

AMENDMENTS

1944—Act Sept. 21, 1944, added last par.

EFFECTIVE DATE

See section 1610 of this title.

§ 1606. Authorization of expenditures

The Secretary of Agriculture is authorized to make such expenditures for rent, outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, and other supplies, including reporting services, such research necessary to develop methods of processing, bulking, blending, sampling, testing, and merchandising seeds necessary to the administration of this chapter and other necessary expenses in the District of Columbia and elsewhere, and as may be appropriated for by the Congress.

(Aug. 9, 1939, ch. 615, title IV, §416, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1607. Cooperation with other governmental agencies

The Secretary of Agriculture is authorized to cooperate with any other department or agency of the Federal Government; or with any State, Territory, District, or possession, or department, agency, or political subdivision thereof; or with any producing, trading, or consuming organization, whether operating in one or more jurisdictions, in carrying out the provisions of this chapter.

(Aug. 9, 1939, ch. 615, title IV, §417, 53 Stat. 1289.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1608. Separability

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

(Aug. 9, 1939, ch. 615, title IV, §418, 53 Stat. 1290.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1609. Repeals

Sections 111 to 116 of this title are repealed on the one hundred and eightieth day after August 9, 1939: *Provided, however*, That the notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under the authority of sections 111 to 116 of this title, and in effect on August 9, 1939, shall remain with the same full force and effect as if promulgated under this chapter.

(Aug. 9, 1939, ch. 615, title IV, §419, 53 Stat. 1290.)

EFFECTIVE DATE

See section 1610 of this title.

§ 1610. Effective date

This chapter shall take effect as follows: As to agricultural seeds, and the importation of vegetable seeds, on the one hundred and eightieth day after August 9, 1939; as to vegetable seeds in interstate commerce, one year after August 9, 1939; and as to sections 1591 to 1593 of this title, on August 9, 1939.

(Aug. 9, 1939, ch. 615, title IV, §420, 53 Stat. 1290.)

SUBCHAPTER V—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

§ 1611. Illegal sales of uncertified seed

It shall be unlawful in the United States or in interstate or foreign commerce to sell or offer 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.

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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, transportation, 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 chap-

ter 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 2010 AMENDMENT

Pub. L. 111-239, § 1, Sept. 27, 2010, 124 Stat. 2501, provided that: “This Act [enacting section 1635k of this title, amending sections 1636i, 1637b, and 5712 of this title, enacting provisions set out as notes under sections 1635k and 1637b of this title, and amending provisions set out as a note under section 1635 of this title] may be cited as the ‘Mandatory Price Reporting Act of 2010’.”

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

Act Aug. 14, 1946, ch. 966, title II, § 201, 60 Stat. 1087, 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; Pub. L. 113-79, title X, § 10010, Feb. 7, 2014, 128 Stat. 949; Pub. L. 115-334, title X, § 10107, Dec. 20, 2018, 132 Stat. 4905, 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 pro-

ducers 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 (i), the Secretary of Agriculture shall make grants to States for each of the fiscal years 2005 through 2023 to be used by State departments of agriculture to enhance the competitiveness of specialty crops, including—

“(1) by leveraging efforts to market and promote specialty crops;

“(2) by assisting producers with research and development relevant to specialty crops;

“(3) by expanding availability and access to specialty crops;

“(4) by addressing local, regional, and national challenges confronting specialty crop producers; and

“(5) for such other purposes determined to be appropriate by the Secretary of Agriculture, in consultation with specialty crop stakeholders and relevant State departments of agriculture.

“(b) GRANTS BASED ON VALUE AND ACREAGE.—Subject to subsection (c), for each State whose application for a grant for a fiscal year that [sic] is accepted by the Secretary under subsection (f), the amount of the grant for that fiscal year to the State under this section shall bear the same ratio to the total amount made available under subsection (i)(1) for that fiscal year as—

“(1) the average of the most recent available value of specialty crop production in the State and the acreage of specialty crop production in the State, as demonstrated in the most recent Census of Agriculture data; bears to

“(2) the average of the most recent available value of specialty crop production in all States and the acreage of specialty crop production in all States, as demonstrated in the most recent Census of Agriculture data.

“(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) ½ 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) MULTISTATE PROJECTS.—

“(1) IN GENERAL.—Not later than 180 days after the effective date of the Agricultural Act of 2014 [Feb. 7, 2014], the Secretary of Agriculture shall issue guidance for the purpose of making grants to multistate projects under this section for projects involving—

“(A) food safety;

“(B) plant pests and disease;

“(C) research;

“(D) crop-specific projects addressing common issues; and

“(E) any other area that furthers the purposes of this section, as determined by the Secretary.

“(2) ADMINISTRATION OF MULTISTATE PROJECTS FROM NONPARTICIPATING STATES.—The Secretary of Agriculture may directly administer all aspects of multistate projects under this subsection for applicants in a nonparticipating State.

“(k) ADMINISTRATION.—

“(1) DEPARTMENT.—The Secretary of Agriculture may not use more than 3 percent of the funds made available to carry out this section for a fiscal year for administrative expenses.

“(2) STATES.—A State receiving a grant under this section may not use more than 8 percent of the funds received under the grant for a fiscal year for administrative expenses.

“(3) EVALUATION.—

“(A) PERFORMANCE MEASURES AND REVIEW.—

“(i) DEVELOPMENT.—The Secretary of Agriculture and the State departments of agriculture, in consultation with specialty crop stakeholders, shall develop performance measures to be used as the sole means of performing any evaluation of the grant program established under this section.

“(ii) REVIEW.—The Secretary of Agriculture, in consultation with the State departments of agriculture, shall periodically evaluate the performance of the grant program established under this section.

“(B) COOPERATIVE AGREEMENTS.—The Secretary of Agriculture may enter into cooperative agreements—

“(i) to develop the performance measures under subparagraph (A)(i); or

“(ii) to evaluate the overall performance of the grant program established under this section.

“(l) FUNDING.—

“(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make grants under this section, using—

“(A) \$10,000,000 for fiscal year 2008;

“(B) \$49,000,000 for fiscal year 2009;

“(C) \$55,000,000 for each of fiscal years 2010 through 2012;

“(D) \$72,500,000 for each of fiscal years 2014 through 2017; and

“(E) \$85,000,000 for fiscal year 2018 and each fiscal year thereafter.

“(2) MULTISTATE PROJECTS.—Of the funds made available under paragraph (1), the Secretary may use to carry out subsection (j), to remain available until expended—

“(A) \$1,000,000 for fiscal year 2014;

“(B) \$2,000,000 for fiscal year 2015;

“(C) \$3,000,000 for fiscal year 2016;

“(D) \$4,000,000 for fiscal year 2017; and

“(E) \$5,000,000 for fiscal year 2018 and each fiscal year thereafter.”

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 account 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).

(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 Surface Transportation Board, the Federal Maritime Commission, 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) all fish of the order Siluriformes; 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; Pub. L. 113-79, title VI, § 6202, title XII, § 12106(a)(4), Feb. 7, 2014, 128 Stat. 856, 981.)

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, 427j, and 3105 of this title and amended section 3104 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

2014—Subsec. (j). Pub. L. 113-79, § 6202, substituted “the Surface Transportation Board, the Federal Mari-

time Commission,” for “the Interstate Commerce Commission, the Maritime Commission,.”

Subsec. (n)(1). Pub. L. 113-79, §12106(a)(4), added par. (1) and struck out former par. (1) which read as follows: “catfish (as defined by the Secretary under paragraph (2) of section 601(w) of title 21); and”.

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 2014 AMENDMENT

Amendment by section 12106(a)(4) of Pub. L. 113-79 effective as if enacted as part of section 11016(b) of Pub. L. 110-246, see section 12106(c) of Pub. L. 113-79, set out as a note under section 601 of Title 21, Food and Drugs.

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 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 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 1301 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.

REGIONAL CATTLE AND CARCASS GRADING CORRELATION AND TRAINING CENTERS

Pub. L. 115-334, title XII, §12108, Dec. 20, 2018, 132 Stat. 4943, provided that:

“(a) IN GENERAL.—The Secretary [of Agriculture] shall establish not more than 3 regional centers, to be known as Cattle and Carcass Grading Correlation and Training Centers (referred to in this section as the ‘Centers’), to provide education and training for cattle and carcass beef graders of the Agricultural Marketing Service, cattle producers, and other professionals involved in the reporting, delivery, and grading of feeder cattle, live cattle, and carcasses—

“(1) to limit the subjectivity in the application of beef grading standards;

“(2) to provide producers with greater confidence in the price of the producers’ cattle; and

“(3) to provide investors with both long and short positions more assurance in the cattle delivery system.

“(b) LOCATION.—The Centers shall be located near cattle feeding and slaughter populations and areas shall be strategically identified in order to capture regional variances in cattle production.

“(c) ADMINISTRATION.—Each Center shall be organized and administered by offices of the Department of Agriculture in operation on the date on which the respective Center is established, or in coordination with other appropriate Federal agencies or academic institutions.

