Sunday prior to a reporting day.

(11) Producer

The term ''producer'' means any person engaged in the business of selling livestock to a packer for slaughter (including the sale of livestock from a packer to another packer).

(12) Reporting day

The term ''reporting day'' means a day on which—

(A) a packer conducts business regarding livestock committed to the packer, or livestock purchased, sold, or slaughtered by the packer;

(B) the Secretary is required to make information concerning the business described in subparagraph (A) available to the public; and

(C) the Department of Agriculture is open to conduct business.

(13) Secretary

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

(14) State

The term ''State'' means each of the 50 States.

(Aug. 14, 1946, ch. 966, title II, § 212, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1188.)

PART B—CATTLE REPORTING

§ 1635d. Definitions

In this part:

(1) Cattle committed

The term ''cattle committed'' means cattle that are scheduled to be delivered to a packer within the 7-day period beginning on the date of an agreement to sell the cattle.

(2) Cattle type

The term ''cattle type'' means the following types of cattle purchased for slaughter:

(A) Fed steers.

(B) Fed heifers.

(C) Fed Holsteins and other fed dairy steers and heifers.

(D) Cows.

(E) Bulls.

(3) Formula marketing arrangement

The term ''formula marketing arrangement'' means the advance commitment of cattle for slaughter by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

(4) Forward contract

The term ''forward contract'' means—

(A) an agreement for the purchase of cattle, executed in advance of slaughter, under which the base price is established by reference to—

(i) prices quoted on the Chicago Mercantile Exchange; or

(ii) other comparable publicly available prices; or

(B) such other forward contract as the Secretary determines to be applicable.

(5) Packer

The term ''packer'' means any person engaged in the business of buying cattle in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from cattle for sale or shipment in commerce, or of marketing meats or meat food products from cattle in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that—

(A) the term includes only a cattle processing plant that is federally inspected;

(B) for any calendar year, the term includes only a cattle processing plant that slaughtered an average of at least 125,000 head of cattle per year during the immediately preceding 5 calendar years; and

(C) in the case of a cattle processing plant that did not slaughter cattle during the immediately preceding 5 calendar years, the Secretary shall consider the plant capacity of the processing plant in determining whether the processing plant should be considered a packer under this part.

(6) Packer-owned cattle

The term ''packer-owned cattle'' means cattle that a packer owns for at least 14 days immediately before slaughter.

(7) Terms of trade

The term ''terms of trade'' includes, with respect to the purchase of cattle for slaughter—

(A) whether a packer provided any financing agreement or arrangement with regard to the cattle;

(B) whether the delivery terms specified the location of the producer or the location of the packer's plant;

(C) whether the producer is able to unilaterally specify the date and time during the business day of the packer that the cattle are to be delivered for slaughter; and

(D) the percentage of cattle purchased by a packer as a negotiated purchase that are delivered to the plant for slaughter more than 7 days, but fewer than 14 days, after the earlier of—

(i) the date on which the cattle were committed to the packer; or

(ii) the date on which the cattle were purchased by the packer.

(8) Type of purchase

The term ''type of purchase'', with respect to cattle, means—

(A) a negotiated purchase;

(B) a formula market arrangement; and

(C) a forward contract.

(Aug. 14, 1946, ch. 966, title II, § 221, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1189.)

§ 1635e. Mandatory reporting for live cattle

(a) Establishment

The Secretary shall establish a program of live cattle price information reporting that will—

(1) provide timely, accurate, and reliable market information;

(2) facilitate more informed marketing decisions; and

(3) promote competition in the cattle slaughtering industry.

(b) General reporting provisions applicable to packers and the Secretary

(1) In general

Whenever the prices or quantities of cattle are required to be reported or published under this section, the prices or quantities shall be categorized so as to clearly delineate—

(A) the prices or quantities, as applicable, of the cattle purchased in the domestic market; and

(B) the prices or quantities, as applicable, of imported cattle.

(2) Packer-owned cattle

Information required under this section for packer-owned cattle shall include quantity and carcass characteristics, but not price.

(c) Daily reporting

(1) In general

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day (including once not later than 10:00 a.m. Central Time and once not later than 2:00 p.m. Central Time) the following information for each cattle type:

(A) The prices for cattle (per hundredweight) established on that day, categorized by—

(i) type of purchase;

(ii) the quantity of cattle purchased on a live weight basis;

(iii) the quantity of cattle purchased on a dressed weight basis;

(iv) a range of the estimated live weights of the cattle purchased;

(v) an estimate of the percentage of the cattle purchased that were of a quality grade of choice or better; and

(vi) any premiums or discounts associated with—

(I) weight, grade, or yield; or

(II) any type of purchase.

(B) The quantity of cattle delivered to the packer (quoted in numbers of head) on that day, categorized by—

(i) type of purchase;

(ii) the quantity of cattle delivered on a live weight basis; and

(iii) the quantity of cattle delivered on a dressed weight basis.

(C) The quantity of cattle committed to the packer (quoted in numbers of head) as of that day, categorized by—

(i) type of purchase;

(ii) the quantity of cattle committed on a live weight basis; and

(iii) the quantity of cattle committed on a dressed weight basis.

(D) The terms of trade regarding the cattle, as applicable.

(2) Publication

The Secretary shall make the information available to the public not less frequently than three times each reporting day.

(d) Weekly reporting

(1) In general

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information applicable to the prior slaughter week:

(A) The quantity of cattle purchased through a forward contract that were slaughtered.

(B) The quantity of cattle delivered under a formula marketing arrangement that were slaughtered.

(C) The quantity and carcass characteristics of packer-owned cattle that were slaughtered.

(D) The quantity, basis level, and delivery month for all cattle purchased through forward contracts that were agreed to by the parties.

(E) The range and average of intended premiums and discounts that are expected to be in effect for the current slaughter week.

(2) Formula purchases

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information for cattle purchased through a formula marketing arrangement and slaughtered during the prior slaughter week:

(A) The quantity (quoted in both numbers of head and hundredweights) of cattle.

(B) The weighted average price paid for a carcass, including applicable premiums and discounts.

(C) The range of premiums and discounts paid.

(D) The weighted average of premiums and discounts paid.

(E) The range of prices paid.

(F) The aggregate weighted average price paid for a carcass.

(G) The terms of trade regarding the cattle, as applicable.

(3) Publication

The Secretary shall make available to the public the information obtained under paragraphs (1) and (2) on the first reporting day of the current slaughter week, not later than 10:00 a.m. Central Time.

(e) Regional reporting of cattle types

(1) In general

The Secretary shall determine whether adequate data can be obtained on a regional basis for fed Holsteins and other fed dairy steers and heifers, cows, and bulls based on the number of packers required to report under this section.

(2) Report

Not later than 2 years after October 22, 1999, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the determination of the Secretary under paragraph (1).