“(d) TRAINING PROGRAM.—The Centers shall offer intensive instructional programs involving classroom and field training work for individuals described in subsection (a).

“(e) COORDINATION OF RESOURCES.—Each Center, in carrying out the functions of the Center, shall make use of information generated by the Department of Agriculture, the State agricultural extension and research stations, relevant designated contract markets, and the practical experience of area cattle producers, especially cattle producers cooperating in on-farm demonstrations, correlations, and research projects.

“(f) PROHIBITION ON CONSTRUCTION.—Funds made available to carry out this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees). Notwithstanding the preceding sentence, the Secretary may use funds made available to carry out this section to provide a Center with payment for the cost of the rental of a space determined to be necessary by the Center for conducting training under this section and may accept donations (including in-kind contributions) to cover such cost.”

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 2023, 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; Pub. L. 113-79, title X, § 10001, Feb. 7, 2014, 128 Stat. 939; Pub. L. 115-334, title X, § 10101, Dec. 20, 2018, 132 Stat. 4888.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsection (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.

AMENDMENTS

2018—Subsec. (b). Pub. L. 115-334 substituted “2023” for “2018”.

2014—Subsec. (b). Pub. L. 113-79 substituted “2018” for “2012”.

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, former section 1622c, sections 7655a, 7721, and former section 7761 of this title, and section 2104a of Title 16, Conservation, amending sections 608e-1, 1622, 2204g, former 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. Repealed. Pub. L. 113-79, title X, § 10002, Feb. 7, 2014, 128 Stat. 940

Section, 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, related to a grant program to improve movement of specialty crops.

EFFECTIVE DATE OF REPEAL

Pub. L. 113-79, title X, §10002, Feb. 7, 2014, 128 Stat. 940, provided that: “Effective October 1, 2013, section 10403 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 1622c) is repealed.”

§ 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 marketing 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 1621 et seq., 3104, and 3105 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 Agri-

culture. 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 6101 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 provisions 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.

In subsec. (a), "section 6101 of title 41" substituted for "section 3709 (41 U.S.C., sec. 5) of the Revised Statutes" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

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, horti-

cultural, 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 chapter¹ 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.)

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.)

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 en-

¹ See References in Text note below.

acted 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.

§ 1627a. Sheep production and marketing grant program

(a) Establishment

The Secretary of Agriculture, acting through the Administrator of the Agricultural Marketing Service, shall establish a competitive grant program for the purposes of strengthening and enhancing the production and marketing of sheep and sheep products in the United States, including through—

- (1) the improvement of—
 - (A) infrastructure;
 - (B) business; and
 - (C) resource development; and
- (2) the development of innovative approaches to solve long-term needs.

(b) Eligibility

The Secretary shall make grants under this section to at least one national entity, the mission of which is consistent with the purpose of the grant program.

(c) Funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$2,000,000 for fiscal year 2019, to remain available until expended.

(Aug. 14, 1946, ch. 966, title II, § 209, as added Pub. L. 113-79, title XII, § 12102(a), Feb. 7, 2014, 128 Stat. 978; amended Pub. L. 115-334, title XII, § 12102, Dec. 20, 2018, 132 Stat. 4942.)

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-334 substituted “\$2,000,000 for fiscal year 2019” for “\$1,500,000 for fiscal year 2014”.

§ 1627b. National Sheep Industry Improvement Center

(a) Definitions

In this section:

(1) Board

The term “Board” means the Board of Directors established under subsection (f).

(2) Center

The term “Center” means the National Sheep Industry Improvement Center established under subsection (b).

(3) Eligible entity

The term “eligible entity” means an entity that promotes the betterment of the United States sheep or goat industries and that is—

- (A) a public, private, or cooperative organization;
- (B) an association, including a corporation not operated for profit;
- (C) a federally recognized Indian Tribe; or
- (D) a public or quasi-public agency.

(4) Fund

The term “Fund” means the National Sheep Industry Improvement Center Revolving Fund established under subsection (e).

(5) Intermediary

The term “intermediary” means a financial institution receiving Center funds for establishing a revolving fund and relending to an eligible entity.

(b) Establishment of Center

The Secretary shall establish a National Sheep Industry Improvement Center.

(c) Purposes

The purposes of the Center shall be to—

(1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

(2) optimize the use of available human capital and resources within the sheep or goat industries;

(3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

(4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

(5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

(d) Strategic plan

(1) In general

The Center shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

(2) Requirements

A strategic plan shall identify—

(A) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center;

(B) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

(C) funding priorities;

(D) selection criteria for funding; and

(E) a method of distributing funding.

(e) Revolving Fund

(1) Establishment

There is established in the Treasury the National Sheep Industry Improvement Center Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this section.

(2) Contents of Fund

There shall be deposited in the Fund—

(A) such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the Center;

(B) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

(C) fees and royalties collected by the Center from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants, contracts, or cooperative agreements executed by the Center;

(D) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Center;

(E) donations or contributions accepted by the Center to support authorized programs and activities; and

(F) any other funds acquired by the Center.

(3) Use of Fund

(A) In general

The Center may use amounts in the Fund to make direct loans, loan guarantees, cooperative agreements, equity interests, investments, repayable grants, and grants to eligible entities, either directly or through an intermediary, in accordance with a strategic plan submitted under subsection (d).

(B) Continued existence

The Center shall manage the Fund in a manner that ensures that sufficient amounts are available in the Fund to carry out subsection (c). The Fund is intended to furnish the initial capital for a revolving fund that will eventually be privatized for the purposes of assisting the United States sheep and goat industries.

(C) Diverse area

The Center shall, to the maximum extent practicable, use the Fund to serve broad geographic areas and regions of diverse production.

(D) Administration

The Center may not use more than 10 percent of the amounts in the portfolio of the Center for each fiscal year for the administration of the Center. The portfolio shall be calculated at the beginning of each fiscal year and shall include a total of—

- (i) all outstanding loan balances;
- (ii) the Fund balance;
- (iii) the outstanding balance to intermediaries; and
- (iv) the amount the Center paid for all equity interests.

(E) Influencing legislation

None of the amounts in the Fund may be used to influence legislation.

(F) Accounting

To be eligible to receive amounts from the Fund, an entity must agree to account for the amounts using generally accepted accounting principles.

(G) Uses of Fund

The Center may use amounts in the Fund to—

- (i) participate with Federal and State agencies in financing activities that are in accordance with a strategic plan submitted under subsection (d), including participation with several States in a regional effort;

- (ii) participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

- (iii) provide security for, or make principal or interest payments on, revenue or general obligation bonds issued by a State, if the proceeds from the sale of the bonds are deposited in the Fund;

- (iv) accrue interest;

- (v) guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for a project that is in accordance with the strategic plan;

- (vi) sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Center; or

- (vii) purchase equity interests.

(4) Loans

(A) Rate

A loan from the Fund may be made at an interest rate that is below the market rate or may be interest free.

(B) Term

The term of a loan may not exceed the shorter of—

- (i) the useful life of the activity financed; or
- (ii) 40 years.

(C) Source of repayment

The Center may not make a loan from the Fund unless the recipient establishes an assured source of repayment.

(D) Proceeds

All payments of principal and interest on a loan made from the Fund shall be deposited into the Fund.

(5) Maintenance of effort

The Center shall use the Fund only to supplement and not to supplant Federal, State, and private funds expended for rural development.

(f) Board of Directors

(1) In general

The management of the Center shall be vested in a Board of Directors.

(2) Powers

The Board shall—

- (A) be responsible for the general supervision of the Center;

- (B) review any contract, direct loan, loan guarantee, cooperative agreement, equity interest, investment, repayable grant, and grant to be made or entered into by the Center and any financial assistance provided to the Center;

- (C) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

- (D) develop and establish a budget plan and a long-term operating plan to carry out the goals of the Center.

(3) Composition

The Board shall be composed of—

(A) 7 voting members, of whom—

- (i) 4 members shall be active producers of sheep or goats in the United States;
- (ii) 2 members shall have expertise in finance and management; and
- (iii) 1 member shall have expertise in lamb, wool, goat, or goat product marketing; and

(B) 2 nonvoting members, of whom—

- (i) 1 member shall be the Under Secretary of Agriculture for Rural Development; and
- (ii) 1 member shall be the Under Secretary of Agriculture for Research, Education, and Economics.

(4) Nomination

(A) Nominating body

The Secretary shall appoint the voting members of the Board from nominations submitted by organizations described in subparagraph (B).

(B) National organizations

A national organization is described in this subparagraph if the organization—

- (i) consists primarily of active sheep or goat producers in the United States; and
- (ii) has as the primary interest of the organization the production of sheep or goats in the United States.

(5) Term of office

(A) In general

Subject to subparagraph (B), the term of office of a voting member of the Board shall be 3 years.

(B) Staggered initial terms

The initial voting members of the Board (other than the chairperson of the initially established Board) shall serve for staggered terms of 1, 2, and 3 years, as determined by the Secretary.

(C) Reappointment

A voting member may be reappointed for not more than one additional term.

(6) Vacancy

(A) In general

A vacancy on the Board shall be filled in the same manner as the original Board.

(B) Reappointment

A voting member appointed to fill a vacancy for an unexpired term may be reappointed for one full term.

(7) Chairperson

(A) In general

The Board shall select a chairperson from among the voting members of the Board.

(B) Term

The term of office of the chairperson shall be 2 years.

(8) Annual meeting

(A) In general

The Board shall meet not less than once each fiscal year at the call of the chair-

person or at the request of the executive director appointed under subsection (g)(1).

(B) Location

The location of a meeting of the Board shall be established by the Board.

(9) Voting

(A) Quorum

A quorum of the Board shall consist of a majority of the voting members.

(B) Majority vote

A decision of the Board shall be made by a majority of the voting members of the Board.

(10) Conflicts of interest

(A) In general

Except as provided in subparagraph (D), a member of the Board shall not vote on any matter respecting any application, contract, claim, or other particular matter pending before the Board in which, to the knowledge of the member, an interest is held by—

- (i) the member;
- (ii) any spouse of the member;
- (iii) any child of the member;
- (iv) any partner of the member;
- (v) any organization in which the member is serving as an officer, director, trustee, partner, or employee; or
- (vi) any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest.

(B) Removal

Any action by a member of the Board that violates subparagraph (A) shall be cause for removal from the Board.

(C) Validity of action

An action by a member of the Board that violates subparagraph (A) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

(D) Disclosure

(i) In general

If a member of the Board makes a full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in subparagraph (E)(iii).

(ii) Vote

A member that discloses an interest under clause (i) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

(E) Remands

(i) In general

The Secretary may vacate and remand to the Board for reconsideration any decision made pursuant to subsection (e)(3)(H)

if the Secretary determines that there has been a violation of this paragraph or any conflict of interest provision of the bylaws of the Board with respect to the decision.

(ii) Reasons

In the case of any violation and remand of a funding decision to the Board under clause (i), the Secretary shall inform the Board of the reasons for the remand.

(iii) Conflicted members not to vote on remanded decisions

If a decision with respect to a matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

(11) Compensation

(A) In general

A member of the Board shall not receive any compensation by reason of service on the Board.

(B) Expenses

A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of a duty of the member.

(12) Bylaws

The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Center.

(13) Public hearings

Not later than 1 year after April 4, 1996, the Board shall hold public hearings on policy objectives of the program established under this section.

(14) Organizational system

The Board shall provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the Board.

(15) Use of Department of Agriculture

The Board may, with the consent of the Secretary, utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Center.

(g) Officers and employees

(1) Executive director

(A) In general

The Board shall appoint an executive director to be the chief executive officer of the Center.

(B) Tenure

The executive director shall serve at the pleasure of the Board.

(C) Compensation

Compensation for the executive director shall be established by the Board.

(2) Other officers and employees

The Board may select and appoint officers, attorneys, employees, and agents who shall be

vested with such powers and duties as the Board may determine.

(3) Delegation

The Board may, by resolution, delegate to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board other than voting on a grant, loan, contract, agreement, budget, or annual strategic plan.

(h) Consultation

To carry out this section, the Board may consult with—

- (1) State departments of agriculture;
- (2) Federal departments and agencies;
- (3) nonprofit development corporations;
- (4) colleges and universities;
- (5) banking and other credit-related agencies;
- (6) agriculture and agribusiness organizations; and
- (7) regional planning and development organizations.

(i) Oversight

(1) In general

The Secretary shall review and monitor compliance by the Board and the Center with this section.

(2) Sanctions

If, following notice and opportunity for a hearing, the Secretary finds that the Board or the Center is not in compliance with this section, the Secretary may—

- (A) cease making deposits to the Fund;
- (B) suspend the authority of the Center to withdraw funds from the Fund; or
- (C) impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act and disqualification from receipt of financial assistance under this section.

(3) Rescission of sanctions

The Secretary shall rescind sanctions imposed under paragraph (2) on a finding by the Secretary that there is no longer any failure by the Board or the Center to comply with this section or that the noncompliance will be promptly corrected.

(Aug. 14, 1946, ch. 966, title II, §210, formerly Pub. L. 87-128, title III, §375, as added Pub. L. 104-127, title VII, §759, Apr. 4, 1996, 110 Stat. 1132; amended Pub. L. 106-78, title VIII, §816, Oct. 22, 1999, 113 Stat. 1182; Pub. L. 106-387, §1(a) [title VII, §756], Oct. 28, 2000, 114 Stat. 1549, 1549A-43; Pub. L. 107-76, title VII, §731, Nov. 28, 2001, 115 Stat. 736; Pub. L. 108-7, div. A, title VII, §728, Feb. 20, 2003, 117 Stat. 42; Pub. L. 108-199, div. A, title VII, §726, Jan. 23, 2004, 118 Stat. 35; Pub. L. 108-447, div. A, title VII, §725, Dec. 8, 2004, 118 Stat. 2842; Pub. L. 110-234, title XI, §11009(a), (b)(1), May 22, 2008, 122 Stat. 1359; Pub. L. 110-246, §4(a), title XI, §11009(a), (b)(1), June 18, 2008, 122 Stat. 1664, 2120, 2121; renumbered act Aug. 14, 1946, §210, and amended Pub. L. 113-79, title XII, §12102(b), Feb. 7, 2014, 128 Stat. 979.)

REFERENCES IN TEXT

This Act, referred to in subsec. (i)(2)(C), probably means the Consolidated Farm and Rural Development

Act, title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 294, which is classified principally to chapter 50 (§1921 et seq.) of this title and of which this section was formerly a part prior to renumbering by Pub. L. 113-79. For classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

CODIFICATION

Section was formerly classified to section 2008j of this title.

A former subsec. (j)(7) of this section provided for the repeal of this section on the date the Secretary published notice in the Federal Register that the transition plan to privatize the National Sheep Industry Improvement Center had been completed. Although such notice was published in the Federal Register on May 23, 2007, at 72 F.R. 28945, repeal of this section did not take effect because of amendment by Pub. L. 110-246, §11009(b), repealing subsec. (j) of this section, effective May 1, 2007. See 2008 Amendment and Effective Date of 2008 Amendment notes below.

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

2014—Subsec. (e)(3)(D). Pub. L. 113-79, §12102(b)(1)(A), substituted “10 percent” for “3 percent” in introductory provisions.

Subsec. (e)(6). Pub. L. 113-79, §12102(b)(1)(B), struck out par. (6) which related to funding to carry out this section.

2008—Subsec. (e)(6)(B), (C). Pub. L. 110-246, §11009(a), added subpars. (B) and (C) and struck out former subpar. (B) which provided for \$27,998,000 out of moneys in the Treasury not otherwise appropriated to carry out this section and former subpar. (C) which authorized appropriation of an additional \$30,000,000.

Subsec. (j). Pub. L. 110-246, §11009(b)(1), struck out subsec. (j) which related to privatization of the National Sheep Industry Improvement Center and repeal of this section on the date that the Secretary published notice in the Federal Register that the transition plan for such privatization had been completed.

2004—Subsec. (e)(6)(B). Pub. L. 108-447 substituted “\$27,998,000” for “\$26,998,000”.

Pub. L. 108-199 substituted “\$26,998,000” for “\$26,499,000”.

2003—Subsec. (e)(6)(B). Pub. L. 108-7 substituted “\$26,499,000” for “\$26,000,000”.

2001—Subsec. (e)(6)(B). Pub. L. 107-76 substituted “\$26,000,000” for “\$25,000,000”.

2000—Subsec. (e)(6)(B). Pub. L. 106-387 substituted “\$25,000,000” for “\$20,000,000”.

1999—Subsec. (a)(5). Pub. L. 106-78, §816(a), added par. (5).

Subsec. (e)(3)(A). Pub. L. 106-78, §816(b)(1)(A), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: “The Center may use amounts in the Fund to make grants and loans to eligible entities in accordance with a strategic plan submitted under subsection (d) of this section.”

Subsec. (e)(3)(B). Pub. L. 106-78, §816(b)(1)(B), inserted at end “The Fund is intended to furnish the initial capital for a revolving fund that will eventually be privatized for the purposes of assisting the United States sheep and goat industries.”

Subsec. (e)(3)(D). Pub. L. 106-78, §816(b)(1)(C), (F), redesignated subpar. (E) as (D) and struck out heading and text of former subpar. (D). Text read as follows: “The Center shall, to the maximum extent practicable, use the Fund to provide a variety of grants and intermediate- and long-term loans.”

Subsec. (e)(3)(E). Pub. L. 106-78, §816(b)(1)(F), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 106-78, §816(b)(1)(D), added subpar. (E) and struck out heading and text of former subpar. (E). Text

read as follows: “The Center may not use more than 3 percent of the amounts in the Fund for a fiscal year for the administration of the Center.”