(Aug. 14, 1946, ch. 966, title II, § 222, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1191.)

§ 1635f. Mandatory packer reporting of boxed beef sales

(a) Daily reporting

The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day (not less than once before, and once after, 12:00 noon Central Time) information on total boxed beef sales, including—

(1) the price for each lot of each negotiated boxed beef sale (determined by seller-buyer interaction and agreement), quoted in dollars per hundredweight (on a F.O.B. plant basis);

(2) the quantity for each lot of each sale, quoted by number of boxes sold; and

(3) information regarding the characteristics of each lot of each sale, including—

(A) the grade of beef (USDA Choice or better, USDA Select, or ungraded no-roll product);

(B) the cut of beef; and

(C) the trim specification.

(b) Publication

The Secretary shall make available to the public the information required to be reported under subsection (a) of this section not less frequently than twice each reporting day.

(Aug. 14, 1946, ch. 966, title II, § 223, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1193.)

PART C—SWINE REPORTING

§ 1635i. Definitions

In this part:

(1) Affiliate

The term ''affiliate'', with respect to a packer, means—

(A) a person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of the packer;

(B) a person 5 percent or more of whose outstanding voting securities are directly or

indirectly owned, controlled, or held with power to vote, by the packer; and

(C) a person that directly or indirectly controls, or is controlled by or under common control with, the packer.

(2) Applicable reporting period

The term ''applicable reporting period'' means the period of time prescribed by the prior day report, the morning report, and the afternoon report, as required under section 1635j(c) of this title.

(3) Barrow

The term ''barrow'' means a neutered male swine.

(4) Base market hog

The term ''base market hog'' means a barrow or gilt for which no discounts are subtracted from and no premiums are added to the base price.

(5) Boar

The term ''boar'' means a sexually-intact male swine.

(6) Formula price

The term ''formula price'' means a price determined by a mathematical formula under which the price established for a specified market serves as the basis for the formula.

(7) Gilt

The term ''gilt'' means a young female swine that has not produced a litter.

(8) Hog class

The term ''hog class'' means, as applicable—

(A) barrows or gilts;

(B) sows; or

(C) boars or stags.

(9) Noncarcass merit premium

The term ''noncarcass merit premium'' means an increase in the base price of the swine offered by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium is known before the sale and delivery of the swine.

(10) Other market formula purchase

(A) In general

The term ''other market formula purchase'' means a purchase of swine by a packer in which the pricing mechanism is a formula price based on any market other than the market for swine, pork, or a pork product.

(B) Inclusion

The term ''other market formula purchase'' includes a formula purchase in a case in which the price formula is based on one or more futures or options contracts.

(11) Other purchase arrangement

The term ''other purchase arrangement'' means a purchase of swine by a packer that—

(A) is not a negotiated purchase, swine or pork market formula purchase, or other market formula purchase; and

(B) does not involve packer-owned swine.

(12) Packer

The term ''packer'' means any person engaged in the business of buying swine in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from swine for sale or shipment in commerce, or of marketing meats or meat food products from swine in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that—

(A) the term includes only a swine processing plant that is federally inspected;

(B) for any calendar year, the term includes only—

(i) a swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding five calendar years; and

(ii) a person that slaughtered an average of at least 200,000 sows, boars, or any combination thereof, per year during the immediately preceding five calendar years; and

(C) in the case of a swine processing plant or person that did not slaughter swine during the immediately preceding 5 calendar years, the Secretary shall consider the plant capacity of the processing plant or person in determining whether the processing plant or person should be considered a packer under this part.

(13) Packer-owned swine

The term ''packer-owned swine'' means swine that a packer (including a subsidiary or affiliate of the packer) owns for at least 14 days immediately before slaughter.

(14) Packer-sold swine

The term ''packer-sold swine'' means the swine that are—

(A) owned by a packer (including a subsidiary or affiliate of the packer) for more than 14 days immediately before sale for slaughter; and

(B) sold for slaughter to another packer.

(15) Pork

The term ''pork'' means the meat of a porcine animal.

(16) Pork product

The term ''pork product'' means a product or byproduct produced or processed in whole or in part from pork.

(17) Purchase data

The term ''purchase data'' means all of the applicable data, including weight (if purchased live), for all swine purchased during the applicable reporting period, regardless of the expected delivery date of the swine, reported by—

(A) hog class;

(B) type of purchase; and

(C) packer-owned swine.

(18) Slaughter data

The term ''slaughter data'' means all of the applicable data for all swine slaughtered by a packer during the applicable reporting period, regardless of when the price of the swine was

negotiated or otherwise determined, reported by—

(A) hog class;

(B) type of purchase; and

(C) packer-owned swine.

(19) Sow

The term ''sow'' means an adult female swine that has produced one or more litters.

(20) Swine

The term ''swine'' means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

(21) Swine or pork market formula purchase

The term ''swine or pork market formula purchase'' means a purchase of swine by a packer in which the pricing mechanism is a formula price based on a market for swine, pork, or a pork product, other than a future or option for swine, pork, or a pork product.

(22) Type of purchase

The term ''type of purchase'', with respect to swine, means—

(A) a negotiated purchase;

(B) other market formula purchase;

(C) a swine or pork market formula purchase; and

(D) other purchase arrangement.

(Aug. 14, 1946, ch. 966, title II, § 231, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1193; amended Pub. L. 109–296, § 2, Oct. 5, 2006, 120 Stat. 1464.)

AMENDMENTS

2006—Par. (4). Pub. L. 109–296, § 2(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The term 'base market hog' means a hog for which no discounts are subtracted from and no premiums are added to the base price.''

Par. (5). Pub. L. 109–296, § 2(b), amended heading and text of par. (5) generally. Prior to amendment, text read as follows: ''The term 'bred female swine' means any female swine, whether a sow or gilt, that has been mated or inseminated and is assumed, or has been confirmed, to be pregnant.''

Par. (12)(B). Pub. L. 109–296, § 2(c)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: ''for any calendar year, the term includes only a swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding 5 calendar years; and''.

Par. (12)(C). Pub. L. 109–296, § 2(c)(2), inserted ''or person'' after ''swine processing plant'', ''plant capacity of the processing plant'', and ''determining whether the processing plant''.

§ 1635j. Mandatory reporting for swine

(a) Establishment

The Secretary shall establish a program of swine price information reporting that will—

(1) provide timely, accurate, and reliable market information;

(2) facilitate more informed marketing decisions; and

(3) promote competition in the swine slaughtering industry.

(b) General reporting provisions applicable to packers and the Secretary

(1) In general

The Secretary shall establish and implement a price reporting program in accordance with this section that includes the reporting and publication of information required under this section.

(2) Packer-owned swine

Information required under this section for packer-owned swine shall include quantity and carcass characteristics, but not price.