Subsec. (e)(3)(F) to (H). Pub. L. 106-78, §816(b)(1)(F), redesignated subpars. (G) and (H) as (F) and (G), respectively. Former subpar. (F) redesignated (E).

Subsec. (e)(3)(H)(vii). Pub. L. 106-78, §816(b)(1)(E), added cl. (vii).

Subsec. (e)(6)(D). Pub. L. 106-78, §816(b)(2), struck out heading and text of subpar. (D). Text read as follows: “No additional Federal funds shall be used to carry out this section beginning on the earlier of—

“(i) the date that is 10 years after April 4, 1996; or

“(ii) the day after a total of \$50,000,000 has been made available under subparagraphs (B) and (C) to carry out this section.”

Subsec. (f)(2)(B). Pub. L. 106-78, §816(c)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: “review any grant, loan, contract, or cooperative agreement to be made or entered into by the Center and any financial assistance provided to the Center;”.

Subsec. (f)(5)(C). Pub. L. 106-78, §816(c)(2), added subpar. (C) and struck out heading and text of former subpar. (C). Text read as follows: “A voting member may be reelected for not more than 1 additional term.”

Subsec. (f)(6)(B). Pub. L. 106-78, §816(c)(3), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: “A member elected to fill a vacancy for an unexpired term may be reelected for 1 full term.”

Subsec. (j). Pub. L. 106-78, §816(d), added subsec. (j).

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 XI, §11009(b)(2), May 22, 2008, 122 Stat. 1359, and Pub. L. 110-246, §4(a), title XI, §11009(b)(2), June 18, 2008, 122 Stat. 1664, 2121, provided that: “The amendment made by paragraph (1) [amending this section] takes effect on May 1, 2007.”

[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.]

§ 1627c. Local agriculture market program

(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) Direct producer-to-consumer marketing

The term “direct producer-to-consumer marketing” has the meaning given the term “direct marketing from farmers to consumers” in section 3002 of this title.

(3) Family farm

The term “family farm” has the meaning given the term in section 1632a(a) of this title.

(4) Food council

The term “food council” means a food policy council or food and farm system network, as determined by the Secretary, that—

(A) represents—

(i) multiple organizations involved in the production, processing, and consumption of food; and

(ii) local, Tribal, or State governments; and

(B) addresses food and farm-related issues and needs within city, county, State, Tribal region, multicounty region, or other region designated by the food council or food system network.

(5) Majority-controlled producer-based business venture

(A) In general

The term “majority-controlled producer-based business venture” means a venture greater than 50 percent of the ownership and control of which is held by—

- (i) 1 or more producers; or
- (ii) 1 or more entities, 100 percent of the ownership and control of which is held by 1 or more producers.

(B) Entity described

For purposes of subparagraph (A), the term “entity” means—

- (i) a partnership;
- (ii) a limited liability corporation;
- (iii) a limited liability partnership; and
- (iv) a corporation.

(6) Mid-tier value chain

The term “mid-tier value chain” means a local or regional supply network that links 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.

(7) Partnership

The term “partnership” means a partnership entered into under an agreement between—

- (A) 1 or more eligible partners (as defined in subsection (e)(1)); and
- (B) 1 or more eligible entities (as defined in subsection (e)(1)).

(8) Program

The term “Program” means the Local Agriculture Market Program established under subsection (b).

(9) Regional food chain coordination

The term “regional food chain coordination” means coordination and collaboration along the supply chain to increase connections between producers and markets.

(10) Secretary

The term “Secretary” means the Secretary of Agriculture.

(11) 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.

(12) 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.

(13) Veteran farmer or rancher

The term “veteran farmer or rancher” has the meaning given the term in section 2279(a) of this title.

(b) Establishment and purpose

The Secretary shall establish a program, to be known as the “Local Agriculture Market Program”, that—

(1) supports the development, coordination, and expansion of—

- (A) direct producer-to-consumer marketing;
- (B) local and regional food markets and enterprises; and
- (C) value-added agricultural products;

(2) connects and cultivates regional food economies through public-private partnerships;

(3) supports the development of business plans, feasibility studies, and strategies for value-added agricultural production and local and regional food system infrastructure;

(4) strengthens capacity and regional food system development through community collaboration and expansion of mid-tier value chains;

(5) improves income and economic opportunities for producers and food businesses through job creation; and

(6) simplifies the application processes and the reporting processes for the Program.

(c) Administration

In administering the Program, the Secretary shall—

(1) streamline the Program to better support the activities carried out by the recipient of a grant under the Program;

(2) connect producers with local food markets and value-added agricultural product opportunities;

(3) partner with cooperative extension services, as appropriate, to provide Program technical assistance and outreach to Program stakeholders; and

(4) ensure that the Rural Business-Cooperative Service and Agricultural Marketing Service provide Program technical assistance and outreach to Program stakeholders.

(d) Grants

(1) In general

Under the Program, the Secretary may, using funds made available under subsection (i), provide grants for each of fiscal years 2019 through 2023, in accordance with the purposes of the Program described in subsection (b), for the conduct of activities described in paragraph (2).

(2) Eligible activities

The recipient of a grant may use a grant provided under paragraph (1)—

(A) to support and promote—

- (i) domestic direct producer-to-consumer marketing;
- (ii) farmers' markets;
- (iii) roadside stands;
- (iv) agritourism activities,
- (v) community-supported agriculture programs; or
- (vi) online sales;

(B) to support local and regional food business enterprises that engage as intermediaries in indirect producer-to-consumer marketing;

(C) to support the processing, aggregation, distribution, and storage of—

- (i) local and regional food products that are marketed locally or regionally; and
- (ii) value-added agricultural products;

(D) to encourage the development of value-added agricultural products;

(E) to assist with business development plans and feasibility studies;

(F) to develop marketing strategies for producers of local food products and value-added agricultural products in new and existing markets;

(G) to facilitate regional food chain coordination and mid-tier value chain development;

(H) to promote new business opportunities and marketing strategies to reduce on-farm food waste;

(I) to respond to changing technology needs in direct producer-to-consumer marketing; or

(J) to cover expenses relating to costs incurred in—

- (i) obtaining food safety certification; and
- (ii) making changes and upgrades to practices and equipment to improve food safety.

(3) Criteria and guidelines

(A) In general

The Secretary shall establish criteria and guidelines for the submission, evaluation, and funding of proposed projects under paragraph (1) as the Secretary determines are appropriate.

(B) Producer or food business benefits

(i) In general

Except as provided in clause (ii), an application submitted for a grant under

paragraph (1) shall include a description of the direct or indirect producer or food business benefits intended by the applicant to result from the proposed project within a reasonable period of time after the receipt of the grant.

(ii) Exception

Clause (i) shall not apply to a planning or feasibility project.

(4) Amount

Unless otherwise determined by the Secretary, the amount of a grant under this subsection shall be not more than \$500,000.

(5) Value-added producer grants

In the case of a grant provided under paragraph (1) to an eligible entity described in subparagraph (B), the following shall apply:

(A) Administration

The Secretary shall carry out this subsection through the Administrator of the Rural Business-Cooperative Service, in coordination with the Administrator of the Agricultural Marketing Service.

(B) Eligible entities

An entity shall be eligible for a grant under this paragraph if the entity is—

- (i) an independent producer (as determined by the Secretary) of a value-added agricultural product; or
- (ii) an agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture (as determined by the Secretary).

(C) Priorities

The Secretary shall give priority to applications—

- (i) in the case of an application submitted by a producer, that are submitted by, or serve—
 - (I) beginning farmers or ranchers;
 - (II) socially disadvantaged farmers or ranchers;
 - (III) operators of small or medium sized farms or ranches that are structured as family farms; or
 - (IV) veteran farmers or ranchers; and
- (ii) in the case of an application submitted by an eligible entity described in subparagraph (B)(ii), that provide the greatest contribution to creating or increasing marketing opportunities for producers described in subclauses (I) through (IV) of clause (i).

(D) Limitation on use of funds

(i) In general

Except as provided in clause (ii), an eligible entity described in subparagraph (B) may not use a grant for the purchase or construction of a building, general purpose equipment, or structure.

(ii) Exception

An eligible entity described in subparagraph (B) may use not more than \$6,500 of the amount of a grant for an eligible activity described in paragraph (2)(J) to pur-

chase or upgrade equipment to improve food safety.

(E) Matching funds

An eligible entity described in subparagraph (B) receiving a grant shall contribute an amount of non-Federal funds that is at least equal to the amount of Federal funds received.

(6) Farmers' markets and local food promotion program

In the case of a grant provided under paragraph (1) to an eligible entity described in subparagraph (B), the following shall apply:

(A) Administration

The Secretary shall carry out this subsection through the Administrator of the Agricultural Marketing Service, in coordination with the Administrator of the Rural Business-Cooperative Service.

(B) Eligible entities

An entity shall be eligible to receive a grant under this paragraph if the entity is—

- (i) an agricultural cooperative or other agricultural business entity or a producer network or association, including a community-supported agriculture network or association;
- (ii) a local or Tribal government;
- (iii) a nonprofit corporation;
- (iv) a public benefit corporation;
- (v) an economic development corporation;
- (vi) a regional farmers' market authority;
- (vii) a food council; or
- (viii) such other entity as the Secretary may designate.

(C) Priorities

The Secretary shall give priority to applications that—

- (i) benefit underserved communities, including communities that are located in areas of concentrated poverty with limited access to fresh locally or regionally grown food; or
- (ii) are used to carry out eligible activities under a partnership agreement under subsection (e) and have not received benefits from the Program in the recent past.

(D) Limitation on use of funds

(i) In general

Except as provided in clause (ii), an eligible entity described in subparagraph (B) may not use a grant for the purchase or construction of a building, general purpose equipment, or structure.

(ii) Exception

An eligible entity described in subparagraph (B) may use not more than \$6,500 of the amount of a grant for an eligible activity described in paragraph (2)(J) to purchase or upgrade equipment to improve food safety.

(E) Matching funds

An eligible entity described in subparagraph (B) receiving a grant shall provide

matching funds in the form of cash or an in-kind contribution in an amount that is equal to 25 percent of the total amount of the Federal portion of the grant.

(e) Partnerships

(1) Definitions

In this subsection:

(A) Eligible entity

The term "eligible entity" means—

- (i) a producer;
- (ii) a producer network or association;
- (iii) a farmer or rancher cooperative;
- (iv) a majority-controlled producer-based business venture;
- (v) a food council;
- (vi) a local or Tribal government;
- (vii) a nonprofit corporation;
- (viii) an economic development corporation;
- (ix) a public benefit corporation;
- (x) a community-supported agriculture network or association; and
- (xi) a regional farmers' market authority.

(B) Eligible partner

The term "eligible partner" means—

- (i) a State agency or regional authority;
- (ii) a philanthropic organization;
- (iii) a private corporation;
- (iv) an institution of higher education;
- (v) a commercial, Federal, or Farm Credit System lending institution; and
- (vi) another entity, as determined by the Secretary.

(2) Grants to support partnerships

(A) In general

The Secretary, acting through the Administrator of the Agricultural Marketing Service, in accordance with the purposes of the Program described in subsection (b), shall, using funds made available under subsection (i), provide grants for each of fiscal years 2019 through 2023 to support partnerships to plan and develop a local or regional food system.

(B) Geographical diversity

To the maximum extent practicable, the Secretary shall ensure geographical diversity in selecting partnerships to receive grants under subparagraph (A).

(3) Authorities of partnerships

A partnership receiving a grant under paragraph (2) may—

- (A) determine the scope of the regional food system to be developed, including goals, outreach objectives, and eligible activities to be carried out;
- (B) determine the local, regional, State, multi-State, or other geographic area covered;
- (C) create and conduct a feasibility study, implementation plan, and assessment of eligible activities under the partnership agreement;
- (D) conduct outreach and education to other eligible entities and eligible partners

for potential participation in the partnership agreement and eligible activities;

(E) describe measures to be taken through the partnership agreement to obtain funding for the eligible activities to be carried out under the partnership agreement;

(F) at the request of a producer or eligible entity desiring to participate in eligible activities under the partnership agreement, act on behalf of the producer or eligible entity in applying for a grant under subsection (d);

(G) monitor, evaluate, and periodically report to the Secretary on progress made toward achieving the objectives of eligible activities under the partnership agreement; or

(H) at the conclusion of the partnership agreement, submit to the Secretary a report describing—

(i) the results and effects of the partnership agreement; and

(ii) funds provided under paragraph (4).

(4) Contribution

A partnership receiving a grant under paragraph (2) shall provide funding in an amount equal to not less than 25 percent of the total amount of the Federal portion of the grant.

(5) Applications

(A) In general

To be eligible to receive a grant under paragraph (2), a partnership shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary considers necessary to evaluate and select applications.

(B) Competitive process

The Secretary—

(i) shall conduct a competitive process to select applications submitted under subparagraph (A);

(ii) may assess and rank applications with similar purposes as a group; and

(iii) shall make public the criteria to be used in evaluating applications prior to accepting applications.

(C) Priority to certain applications

The Secretary may give priority to applications submitted under subparagraph (A) that—

(i)(I) leverage significant non-Federal financial and technical resources; and

(II) coordinate with other local, State, Tribal, or national efforts;

(ii) cover an area that includes distressed low-income rural or urban communities, including areas with persistent poverty; or

(iii) have multiple entities and partners in a partnership.

(D) Producer or food business benefits

(i) In general

Except as provided in clause (ii), an application submitted under subparagraph (A) shall include a description of the direct or indirect producer or food business benefits intended by the eligible entity to result from the proposed project within a

reasonable period of time after the receipt of a grant.

(ii) Exception

Clause (i) shall not apply to a planning or feasibility project.

(6) Technical assistance

On request of an eligible entity, an eligible partner, or a partnership, the Secretary may provide technical assistance in carrying out a partnership agreement.

(f) Simplification of application and reporting processes

(1) Applications

The Secretary shall establish a simplified application form for eligible entities that—

(A) request less than \$50,000 under subsection (d); or

(B) apply for grants under subsection (d) under a single application through partnership agreements under subsection (e).

(2) Reporting

The Secretary shall—

(A) streamline and simplify the reporting process for eligible entities; and

(B) obtain from eligible entities and maintain such information as the Secretary determines is necessary to administer and evaluate the Program.

(g) Interdepartmental coordination

In carrying out the Program, to the maximum extent practicable, the Secretary shall ensure coordination among Federal agencies.

(h) Evaluation

(1) In general

Using amounts made available under subsection (i)(3)(E), the Secretary shall conduct an evaluation of the Program that—

(A) measures the economic impact of the Program on new and existing market outcomes;

(B) measures the effectiveness of the Program in improving and expanding—

(i) the regional food economy through public and private partnerships;

(ii) the production of value-added agricultural products;

(iii) producer-to-consumer marketing, including direct producer-to-consumer marketing;

(iv) local and regional food systems, including regional food chain coordination and business development;

(v) new business opportunities and marketing strategies to reduce on-farm food waste;

(vi) the use of new technologies in producer-to-consumer marketing, including direct producer-to-consumer marketing; and

(vii) the workforce and capacity of regional food systems; and

(C) provides a description of—

(i) each partnership agreement; and

(ii) each grant provided under subsection (d).

(2) Report

Not later than 4 years after December 20, 2018, the Secretary shall submit to the Com-

mittee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the evaluation conducted under paragraph (1), including a thorough analysis of the outcomes of the evaluation.

(i) Funding

(1) Mandatory funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$50,000,000 for fiscal year 2019 and each fiscal year thereafter, to remain available until expended.

(2) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2019 and each fiscal year thereafter, to remain available until expended.

(3) Allocation of funds

(A) Value-added producer grants

(i) In general

Subject to clause (ii), of the funds made available to carry out this section for a fiscal year, 35 percent shall be used for grants under subsection (d)(5).

(ii) Reservation of funds

(I) Majority-controlled producer-based business ventures

The total amount of grants under subsection (d)(5) provided to majority-controlled producer-based business ventures for a fiscal year shall not exceed 10 percent of the amount allocated under clause (i).

(II) Beginning, veteran, and socially disadvantaged farmers and ranchers

Of the funds made available for grants under subsection (d)(5), 10 percent shall be reserved for grants provided to beginning, veteran, and socially disadvantaged farmers or ranchers.

(III) Mid-tier value chains

Of the funds made available for grants under subsection (d)(5), 10 percent shall be reserved for grants to develop mid-tier value chains.

(IV) Food safety assistance

Of the funds made available for grants under subsection (d)(5), not more than 25 percent shall be reserved for grants for eligible activities described in subsection (d)(2)(J).

(B) Farmers' market and local food promotion grants

Of the funds made available to carry out this section for a fiscal year, 47 percent shall be used for grants under subsection (d)(6).

(C) Regional partnerships

Of the funds made available to carry out this section for a fiscal year, 10 percent shall be used to provide grants to support partnerships under subsection (e).

(D) Unobligated funds

Any funds under subparagraph (A), (B), or (C) that are not obligated for the uses de-

scribed in that subparagraph, as applicable, by September 30 of the fiscal year for which the funds were made available—

(i) shall be available to the agency carrying out the Program with the unobligated funds to carry out any function of the Program, as determined by the Secretary; and

(ii) may carry over to the next fiscal year.

(E) Administrative expenses

Not greater than 8 percent of amounts made available to provide grants under subsections (d) and (e) for a fiscal year may be used for administrative expenses.

(Aug. 14, 1946, ch. 966, title II, §210A, as added Pub. L. 115-334, title X, §10102(b), Dec. 20, 2018, 132 Stat. 4888.)