(3) Packer-sold swine

If information regarding the type of purchase is required under this section, the information shall be reported according to the numbers and percentages of each type of purchase comprising—

(A) packer-sold swine; and

(B) all other swine.

(4) Additional information

(A) Review

The Secretary shall review the information required to be reported by packers under this section at least once every 2 years.

(B) Outdated information

After public notice and an opportunity for comment, subject to subparagraph (C), the Secretary shall promulgate regulations that specify additional information that shall be reported under this section if the Secretary determines under the review under subparagraph (A) that—

(i) information that is currently required no longer accurately reflects the methods by which swine are valued and priced by packers; or

(ii) packers that slaughter a significant majority of the swine produced in the United States no longer use backfat or lean percentage factors as indicators of price.

(C) Limitation

Under subparagraph (B), the Secretary may not require packers to provide any new or additional information that—

(i) is not generally available or maintained by packers; or

(ii) would be otherwise unduly burdensome to provide.

(c) Daily reporting; barrows and gilts

(1) Prior day report

(A) In general

The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary, for each business day of the packer, such information as the Secretary determines necessary and appropriate to—

(i) comply with the publication requirements of this section; and

(ii) provide for the timely access to the information by producers, packers, and other market participants.

(B) Reporting deadline and plants required to report

A packer required to report under subparagraph (A) shall—

(i) not later than 7:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts purchased or priced, and

(ii) not later than 9:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts slaughtered,

during the prior business day of the packer.

(C) Information required

The information from the prior business day of a packer required under this paragraph shall include—

(i) all purchase data, including—

(I) the total number of—

(aa) barrows and gilts purchased; and

(bb) barrows and gilts scheduled for delivery; and

(II) the base price and purchase data for slaughtered barrows and gilts for which a price has been established;

(ii) all slaughter data for the total number of barrows and gilts slaughtered, including—

(I) information concerning the net price, which shall be equal to the total amount paid by a packer to a producer (including all premiums, less all discounts) per hundred pounds of carcass weight of barrows and gilts delivered at the plant—

(aa) including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer or the accumulation of a balance to later be repaid by the packer to the producer; and

(bb) excluding any sum earlier paid to a producer that must later be repaid to the packer;

(II) information concerning the average net price, which shall be equal to the quotient (stated per hundred pounds of carcass weight of barrows and gilts) obtained by dividing—

(aa) the total amount paid for the barrows and gilts slaughtered at a packing plant during the applicable reporting period, including all premiums and discounts, and including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer, or the accumulation of a balance to later be repaid by the packer to the producer, less all discounts; by

(bb) the total carcass weight (in hundred pound increments) of the barrows and gilts;

(III) information concerning the lowest net price, which shall be equal to the lowest net price paid for a single lot or a group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;

(IV) information concerning the highest net price, which shall be equal to the highest net price paid for a single lot or group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;

(V) the average carcass weight, which shall be equal to the quotient obtained by dividing—

(aa) the total carcass weight of the barrows and gilts slaughtered at the packing plant during the applicable reporting period, by

(bb) the number of the barrows and gilts described in item (aa),

adjusted for special slaughter situations (such as skinning or foot removal), as the Secretary determines necessary to render comparable carcass weights;

(VI) the average sort loss, which shall be equal to the average discount (in dollars per hundred pounds carcass weight) for barrows and gilts slaughtered during the applicable reporting period, resulting from the fact that the barrows and gilts did not fall within the individual packer's established carcass weight or lot variation range;

(VII) the average backfat, which shall be equal to the average of the backfat thickness (in inches) measured between the third and fourth from the last ribs, 7 centimeters from the carcass split (or adjusted from the individual packer's measurement to that reference point using an adjustment made by the Secretary) of the barrows and gilts slaughtered during the applicable reporting period;

(VIII) the average lean percentage, which shall be equal to the average percentage of the carcass weight comprised of lean meat for the barrows and gilts slaughtered during the applicable reporting period, except that when a packer is required to report the average lean percentage under this subclause, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary may convert to the carcass measurements or lean percentage of the barrows and gilts of the individual packer to correlate to a common percent lean measurement; and

(IX) the total slaughter quantity, which shall be equal to the total number of barrows and gilts slaughtered during the applicable reporting period, including all types of purchases and barrows and gilts that qualify as packer-owned swine; and

(iii) packer purchase commitments, which shall be equal to the number of barrows and gilts scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

(D) Publication

(i) In general

The Secretary shall publish the information obtained under this paragraph in a prior day report—

(I) in the case of information regarding barrows and gilts purchased or priced, not later than 8:00 a.m. Central Time, and

(II) in the case of information regarding barrows and gilts slaughtered, not later than 10:00 a.m. Central Time,

on the reporting day on which the information is received from the packer.

(ii) Price distributions

The information published by the Secretary under clause (i) shall include a distribution of net prices in the range between and including the lowest net price and the highest net price reported. The publication shall include a delineation of the number of barrows and gilts at each reported price level or, at the option of the Secretary, the number of barrows and gilts within each of a series of reasonable price bands within the range of prices.

(2) Morning report

(A) In general

The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary not later than 10:00 a.m. Central Time each reporting day—

(i) the packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(iv) the base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis.

(B) Publication

The Secretary shall publish the information obtained under this paragraph in the morning report as soon as practicable, but not later than 11:00 a.m. Central Time, on each reporting day.

(3) Afternoon report

(A) In general

The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary not later than 2:00 p.m. Central Time each reporting day—

(i) the packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(iv) the base price paid for all base market hogs purchased up to that time of the reporting day through each type of purchase other than negotiated purchase, unless such information is unavailable due to pricing that is determined on a delayed basis.

(B) Publication

The Secretary shall publish the information obtained under this paragraph in the afternoon report as soon as practicable, but not later than 3:00 p.m. Central Time, on each reporting day.

(d) Daily reporting; sows and boars

(1) Prior day report

The corporate officers or officially designated representatives of each packer of sows and boars shall report to the Secretary, for each business day of the packer, such information reported by hog class as the Secretary determines necessary and appropriate to—

(A) comply with the publication requirements of this section; and

(B) provide for the timely access to the information by producers, packers, and other market participants.

(2) Reporting

Not later than 9:30 a.m. Central Time, or such other time as the Secretary considers appropriate, on each reporting day, a packer required to report under paragraph (1) shall report information regarding all sows and boars purchased or priced during the prior business day of the packer.

(3) Information required

The information from the prior business day of a packer required under this subsection shall include all purchase data, including—

(A) the total number of sows purchased and the total number of boars purchased, each divided into at least three reasonable and meaningful weight classes specified by the Secretary;

(B) the number of sows that qualify as packer-owned swine;

(C) the number of boars that qualify as packer-owned swine;

(D) the average price paid for all sows;

(E) the average price paid for all boars;

(F) the average price paid for sows in each weight class specified by the Secretary under subparagraph (A);

(G) the average price paid for boars in each weight class specified by the Secretary under subparagraph (A);

(H) the number of sows and the number of boars for which prices are determined, by each type of purchase;

(I) the average prices for sows and the average prices for boars for which prices are determined, by each type of purchase; and

(J) such other information as the Secretary considers appropriate to carry out this subsection.