LOCAL AGRICULTURE MARKET PROGRAM

Pub. L. 115-334, title X, §10102(a), Dec. 20, 2018, 132 Stat. 4888, provided that:

“(a) PURPOSE.—The purpose of this section [enacting this section, amending sections 1632a, 1632b, 2204h, 2207b, and 3003 of this title, and repealing sections 3005 and 3006 of this title] is to combine the purposes and coordinate the functions, as in effect on the day before the date of enactment of this Act [Dec. 20, 2018], of—

“(1) the Farmers' Market and Local Food Promotion Program established under section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005); and

“(2) the value-added agricultural product market development grants under section 231(b) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1632a(b)).”

§ 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, 427j, and 3105 of this title and amended section 3104 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 section¹ 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 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 re-filing 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) 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;

¹So in original. Probably should be “pursuant to subparagraph (D)”.

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

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

(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

(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) 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. Agricultural marketing resource center pilot project

(a) Establishment

The Secretary shall not use more than 2.5 percent of the funds made available to carry out the Local Agriculture Market Program established under section 1627c of this title to establish a pilot project (to be known as the "Agricultural Marketing Resource Center") at an eligible institution described in subsection (b) that will—

(1) 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

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

(b) Eligible institution

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

(1) the capacity and technical expertise to provide the services described in subsection (a)(1);

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

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

(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; Pub. L. 113-79, title VI, §6203, Feb. 7, 2014, 128 Stat. 857; Pub. L. 115-334, title X, §10102(c)(1), Dec. 20, 2018, 132 Stat. 4897.)

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

2018—Pub. L. 115-334, §10102(c)(1)(A), substituted "Agricultural marketing resource center pilot project" for "Value-added agricultural product market development grants" in section catchline.

Subsec. (a). Pub. L. 115-334, §10102(c)(1)(D)(i), in introductory provisions, substituted "The Secretary shall not use more than 2.5 percent of the funds made available to carry out the Local Agriculture Market Program established under section 1627c of this title to establish a pilot project (to be known as the 'Agricultural Marketing Resource Center') at an eligible institution described in subsection (b)" for "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)".

Pub. L. 115-334, §10102(c)(1)(B), (C)(i), (D)(ii), redesignated subsec. (c)(1) as subsec. (a), redesignated subpars. (A) and (B) of former subsec. (c)(1) as pars. (1) and (2), respectively, of subsec. (a), realigned margins, and struck out former subsec. (a) which defined terms for this section.

Subsec. (b). Pub. L. 115-334, §10102(c)(1)(B), (C)(i), (E)(i), redesignated subsec. (c)(2) as (b), redesignated subpars. (A) to (C) of former subsec. (c)(2) as pars. (1) to (3), respectively, of subsec. (b), realigned margins, and struck out former subsec. (b) which related to grant program.

Subsec. (b)(1). Pub. L. 115-334, §10102(c)(1)(E)(ii), substituted "subsection (a)(1)" for "paragraph (1)(A)".

Subsec. (c). Pub. L. 115-334, §10102(c)(1)(C)(ii), struck out subsec. (c) designation and heading "Agricultural Marketing Resource Center pilot project". Pars. (1) and (2) of former subsec. (c) redesignated subsecs. (a) and (b), respectively.

Subsecs. (d), (e). Pub. L. 115-334, §10102(c)(1)(B), struck out subsecs. (d) and (e) which related to matching funds and limitation, respectively.

2014—Subsec. (b)(6). Pub. L. 113-79, §6203(1), added par. (6) and struck out former par. (6). Prior to amendment, text read as follows: "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."

Subsec. (b)(7)(A). Pub. L. 113-79, §6203(2)(A), substituted "On February 14, 2014," for "On October 1, 2008," and "\$63,000,000" for "\$15,000,000".

Subsec. (b)(7)(B). Pub. L. 113-79, §6203(2)(B), substituted "2018" for "2012".

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 a diverse group of representatives of public and private entities, including the following:¹

(A) Two 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, or a State legislator, of the State in which the eligible entity is located.

(C) Four entities representing commodities produced in the State.

¹ So in original.

(e) Grants and assistance**(1) In general**

Subject to subsection (g), 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 1627c(d)(2) of this title²):

(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) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2019 through 2023.

²So in original. Probably should be followed by a closing parenthesis.

(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; Pub. L. 113–79, title VI, §6204, Feb. 7, 2014, 128 Stat. 857; Pub. L. 115–334, title VII, §7608, title X, §10102(c)(2), Dec. 20, 2018, 132 Stat. 4829, 4898.)

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

2018—Subsec. (d)(2). Pub. L. 115–334, §7608(1)(A), substituted “a diverse group of representatives of public and private entities, including the following:” for “representatives of each of the following groups” in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 115–334, §7608(1)(B), substituted “Two” for “The 2”.

Subsec. (d)(2)(B). Pub. L. 115–334, §7608(1)(C), inserted “or a State legislator,” after “agency.”

Subsec. (d)(2)(C). Pub. L. 115–334, §7608(1)(D), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “Entities representing the 4 highest grossing commodities produced in the State, determined on the basis of annual gross cash sales.”

Subsec. (e)(1). Pub. L. 115–334, §7608(2), substituted “subsection (g)” for “subsection (i)”.

Subsec. (f). Pub. L. 115–334, §10102(c)(2), substituted “section 1627c(d)(2) of this title” for “section 1632a(d) of this title” in introductory provisions.

Subsecs. (g) to (i). Pub. L. 115–334, §7608(3), added subsec. (g) and struck out former subsecs. (g) to (i) which related to research on effects on the agricultural sector, report to Congress, and authorization of appropriations, respectively.

2014—Subsec. (i). Pub. L. 113–79 substituted “\$1,000,000 for each of fiscal years 2014 through 2018” for “\$6,000,000 for each of fiscal years 2008 through 2012”.

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.

§ 1632c. Acer access and development program**(a) Grants authorized**

The Secretary of Agriculture may make competitive grants to States, tribal governments, and research institutions to support the efforts of such States, tribal governments, and research institutions to promote the domestic maple syrup industry through the following activities:

(1) Promotion of research and education related to maple syrup production.

(2) Promotion of natural resource sustainability in the maple syrup industry.

(3) Market promotion for maple syrup and maple-sap products.

(4) Encouragement of owners and operators of privately held land containing species of trees in the genus *Acer*—

(A) to initiate or expand maple-sugaring activities on the land; or

(B) to voluntarily make the land available, including by lease or other means, for access by the public for maple-sugaring activities.

(b) Application

In submitting an application for a competitive grant under this section, a State, tribal government, or research institution shall include—

(1) a description of the activities to be supported using the grant funds;

(2) a description of the benefits that the State, tribal government, or research institution intends to achieve as a result of engaging in such activities; and

(3) an estimate of the increase in maple-sugaring activities or maple syrup production that the State, tribal government, or research institution anticipates will occur as a result of engaging in such activities.

(c) Rule of construction

Nothing in this section shall be construed so as to preempt a State or tribal government law, including a State or tribal government liability law.

(d) Definition of maple-sugaring

In this section, the term “maple-sugaring” means the collection of sap from any species of tree in the genus *Acer* for the purpose of boiling to produce food.

(e) Regulations

The Secretary of Agriculture shall promulgate such regulations as are necessary to carry out this section.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2014 through 2023.

(Pub. L. 113-79, title XII, §12306, Feb. 7, 2014, 128 Stat. 988; Pub. L. 115-334, title XII, §12501, Dec. 20, 2018, 132 Stat. 4982.)

CODIFICATION

Section was enacted as part of the Agricultural Act of 2014, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

AMENDMENTS

2018—Subsec. (f). Pub. L. 115-334 substituted “2023” for “2018”.

§ 1632d. Dairy business innovation initiatives

(a) Definitions

In this section:

(1) Dairy business

The term “dairy business” means a business that develops, produces, markets, or distributes dairy products.

(2) Initiative

The term “initiative” means a dairy product and business innovation initiative established under subsection (b).

(b) Establishment

The Secretary shall establish not less than 3 regionally-located dairy product and business innovation initiatives for the purposes of—

(1) diversifying dairy product markets to reduce risk and develop higher-value uses for dairy products;

(2) promoting business development that diversifies farmer income through processing and marketing innovation; and

(3) encouraging the use of regional milk production.

(c) Selection of initiatives

An initiative—

(1) shall be positioned to draw on existing dairy industry resources, including activities conducted by the National Dairy Promotion and Research Board and other dairy promotion entities, research capacity, academic and industry expertise, a density of dairy farms or farmland suitable for dairying, and dairy businesses; and

(2) may serve a certain product niche, such as specialty cheese, or serve dairy businesses with dairy products derived from the milk of a specific type of dairy animal, including dairy products made from cow milk, sheep milk, and goat milk.

(d) Entities eligible to host initiative

(1) In general

Subject to paragraph (2), any of the following entities may submit to the Secretary an application to host an initiative:

(A) A State department of agriculture or other State entity.