(4) Price calculations without packer-owned swine

A packer shall omit the prices of sows and boars that qualify as packer-owned swine from all average price calculations, price range calculations, and reports required by this subsection.

(5) Reporting exception: public auction purchases

The information required to be reported under this subsection shall not include purchases of sows or boars made by agents of the reporting packer at a public auction at which the title of the sows and boars is transferred directly from the producer to such packer.

(6) Publication

The Secretary shall publish the information obtained under this paragraph in a prior day report not later than 11:00 a.m. Central Time on the reporting day on which the information is received from the packer.

(7) Electronic submission of information

The Secretary of Agriculture shall provide for the electronic submission of any information required to be reported under this subsection through an Internet website or equivalent electronic means maintained by the Department of Agriculture.

(e) Weekly noncarcass merit premium report

(1) In general

Not later than 4:00 p.m. Central Time on the first reporting day of each week, the corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary a noncarcass merit premium report that lists—

(A) each category of standard noncarcass merit premiums used by the packer in the prior slaughter week; and

(B) the amount (in dollars per hundred pounds of carcass weight) paid to producers by the packer, by category.

(2) Premium list

A packer shall maintain and make available to a producer, on request, a current listing of the dollar values (per hundred pounds of carcass weight) of each noncarcass merit premium used by the packer during the current or the prior slaughter week.

(3) Availability

A packer shall not be required to pay a listed noncarcass merit premium to a producer that meets the requirements for the premium if the need for swine in a given category is filled at a particular point in time.

(4) Publication

The Secretary shall publish the information obtained under this subsection as soon as practicable, but not later than 5:00 p.m. Central Time, on the first reporting day of each week.

(Aug. 14, 1946, ch. 966, title II, § 232, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1195; amended Pub. L. 109–296, §§ 3, 4, Oct. 5, 2006, 120 Stat. 1465, 1468.)

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–296, § 3, amended heading and text of subsec. (c) generally. Prior to amendment, text related to daily reporting.

Subsecs. (d), (e). Pub. L. 109–296, § 4, added subsec. (d) and redesignated former subsec. (d) as (e).

PART D—LAMB REPORTING

§ 1635m. Mandatory reporting for lambs

(a) Establishment

The Secretary may establish a program of mandatory lamb price information reporting that will—

(1) provide timely, accurate, and reliable market information;

(2) facilitate more informed marketing decisions; and

(3) promote competition in the lamb slaughtering industry.

(b) Notice and comment

If the Secretary establishes a mandatory price reporting program under subsection (a) of this section, the Secretary shall provide an opportunity for comment on proposed regulations to establish the program during the 30-day period beginning on the date of the publication of the proposed regulations.

(Aug. 14, 1946, ch. 966, title II, § 241, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1200.)

PART E—ADMINISTRATION

§ 1636. General provisions

(a) Confidentiality

The Secretary shall make available to the public information, statistics, and documents obtained from, or submitted by, packers, retail entities, and other persons under this subchapter in a manner that ensures that confidentiality is preserved regarding—

(1) the identity of persons, including parties to a contract; and

(2) proprietary business information.

(b) Disclosure by Federal Government employees

(1) In general

Subject to paragraph (2), no officer, employee, or agent of the United States shall, without the consent of the packer or other person concerned, divulge or make known in any manner, any facts or information regarding the business of the packer or other person that was acquired through reporting required under this subchapter.

(2) Exceptions

Information obtained by the Secretary under this subchapter may be disclosed—

(A) to agents or employees of the Department of Agriculture in the course of their official duties under this subchapter;

(B) as directed by the Secretary or the Attorney General, for enforcement purposes; or

(C) by a court of competent jurisdiction.

(3) Disclosure under Freedom of Information Act

Notwithstanding any other provision of law, no facts or information obtained under this subchapter shall be disclosed in accordance with section 552 of title 5.

(c) Reporting by packers

A packer shall report all information required under this subchapter on an individual lot basis.

(d) Regional reporting and aggregation

The Secretary shall make information obtained under this subchapter available to the public only in a manner that—

(1) ensures that the information is published on a national and a regional or statewide basis as the Secretary determines to be appropriate;

(2) ensures that the identity of a reporting person is not disclosed; and

(3) conforms to aggregation guidelines established by the Secretary.

(e) Adjustments

Prior to the publication of any information required under this subchapter, the Secretary may make reasonable adjustments in information reported by packers to reflect price aberrations or other unusual or unique occurrences that the Secretary determines would distort the published information to the detriment of producers, packers, or other market participants.

(f) Verification

The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under part B, C, or D of this subchapter.

(g) Electronic reporting and publishing

(1) In general

The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subchapter by electronic means.

(2) Improvements and education

(A) Enhanced electronic publishing

The Secretary shall develop and implement an enhanced system of electronic publishing to disseminate information collected pursuant to this subchapter. Such system shall—

(i) present information in a format that can be readily understood by producers, packers, and other market participants;

(ii) adhere to the publication deadlines in this subchapter;

(iii) present information in charts and graphs, as appropriate;

(iv) present comparative information for prior reporting periods, as the Secretary considers appropriate; and

(v) be updated as soon as practicable after information is reported to the Secretary.

(B) Education

The Secretary shall carry out a market news education program to educate the public and persons in the livestock and meat industries about—

(i) usage of the system developed under subparagraph (A); and

(ii) interpreting and understanding information collected and disseminated through such system.

(h) Reporting of activities on weekends and holidays

(1) In general

Livestock committed to a packer, or purchased, sold, or slaughtered by a packer, on a weekend day or holiday shall be reported by the packer to the Secretary (to the extent required under this subchapter), and reported by the Secretary, on the immediately following reporting day.

(2) Limitation on reporting by packers

A packer shall not be required to report actions under paragraph (1) more than once on the immediately following reporting day.

(i) Effect on other laws

Nothing in this subchapter, the Livestock Mandatory Reporting Act of 1999, or amendments made by that Act restricts or modifies the authority of the Secretary to—

(1) administer or enforce the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(2) administer, enforce, or collect voluntary reports under this chapter or any other law; or

(3) access documentary evidence as provided under sections 49 and 50 of title 15.

(Aug. 14, 1946, ch. 966, title II, § 251, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1200; amended Pub. L. 110–234, title XI, § 11001(a)(1), May 22, 2008, 122 Stat. 1350; Pub. L. 110–246, § 4(a), title XI, § 11001(a)(1), June 18, 2008, 122 Stat. 1664, 2112.)

REFERENCES IN TEXT

The Livestock Mandatory Reporting Act of 1999, referred to in subsec. (i), is title IX of Pub. L. 106–78, Oct. 22, 1999, 113 Stat. 1188, which is set out as a note under section 1635 of this title.

The Packers and Stockyards Act, 1921, referred to in subsec. (i)(1), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, as amended, which is classified generally to chapter 9 (§ 181 et seq.) of this title. For complete classification of this Act to the Code, see section 181 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (g). Pub. L. 110–246, § 11001(a)(1), amended subsec. (g) generally. Prior to amendment, text read as follows: ''The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subchapter by electronic means.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

IMPLEMENTATION OF ENHANCED ELECTRONIC PUBLISHING

Pub. L. 110–234, title XI, § 11001(a)(2), May 22, 2008, 122 Stat. 1351, and Pub. L. 110–246, § 4(a), title XI, § 11001(a)(2), June 18, 2008, 122 Stat. 1664, 2112, provided that:

''(A) ENHANCED REPORTING.—The Secretary of Agriculture shall develop and implement the system required under paragraph (2)(A) of section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)), as amended by paragraph (1), not later than one year after the date on which the Secretary determines sufficient funds have been appropriated pursuant to subsection (c) [122 Stat. 2113].

''(B) CURRENT SYSTEM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall continue to use the information format for disseminating information under subtitle B [7 U.S.C. 1635 et seq.] of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) in effect on the date of the enactment of this Act [June 18, 2008] at least until the date that is two years after the date on which the Secretary makes the determination referred to in subparagraph (A).''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of this title.]

§ 1636a. Unlawful acts

It shall be unlawful and a violation of this subchapter for any packer or other person subject to this subchapter (in the submission of information required under part B, C, or D of this subchapter, as determined by the Secretary) to willfully—

(1) fail or refuse to provide, or delay the timely reporting of, accurate information to the Secretary (including estimated information);

(2) solicit or request that a packer, the buyer or seller of livestock or livestock products, or any other person fail to provide, as a condition of any transaction, accurate or timely information required under this subchapter;

(3) fail or refuse to comply with this subchapter; or

(4) report estimated information in any report required under this subchapter in a manner that demonstrates a pattern of significant variance in accuracy when compared to the actual information that is reported for the same reporting period, or as determined by any audit, oversight, or other verification procedures of the Secretary.

(Aug. 14, 1946, ch. 966, title II, § 252, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1201.)

§ 1636b. Enforcement

(a) Civil penalty

(1) In general

Any packer or other person that violates this subchapter may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation.

(2) Continuing violation

Each day during which a violation continues shall be considered to be a separate violation.

(3) Factors

In determining the amount of a civil penalty to be assessed under paragraph (1), the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the ability of the person that has committed the violation to continue in business.

(4) Multiple violations

In determining whether to assess a civil penalty under paragraph (1), the Secretary shall consider whether a packer or other person subject to this subchapter has engaged in a pattern of errors, delays, or omissions in violation of this subchapter.

(b) Cease and desist

In addition to, or in lieu of, a civil penalty under subsection (a) of this section, the Secretary may issue an order to cease and desist from continuing any violation.

(c) Notice and hearing

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

(d) Finality and judicial review

(1) In general

The order of the Secretary assessing a civil penalty or issuing a cease and desist order under this section shall be final and conclusive unless the affected person files an appeal of the order of the Secretary in United States district court not later than 30 days after the date of the issuance of the order.

(2) Standard of review

A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) Enforcement

(1) In general

If, after the lapse of the period allowed for appeal or after the affirmance of a penalty assessed under this section, the person against which the civil penalty is assessed fails to pay the penalty, the Secretary may refer the matter to the Attorney General who may recover the penalty by an action in United States district court.

(2) Finality

In the action, the final order of the Secretary shall not be subject to review.

(f) Injunction or restraining order

(1) In general

If the Secretary has reason to believe that any person subject to this subchapter has failed or refused to provide the Secretary information required to be reported pursuant to this subchapter, and that it would be in the public interest to enjoin the person from further failure to comply with the reporting requirements, the Secretary may notify the Attorney General of the failure.

(2) Attorney General

The Attorney General may apply to the appropriate district court of the United States

for a temporary or permanent injunction or restraining order.

(3) Court

When needed to carry out this subchapter, the court shall, on a proper showing, issue a temporary injunction or restraining order without bond.

(g) Failure to obey orders

(1) In general

If a person subject to this subchapter fails to obey a cease and desist or civil penalty order issued under this subsection after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, the United States may apply to the appropriate district court for enforcement of the order.

(2) Enforcement

If the court determines that the order was lawfully made and duly served and that the person violated the order, the court shall enforce the order.

(3) Civil penalty

If the court finds that the person violated the cease and desist provisions of the order, the person shall be subject to a civil penalty of not more than $10,000 for each offense.

(Aug. 14, 1946, ch. 966, title II, § 253, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1202.)

§ 1636c. Fees

The Secretary shall not charge or assess a user fee, transaction fee, service charge, assessment, reimbursement, or any other fee for the submission or reporting of information, for the receipt or availability of, or access to, published reports or information, or for any other activity required under this subchapter.

(Aug. 14, 1946, ch. 966, title II, § 254, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1203.)

§ 1636d. Recordkeeping

(a) In general

Subject to subsection (b) of this section, each packer required to report information to the Secretary under this subchapter shall maintain, and make available to the Secretary on request, for 2 years—

(1) the original contracts, agreements, receipts and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock; and

(2) such records or other information as is necessary or appropriate to verify the accuracy of the information required to be reported under this subchapter.

(b) Limitations

Under subsection (a)(2) of this section, the Secretary may not require a packer to provide new or additional information if—

(1) the information is not generally available or maintained by packers; or

(2) the provision of the information would be unduly burdensome.

(c) Purchases of cattle or swine

A record of a purchase of a lot of cattle or a lot of swine by a packer shall evidence whether the purchase occurred—

(1) before 10:00 a.m. Central Time;

(2) between 10:00 a.m. and 2:00 p.m. Central Time; or

(3) after 2:00 p.m. Central Time.

(Aug. 14, 1946, ch. 966, title II, § 255, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1203.)

§ 1636e. Voluntary reporting

The Secretary shall encourage voluntary reporting by packers (as defined in section 191 of this title) to which the mandatory reporting requirements of this subchapter do not apply.

(Aug. 14, 1946, ch. 966, title II, § 256, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1204.)

§ 1636f. Publication of information on retail purchase prices for representative meat products

(a) In general

Beginning not later than 90 days after October 22, 1999, the Secretary shall compile and publish at least monthly (weekly, if practicable) information on retail prices for representative food products made from beef, pork, chicken, turkey, veal, or lamb.