(B) A nonprofit organization.

(C) An institution of higher education.

(D) A cooperative extension service.

(2) Capacity of eligible entity

Any entity described in subparagraphs (A) through (D) of paragraph (1) shall be eligible to submit an application under that paragraph if the entity has—

(A) a capacity to provide consultation and expertise necessary to advance the purpose and activities of the proposed initiative; and

(B) expertise in grant distribution and tracking.

(3) Ineligible entity

A dairy promotion program shall not be eligible to host an initiative under this section.

(e) Partners

(1) In general

An entity described in subsection (d)(1) may establish as a partner an organization or entity described in paragraph (2)—

(A) prior to the submission of the application under that subsection; or

(B) after approval of the application, in consultation with the Secretary.

(2) Partner described

A partner under paragraph (1) shall be an organization or entity with expertise or experience in dairy, including the marketing, research, education, or promotion of dairy.

(f) Activities of initiatives

(1) Direct assistance to dairy businesses

An initiative shall provide nonmonetary assistance directly to dairy businesses through

private consultation or widely available distribution—

(A) by the entity that hosts the initiative under subsection (d)(1);

(B) through contracting with industry experts;

(C) through the provision of technical assistance, such as informational websites, webinars, conferences, trainings, plant tours, and field days; or

(D) through research institutions, including cooperative extension services.

(2) Types of assistance

Eligible forms of assistance include—

(A) business consulting, including business plan development for processed dairy products, strategic planning assistance, and distribution and supply chain innovation;

(B) marketing and branding assistance, including market messaging, packaging innovation, consumer assessments, innovation in emerging market opportunities, and evaluation of regional, national, and international markets;

(C) assistance in product innovation, including the development of value-added products, innovation in byproduct reprocessing and use maximization, and dairy product production training, including in new, rare, or innovative techniques; and

(D) other nonmonetary assistance, as determined by the Secretary.

(3) Grants to dairy businesses

(A) In general

An initiative shall provide grants on a competitive basis to new and existing dairy businesses for the purposes of—

(i) modernization, specialization, and grazing transition on dairy farms;

(ii) value chain and commodity innovation and facility and process updates for dairy processors; and

(iii) product development, packaging, and marketing of dairy products.

(B) Grants to certain entities

An initiative may provide a grant on a noncompetitive basis to an entity that receives assistance under paragraph (1) to advance the business activities recommended as a result of that assistance.

(C) Grant amounts

Grants provided under this paragraph shall not exceed \$500,000, unless a greater amount is approved by the Secretary.

(4) Consultation

An entity that hosts an initiative shall consult with the National Dairy Promotion and Research Board, the Secretary, and the Administrator of the Agricultural Marketing Service in carrying out the initiative.

(5) Conflict of interest

(A) In general

The Secretary shall establish guidelines and procedures to prevent any conflict of interest or the appearance of a conflict of interest by an initiative (including a partner

of the initiative) during the allocation of direct assistance under paragraph (1) or grant funding under paragraph (3).

(B) Penalty

The Secretary may suspend or terminate an initiative if the initiative (including a partner of the initiative) is found to be in violation of the guidelines and procedures established under subparagraph (A).

(g) Distribution of funds

(1) In general

Using the funds made available to carry out this section, the Secretary—

(A) shall provide not less than 3 awards to eligible entities described in subsection (d) for the purposes of carrying out the activities under subsection (f); and

(B) is encouraged to award funds under subparagraph (A) in multiyear funding allocations.

(2) Use of funds

Not less than 50 percent of the funds made available under subsection (i) shall be allocated to grants under subsection (f)(3).

(3) Priority

An entity hosting an initiative shall give priority to the provision of direct assistance under subsection (f)(1) and grants under subsection (f)(3) to—

(A) dairy farms and dairy businesses with limited access to other forms of assistance;

(B) employee-owned dairy businesses;

(C) cooperatives; and

(D) dairy businesses that seek to create dairy products that add substantial value in processing or marketing, such as specialty cheeses.

(4) Requirement

Assistance or a grant shall not be made available to a foreign person making direct investment (as those terms are defined in section 801.2 of title 15, Code of Federal Regulations (or successor regulations)) in the United States in the case of—

(A) direct assistance under subsection (f)(1) that is provided to a specific dairy business and is not publicly available, as determined by the Secretary; or

(B) a grant under subsection (f)(3).

(5) Supplementation

To the extent practicable, the Secretary shall ensure that funds provided to an initiative supplement, and do not duplicate or replace, existing dairy product research, development, and promotion activities.

(h) Report

Not later than January 31, 2022, the Secretary shall submit to Congress a report on the outcomes of the program under this section and any related activities and opportunities to further increase dairy innovation.

(i) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$20,000,000 for each fiscal year.

(Pub. L. 115-334, title XII, §12513, Dec. 20, 2018, 132 Stat. 4996.)

CODIFICATION

Section was enacted as part of the Agriculture Improvement Act of 2018, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

DEFINITION OF “SECRETARY”

“Secretary” means the Secretary of Agriculture, see section 2 of Pub. L. 115-334, set out as a note under section 9001 of this title.

§ 1633. Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; coordination of administration of Federal and State laws

In order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of Federal and State laws and regulations relating to the marketing of agricultural products and to the control or eradication of plant and animal diseases and pests, the Secretary of Agriculture is authorized, in the administration and enforcement of such Federal laws within his area of responsibility, whenever he deems it feasible and in the public interest, to enter into cooperative arrangements with State departments of agriculture and other State agencies charged with the administration and enforcement of such State laws and regulations and to provide that any such State agency which has adequate facilities, personnel, and procedures, as determined by the Secretary, may assist the Secretary in the administration and enforcement of such Federal laws and regulations to the extent and in the manner he deems appropriate in the public interest.

Further, the Secretary is authorized to coordinate the administration of such Federal laws and regulations with such State laws and regulations wherever feasible. However, nothing herein shall affect the jurisdiction of the Secretary of Agriculture under any Federal law, or any authority to cooperate with State agencies or other agencies or persons under existing provisions of law, or affect any restrictions of law upon such cooperation.

(Pub. L. 87-718, Sept. 28, 1962, 76 Stat. 663.)

CODIFICATION

Section was formerly classified to section 450 of this title prior to editorial reclassification and renumbering as this section.

Section was enacted as Pub. L. 87-718, popularly known as the Talmadge-Aiken Act, and not as part of the Agricultural Marketing Act of 1946 which comprises this chapter.

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. 2635; Pub. L. 109-296, §1(b), Oct. 5, 2006, 120 Stat. 1464; Pub. L. 111-239, §2(a)(2), Sept. 27, 2010, 124 Stat. 2501; Pub. L. 114-54, title I, §101(b), Sept. 30, 2015, 129 Stat. 513, 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[s] on September 30, 2020.”

§ 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 hundred-weight) 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) 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) Negotiated formula purchase

The term “negotiated formula purchase” means a swine or pork market formula purchase under which—

(A) the formula is determined by negotiation on a lot-by-lot basis; and

(B) the swine are scheduled for delivery to the packer not later than 14 days after the date on which the formula is negotiated and swine are committed to the packer.

(10) 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.

(11) 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.

(12) 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, negotiated formula purchase, or other market formula purchase; and

(B) does not involve packer-owned swine.

(13) 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.

(14) 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.

(15) 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.

(16) Pork

The term “pork” means the meat of a porcine animal.

(17) Pork product

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

(18) 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.

(19) 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.

(20) Sow

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

(21) Swine

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

(22) 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.

(23) 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;

(D) a negotiated formula purchase; and

(E) 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; Pub. L. 114-54, title I, §102(a), Sept. 30, 2015, 129 Stat. 513.)

AMENDMENTS

2015—Pars. (9) to (12). Pub. L. 114-54, §102(a)(1), (2), added par. (9) and redesignated former pars. (9) to (11) as (10) to (12), respectively. Former par. (12) redesignated (13).

Par. (12)(A). Pub. L. 114-54, §102(a)(3), inserted “negotiated formula purchase,” after “pork market formula purchase.”

Pars. (13) to (23). Pub. L. 114-54, §102(a)(1), redesignated pars. (12) to (22) as (13) to (23), respectively.

Par. (23)(D), (E), Pub. L. 114-54, §102(a)(4), added subpar. (D) and redesignated former subpar. (D) as (E).

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—

(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—

(I) a distribution of net prices in the range between and including the lowest net price and the highest net price reported;

(II) 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; and

(III) the total number and weighted average price of barrows and gilts purchased through negotiated purchases and negotiated formula purchases.

(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.

(C) Late in the day report information

The Secretary shall include in the morning report and the afternoon report for the following day any information required to be reported under subparagraph (A) that is obtained after the time of the reporting day specified in that subparagraph.

(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; Pub. L. 114-54, title I, § 102(b), Sept. 30, 2015, 129 Stat. 514.)