(b) Information

The report published by the Secretary under subsection (a) of this section shall include—

(1) information on retail prices for each representative food product described in subsection (a) of this section; and

(2) information on total sales quantity (in pounds and dollars) for each representative food product.

(c) Meat Price Spreads Report

During the period ending 2 years after the initial publication of the report required under subsection (a) of this section, the Secretary shall continue to publish the Meat Price Spreads Report in the same manner as the Report was published before October 22, 1999.

(d) Information collection

(1) In general

To ensure the accuracy of the reports required under subsection (a) of this section, the Secretary shall obtain the information for the reports from one or more sources including—

(A) a consistently representative set of retail transactions; and

(B) both prices and sales quantities for the transactions.

(2) Source of information

The Secretary may—

(A) obtain the information from retailers or commercial information sources; and

(B) use valid statistical sampling procedures, if necessary.

(3) Adjustments

In providing information on retail prices under this section, the Secretary may make adjustments to take into account differences in—

(A) the geographic location of consumption;

(B) the location of the principal source of supply;

(C) distribution costs; and

(D) such other factors as the Secretary determines reflect a verifiable comparative retail price for a representative food product.

(e) Administration

The Secretary—

(1) shall collect information under this section only on a voluntary basis; and

(2) shall not impose a penalty on a person for failure to provide the information or otherwise compel a person to provide the information.

(Aug. 14, 1946, ch. 966, title II, § 257, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1204.)

§ 1636g. Suspension authority regarding specific terms of price reporting requirements

(a) In general

The Secretary may suspend any requirement of this subchapter if the Secretary determines that application of the requirement is inconsistent with the purposes of this subchapter.

(b) Suspension procedure

(1) Period

A suspension under subsection (a) of this section shall be for a period of not more than 240 days.

(2) Action by Congress

If an Act of Congress concerning the requirement that is the subject of the suspension under subsection (a) of this section is not enacted by the end of the period of the suspension established under paragraph (1), the Secretary shall implement the requirement.

(Aug. 14, 1946, ch. 966, title II, § 258, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1205.)

§ 1636h. Federal preemption

In order to achieve the goals, purposes, and objectives of this chapter on a nationwide basis and to avoid potentially conflicting State laws that could impede the goals, purposes, or objectives of this chapter, no State or political subdivision of a State may impose a requirement that is in addition to, or inconsistent with, any requirement of this subchapter with respect to the submission or reporting of information, or the publication of such information, on the prices and quantities of livestock or livestock products.

(Aug. 14, 1946, ch. 966, title II, § 259, as added Pub. L. 106–78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1205.)

§ 1636i. Termination of authority

The authority provided by this subchapter terminates on September 30, 2010.

(Aug. 14, 1946, ch. 966, title II, § 260, as added Pub. L. 109–296, § 1(a), Oct. 5, 2006, 120 Stat. 1464.)

SUBCHAPTER III—DAIRY PRODUCT MANDATORY REPORTING

§ 1637. Purpose

The purpose of this subchapter is to establish a program of information regarding the marketing of dairy products that—

(1) provides information that can be readily understood by producers and other market participants, including information with respect to prices, quantities sold, and inventories of dairy products;

(2) improves the price and supply reporting services of the Department of Agriculture; and

(3) encourages competition in the marketplace for dairy products.

(Aug. 14, 1946, ch. 966, title II, § 271, as added Pub. L. 106–532, § 2, Nov. 22, 2000, 114 Stat. 2541.)

§ 1637a. Definitions

In this subchapter:

(1) Dairy products

The term ''dairy products'' means—

(A) manufactured dairy products that are used by the Secretary to establish minimum prices for Class III and Class IV milk under a Federal milk marketing order issued under section 608c of this title; and

(B) substantially identical products designated by the Secretary.

(2) Manufacturer

The term ''manufacturer'' means any person engaged in the business of buying milk in commerce for the purpose of manufacturing dairy products.

(3) Secretary

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

(Aug. 14, 1946, ch. 966, title II, § 272, as added Pub. L. 106–532, § 2, Nov. 22, 2000, 114 Stat. 2541; amended Pub. L. 107–171, title I, § 1504, May 13, 2002, 116 Stat. 207.)

AMENDMENTS

2002—Par. (1). Pub. L. 107–171 inserted hyphen after ''means'', designated remainder of existing provisions as subpar. (A), substituted ''; and'' for period at end, and added subpar. (B).

§ 1637b. Mandatory reporting for dairy products

(a) Establishment

The Secretary shall establish a program of mandatory dairy product information reporting that will—

(1) provide timely, accurate, and reliable market information;

(2) facilitate more informed marketing decisions; and

(3) promote competition in the dairy product manufacturing industry.

(b) Requirements

(1) In general

In establishing the program, the Secretary shall only—

(A)(i) subject to the conditions described in paragraph (2), require each manufacturer to report to the Secretary information concerning the price, quantity, and moisture content of dairy products sold by the manufacturer; and

(ii) modify the format used to provide the information on the day before November 22, 2000, to ensure that the information can be readily understood by market participants; and

(B) require each manufacturer and other person storing dairy products to report to the Secretary, at a periodic interval determined by the Secretary, information on the quantity of dairy products stored.

(2) Conditions

The conditions referred to in paragraph (1)(A)(i) are that—

(A) the information referred to in paragraph (1)(A)(i) is required only with respect to those package sizes actually used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order;

(B) the information referred to in paragraph (1)(A)(i) is required only to the extent that the information is actually used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order;

(C) the frequency of the required reporting under paragraph (1)(A)(i) does not exceed the frequency used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order; and

(D) the Secretary may exempt from all reporting requirements any manufacturer that processes and markets less than 1,000,000 pounds of dairy products per year.

(c) Administration

(1) In general

The Secretary shall promulgate such regulations as are necessary to ensure compliance with, and otherwise carry out, this subchapter.

(2) Confidentiality

(A) In general

Except as otherwise directed by the Secretary or the Attorney General for enforcement purposes, no officer, employee, or agent of the United States shall make available to the public information, statistics, or documents obtained from or submitted by any person under this subchapter other than in a manner that ensures that confidentiality is preserved regarding the identity of persons, including parties to a contract, and proprietary business information.

(B) Relation to other requirements

Notwithstanding any other provision of law, no facts or information obtained under this subchapter shall be disclosed in accordance with section 552 of title 5.

(3) Verification

(A) In general

The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under this subchapter.

(B) Quarterly audits

The Secretary shall quarterly conduct an audit of information submitted or reported under this subchapter and compare such information with other related dairy market statistics.

(4) Enforcement

(A) Unlawful act

It shall be unlawful and a violation of this subchapter for any person subject to this subchapter to willfully fail or refuse to provide, or delay the timely reporting of, accurate information to the Secretary in accordance with this subchapter.

(B) Order

After providing notice and an opportunity for a hearing to affected persons, the Secretary may issue an order against any person to cease and desist from continuing any violation of this subchapter.

(C) Appeal

(i) In general

The order of the Secretary under subparagraph (B) shall be final and conclusive unless an affected person files an appeal of the order of the Secretary in United States district court not later than 30 days after the date of the issuance of the order.

(ii) Findings

A finding of the Secretary under this paragraph shall be set aside only if the finding is found to be unsupported by substantial evidence.

(D) Noncompliance with order

(i) In general

If a person subject to this subchapter fails to obey an order issued under this paragraph after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, the United States may apply to the appropriate United States district court for enforcement of the order.

(ii) Enforcement

If the court determines that the order was lawfully made and duly served and that the person violated the order, the court shall enforce the order.

(iii) Civil penalty

If the court finds that the person violated the order, the person shall be subject to a civil penalty of not more than $10,000 for each offense.

(5) Fees

The Secretary shall not charge or assess a user fee, transaction fee, service charge, as-

sessment, reimbursement fee, or any other fee under this subchapter for—

(A) the submission or reporting of information;

(B) the receipt or availability of, or access to, published reports or information; or

(C) any other activity required under this subchapter.

(6) Recordkeeping

Each person required to report information to the Secretary under this subchapter shall maintain, and make available to the Secretary, on request, original contracts, agreements, receipts, and other records associated with the sale or storage of any dairy products during the 2-year period beginning on the date of the creation of the records.

(d) Electronic reporting

(1) In general

Subject to the availability of funds under paragraph (3), the Secretary shall establish an electronic reporting system to carry out this section.

(2) Frequency of reports

After the establishment of the electronic reporting system in accordance with paragraph (1), the Secretary shall increase the frequency of the reports required under this section.

(3) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Aug. 14, 1946, ch. 966, title II, § 273, as added Pub. L. 106–532, § 2, Nov. 22, 2000, 114 Stat. 2542; amended Pub. L. 110–234, title I, § 1510, May 22, 2008, 122 Stat. 999; Pub. L. 110–246, § 4(a), title I, § 1510, June 18, 2008, 122 Stat. 1664, 1728.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (c)(3). Pub. L. 110–246, § 1510(b), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: ''The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under this subchapter.''

Subsecs. (d), (e). Pub. L. 110–246, § 1510(a), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

SUBCHAPTER IV—COUNTRY OF ORIGIN LABELING

§ 1638. Definitions

In this subchapter:

(1) Beef

The term ''beef'' means meat produced from cattle (including veal).

(2) Covered commodity

(A) In general

The term ''covered commodity'' means—

(i) muscle cuts of beef, lamb, and pork;

(ii) ground beef, ground lamb, and ground pork;

(iii) farm-raised fish;

(iv) wild fish;

(v) a perishable agricultural commodity;

(vi) peanuts; and[1]

(vii) meat produced from goats;

(viii) chicken, in whole and in part;

(ix) ginseng;

(x) pecans; and

(xi) macadamia nuts.

(B) Exclusions

The term ''covered commodity'' does not include an item described in subparagraph (A) if the item is an ingredient in a processed food item.

(3) Farm-raised fish

The term ''farm-raised fish'' includes—

(A) farm-raised shellfish; and

(B) fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.

(4) Food service establishment

The term ''food service establishment'' means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

(5) Lamb

The term ''lamb'' means meat, other than mutton, produced from sheep.

(6) Perishable agricultural commodity; retailer

The terms ''perishable agricultural commodity'' and ''retailer'' have the meanings given the terms in section 499a(b) of this title.

(7) Pork

The term ''pork'' means meat produced from hogs.

(8) Secretary

The term ''Secretary'' means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

(9) Wild fish

(A) In general

The term ''wild fish'' means naturally-born or hatchery-raised fish and shellfish harvested in the wild.

(B) Inclusions

The term ''wild fish'' includes a fillet, steak, nugget, and any other flesh from wild fish or shellfish.

(C) Exclusions

The term ''wild fish'' excludes net-pen aquacultural or other farm-raised fish.

[1] So in original. The word ''and'' probably should not appear.

(Aug. 14, 1946, ch. 966, title II, § 281, as added Pub. L. 107–171, title X, § 10816, May 13, 2002, 116 Stat. 533; amended Pub. L. 110–234, title XI, § 11002(1), May 22, 2008, 112 Stat. 1351; Pub. L. 110–246, § 4(a), title XI, § 11002(1), June 18, 2008, 122 Stat. 1664, 2113.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Par. (2)(A)(vii) to (xi). Pub. L. 110–246, § 11002(1), added cls. (vii) to (xi).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

§ 1638a. Notice of country of origin

(a) In general

(1) Requirement

Except as provided in subsection (b) of this section, a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

(2) Designation of country of origin for beef, lamb, pork, chicken, and goat meat

(A) United States country of origin

A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat may designate the covered commodity as exclusively having a United States country of origin only if the covered commodity is derived from an animal that was—

(i) exclusively born, raised, and slaughtered in the United States;

(ii) born and raised in Alaska or Hawaii and transported for a period of not more than 60 days through Canada to the United States and slaughtered in the United States; or

(iii) present in the United States on or before July 15, 2008, and once present in the United States, remained continuously in the United States.

(B) Multiple countries of origin

(i) In general

A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is—

(I) not exclusively born, raised, and slaughtered in the United States,

(II) born, raised, or slaughtered in the United States, and

(III) not imported into the United States for immediate slaughter,

may designate the country of origin of such covered commodity as all of the countries in which the animal may have been born, raised, or slaughtered.

(ii) Relation to general requirement

Nothing in this subparagraph alters the mandatory requirement to inform consumers of the country of origin of covered commodities under paragraph (1).

(C) Imported for immediate slaughter

A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is imported into the United States for immediate slaughter shall designate the origin of such covered commodity as—

(i) the country from which the animal was imported; and

(ii) the United States.

(D) Foreign country of origin

A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is not born, raised, or slaughtered in the United States shall designate a country other than the United States as the country of origin of such commodity.

(E) Ground beef, pork, lamb, chicken, and goat

The notice of country of origin for ground beef, ground pork, ground lamb, ground chicken, or ground goat shall include—

(i) a list of all countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat; or

(ii) a list of all reasonably possible countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat.

(3) Designation of country of origin for fish

(A) In general

A retailer of a covered commodity that is farm-raised fish or wild fish may designate the covered commodity as having a United States country of origin only if the covered commodity—

(i) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States; and

(ii) in the case of wild fish, is—

(I) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46 or registered in the United States; and

(II) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46 or registered in the United States.

(B) Designation of wild fish and farm-raised fish

The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

(4) Designation of country of origin for perishable agricultural commodities, ginseng, peanuts, pecans, and macadamia nuts

(A) In general

A retailer of a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut may

designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively produced in the United States.

(B) State, region, locality of the United States

With respect to a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where such commodity was produced shall be sufficient to identify the United States as the country of origin.

(b) Exemption for food service establishments

Subsection (a) of this section shall not apply to a covered commodity if the covered commodity is—

(1) prepared or served in a food service establishment; and

(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

(B) served to consumers at the food service establishment.

(c) Method of notification

(1) In general

The information required by subsection (a) of this section may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

(2) Labeled commodities

If the covered commodity is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.

(d) Audit verification system

(1) In general

The Secretary may conduct an audit of any person that prepares, stores, handles, or distributes a covered commodity for retail sale to verify compliance with this subchapter (including the regulations promulgated under section 1638c(b) of this title).

(2) Record requirements

(A) In general

A person subject to an audit under paragraph (1) shall provide the Secretary with verification of the country of origin of covered commodities. Records maintained in the course of the normal conduct of the business of such person, including animal health papers, import or customs documents, or producer affidavits, may serve as such verification.

(B) Prohibition on requirement of additional records

The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the course of the normal conduct of the business of such person.

(e) Information

Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.

(f) Certification of origin

(1) Mandatory identification

The Secretary shall not use a mandatory identification system to verify the country of origin of a covered commodity.

(2) Existing certification programs

To certify the country of origin of a covered commodity, the Secretary may use as a model certification programs in existence on May 13, 2002, including—

(A) the carcass grading and certification system carried out under this Act;

(B) the voluntary country of origin beef labeling system carried out under this Act;

(C) voluntary programs established to certify certain premium beef cuts;

(D) the origin verification system established to carry out the child and adult care food program established under section 1766 of title 42; or

(E) the origin verification system established to carry out the market access program under section 5623 of this title.

(Aug. 14, 1946, ch. 966, title II, § 282, as added Pub. L. 107–171, title X, § 10816, May 13, 2002, 116 Stat. 533; amended Pub. L. 107–206, title I, § 208, Aug. 2, 2002, 116 Stat. 833; Pub. L. 110–234, title XI, § 11002(2), May 22, 2008, 122 Stat. 1352; Pub. L. 110–246, § 4(a), title XI, § 11002(2), June 18, 2008, 122 Stat. 1664, 2113.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f)(2)(A), (B), is act Aug. 14, 1946, ch. 966, 60 Stat. 1082, which enacted this chapter and sections 427h to 427j of this title and amended section 427 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

May 13, 2002, referred to in subsec. (f)(2), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 107–171, which enacted this subchapter, to reflect the probable intent of Congress.

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(2) to (4). Pub. L. 110–246, § 11002(2)(A), added pars. (2) to (4) and struck out former pars. (2) and (3) which related to designation of United States as country of origin for beef, lamb, pork, fish, perishable agricultural commodities, and peanuts, and requirement that notice of country of origin for fish shall distinguish between wild and farm-raised fish.

Subsec. (d). Pub. L. 110–246, § 11002(2)(B), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: ''The Secretary may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit

the Secretary to verify compliance with this subchapter (including the regulations promulgated under section 1638c(b) of this title).''

2002—Subsec. (a)(2)(D). Pub. L. 107–206 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''in the case of wild fish, is—

''(i) harvested in waters of the United States, a territory of the United States, or a State; and

''(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof; and''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

§ 1638b. Enforcement

(a) Warnings

If the Secretary determines that a retailer or person engaged in the business of supplying a covered commodity to a retailer is in violation of section 1638a of this title, the Secretary shall—

(1) notify the retailer[1] of the determination of the Secretary; and

(2) provide the retailer[1] a 30-day period, beginning on the date on which the retailer[1] receives the notice under paragraph (1) from the Secretary, during which the retailer[1] may take necessary steps to comply with section 1638a of this title.

(b) Fines

If, on completion of the 30-day period described in subsection (a)(2), the Secretary determines that the retailer or person engaged in the business of supplying a covered commodity to a retailer has—

(1) not made a good faith effort to comply with section 1638a of this title, and

(2) continues to willfully violate section 1638a of this title with respect to the violation about which the retailer or person received notification under subsection (a)(1),

after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer or person in an amount of not more than $1,000 for each violation.

(Aug. 14, 1946, ch. 966, title II, § 283, as added Pub. L. 107–171, title X, § 10816, May 13, 2002, 116 Stat. 535; amended Pub. L. 110–234, title XI, § 11002(3), May 22, 2008, 122 Stat. 1354; Pub. L. 110–246, § 4(a), title XI, § 11002(3), June 18, 2008, 122 Stat. 1664, 2116.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 11002(3), redesignated subsec. (b) as (a) and substituted ''retailer or person engaged in the business of supplying a covered commodity to a retailer'' for ''retailer'' in introductory provisions, added subsec. (b), and struck out former subsecs. (a) and (c) which related to applicability of section 1636b of this title to a violation of this subchapter and fine for violation of section 1638a of this title. The substitution in subsec. (a) was made for ''retailer'' the first time appearing to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

§ 1638c. Regulations

(a) Guidelines

Not later than September 30, 2002, the Secretary shall issue guidelines for the voluntary country of origin labeling of covered commodities based on the requirements of section 1638a of this title.

(b) Regulations

Not later than September 30, 2004, the Secretary shall promulgate such regulations as are necessary to implement this subchapter.

(c) Partnerships with States

In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to assist in the administration of this subchapter.

(Aug. 14, 1946, ch. 966, title II, § 284, as added Pub. L. 107–171, title X, § 10816, May 13, 2002, 116 Stat. 535.)

§ 1638d. Applicability

This subchapter shall apply to the retail sale of a covered commodity beginning September 30, 2008, except for ''farm-raised fish'' and ''wild fish'' which shall be September 30, 2004.

(Aug. 14, 1946, ch. 966, title II, § 285, as added Pub. L. 107–171, title X, § 10816, May 13, 2002, 116 Stat. 535; amended Pub. L. 108–199, div. A, title VII, § 749, Jan. 23, 2004, 118 Stat. 37; Pub. L. 109–97, title VII, § 792, Nov. 10, 2005, 119 Stat. 2164.)

AMENDMENTS

2005—Pub. L. 109–97 substituted ''2008'' for ''2006''.

2004—Pub. L. 108–199 substituted ''2006, except for 'farm-raised fish' and 'wild fish' which shall be September 30, 2004'' for ''2004''.

CHAPTER 39—STABILIZATION OF INTERNATIONAL WHEAT MARKET

Sec.
1641. Availability of wheat for export; utilization of funds and facilities; prices; authorization of appropriations.
1642. Enforcement by President.

§ 1641. Availability of wheat for export; utilization of funds and facilities; prices; authorization of appropriations

The President is authorized, acting through the Commodity Credit Corporation, to make available or cause to be made available, notwithstanding the provisions of any other law, such quantities of wheat and wheat-flour and at such prices as are necessary to exercise the

[1] So in original. Probably should be ''retailer or person''.