AMENDMENTS

2015—Subsec. (c)(1)(D)(ii). Pub. L. 114-54, § 102(b)(1), added cl. (ii) and struck out former cl. (ii). Prior to amendment, text read as follows: “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 delinea-

tion 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.”

Subsec. (c)(3)(C). Pub. L. 114-54, § 102(b)(2), added subpar. (C).

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).

§ 1635k. Mandatory reporting of wholesale pork cuts**(a) Reporting**

The corporate officers or officially designated representatives of each packer shall report to the Secretary information concerning the price and volume of wholesale pork cuts, as the Secretary determines is necessary and appropriate.

(b) Publication

The Secretary shall publish information reported under subsection (a) as the Secretary determines necessary and appropriate.

(Aug. 14, 1946, ch. 966, title II, § 233, as added Pub. L. 111-239, § 2(b)(1), Sept. 27, 2010, 124 Stat. 2501.)

NEGOTIATED RULEMAKING PROCESS

Pub. L. 111-239, § 2(b)(2)-(4), Sept. 27, 2010, 124 Stat. 2501, provided that:

“(2) NEGOTIATED RULEMAKING.—The Secretary of Agriculture shall establish a negotiated rulemaking process pursuant to subchapter III of chapter 5 of title 5, United States Code, to negotiate and develop a proposed rule to implement the amendment made by paragraph (1) [enacting this section].

“(3) NEGOTIATED RULEMAKING COMMITTEE.—

“(A) REPRESENTATION.—Any negotiated rulemaking committee established by the Secretary of Agriculture pursuant to paragraph (2) shall include representatives from—

“(i) organizations representing swine producers;

“(ii) organizations representing packers of pork, processors of pork, retailers of pork, and buyers of wholesale pork;

“(iii) the Department of Agriculture; and

“(iv) among interested parties that participate in swine or pork production.

“(B) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any negotiated rulemaking committee established by the Secretary of Agriculture pursuant to paragraph (2) shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

“(4) TIMING OF PROPOSED AND FINAL RULES.—In carrying out the negotiated rulemaking process under paragraph (2), the Secretary of Agriculture shall ensure that—

“(A) any recommendation for a proposed rule or report is provided to the Secretary of Agriculture not later than 180 days after the date of the enactment of this Act [Sept. 27, 2010]; and

“(B) a final rule is promulgated not later than one and a half years after the date of the enactment of this Act.”

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), 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.)

LAMB REPORTING

Pub. L. 114-54, title I, § 103, Sept. 30, 2015, 129 Stat. 514, provided that: “Not later than 180 days after the date of enactment of this Act [Sept. 30, 2015], the Secretary of Agriculture shall revise section 59.300 of title 7, Code of Federal Regulations, so that—

“(1) the definition of the term ‘importer’—

“(A) includes only those importers that imported an average of 1,000 metric tons of lamb meat products per year during the immediately preceding 4 calendar years; and

“(B) may include any person that does not meet the requirement referred to in subparagraph (A), if the Secretary determines that the person should be considered an importer based on their volume of lamb imports; and

“(2) the definition of the term ‘packer’—

“(A) applies to any entity with 50 percent or more ownership in a facility;

“(B) includes a federally inspected lamb processing plant which slaughtered or processed the equivalent of an average of 35,000 head of lambs per year during the immediately preceding 5 calendar years; and

“(C) may include any other lamb processing plant that does not meet the requirement referred to in subparagraph (B), if the Secretary determines that the processing plant should be considered a packer after considering the capacity of the processing plant.”

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.)

(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 Sec-

retary 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), 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), 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), 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) shall include—

- (1) information on retail prices for each representative food product described in subsection (a); 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), 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), 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) 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) 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, 2020.

(Aug. 14, 1946, ch. 966, title II, § 260, as added Pub. L. 109-296, §1(a), Oct. 5, 2006, 120 Stat. 1464; amended Pub. L. 111-239, §2(a)(1), Sept. 27, 2010, 124 Stat. 2501; Pub. L. 114-54, title I, §101(a), Sept. 30, 2015, 129 Stat. 513.)

AMENDMENTS

2015—Pub. L. 114-54 substituted “September 30, 2020” for “September 30, 2015”.

2010—Pub. L. 111-239 substituted “September 30, 2015” for “September 30, 2010”.

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, assessment, 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) Electronic reporting system required**

The Secretary shall establish an electronic reporting system to carry out this section.

(2) Publication

Not later than 3:00 p.m. Eastern Time on the Wednesday of each week, the Secretary shall publish a report containing the information obtained under this section for the preceding week.

(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; Pub. L. 111-239, §3(a), Sept. 27, 2010, 124 Stat. 2502.)

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

2010—Subsec. (d). Pub. L. 111-239 amended subsec. (d) generally. Prior to amendment, text read as follows:

“(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.”

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.

IMPLEMENTATION OF ELECTRONIC REPORTING SYSTEM

Pub. L. 111-239, §3(b), Sept. 27, 2010, 124 Stat. 2502, provided that: “Not later than one year after the date of enactment of this Act [Sept. 27, 2010], the Secretary of Agriculture shall implement the electronic reporting system required by subsection (d) of section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b), as amended by subsection (a). Until the electronic reporting system is implemented, the Secretary shall continue to conduct mandatory dairy product information reporting under the authority of such section, as in effect on the day before the date of enactment of this Act.”

SUBCHAPTER IV—COUNTRY OF ORIGIN LABELING

§ 1638. Definitions

In this subchapter:

(1) Covered commodity

(A) In general

The term “covered commodity” means—

- (i) muscle cuts of lamb and venison;
- (ii) ground lamb and ground venison;
- (iii) farm-raised fish;
- (iv) wild fish;
- (v) a perishable agricultural commodity;
- (vi) peanuts; and¹
- (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.

(2) 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.

(3) 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.

(4) Lamb

The term “lamb” means meat, other than mutton, produced from sheep.

(5) Perishable agricultural commodity; retailer

The terms “perishable agricultural commodity” and “retailer” have the meanings given the terms in section 499a(b) of this title.

(6) Secretary

The term “Secretary” means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

(7) 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.

(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; Pub. L. 113-79, title XII, §12104(b)(1), Feb. 7, 2014, 128 Stat. 979; Pub. L. 114-113, div. A, title VII, §759(a), Dec. 18, 2015, 129 Stat. 2284.)

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

2015—Pub. L. 114-113 redesignated pars. (2), (3), (4), (5), (6), (8), and (9) as pars. (1), (2), (3), (4), (5), (6), and (7), respectively, in par. (1)(A)(i) struck out references to beef and pork, in par. (1)(A)(ii) struck out references to ground beef and ground pork, and struck out former pars. (1) and (7), which defined “beef” and “pork”, respectively.

2014—Par. (2)(A)(i). Pub. L. 113-79, §12104(b)(1)(A), substituted “pork, and venison” for “and pork”.

Par. (2)(A)(ii). Pub. L. 113-79, §12104(b)(1)(B), substituted “ground pork, and ground venison” for “and ground pork”.

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), 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 lamb, chicken, goat, and venison meat

(A) United States country of origin

A retailer of a covered commodity that is lamb, chicken, goat, or venison 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;

¹ So in original. The word “and” probably should not appear.

(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 lamb, chicken, goat, or venison 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 lamb, chicken, goat, or venison 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 lamb, chicken, goat, or venison 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 lamb, chicken, goat, and venison

The notice of country of origin for ground lamb, ground chicken, ground goat, or ground venison shall include—

(i) a list of all countries of origin of such ground lamb, ground chicken, ground goat, or ground venison; or

(ii) a list of all reasonably possible countries of origin of such ground lamb, ground chicken, ground goat, or ground venison.

(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) 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) 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 dis-

tributes 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 origin verification system established to carry out the child and adult care food program established under section 1766 of title 42; or

(C) the origin verification system established to carry out the market access program under section 5623(b) 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; Pub. L. 113-79, title XII, § 12104(b)(2), Feb. 7, 2014, 128 Stat. 979; Pub. L. 114-113, div. A, title VII, § 759(b), Dec. 18, 2015, 129 Stat. 2285; Pub. L. 115-334, title III, § 3201(b)(1)(C), Dec. 20, 2018, 132 Stat. 4616.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f)(2)(A), is act Aug. 14, 1946, ch. 966, 60 Stat. 1082, which enacted this chapter and sections 427h, 427j, and 3105 of this title and amended section 3104 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

2018—Subsec. (f)(2)(C). Pub. L. 115-334 substituted “section 5623(b)” for “section 5623”.

2015—Subsec. (a)(2). Pub. L. 114-113, § 759(b)(1)(A), in heading, struck out “beef,” before “lamb,” and “pork,” before “chicken.”.

Subsec. (a)(2)(A) to (D). Pub. L. 114-113, § 759(b)(1)(B), struck out “beef,” and “pork,” wherever appearing.

Subsec. (a)(2)(E). Pub. L. 114-113, § 759(b)(1)(C), in heading, struck out “beef, pork,” after “Ground” and, in text, struck out “ground beef, ground pork,” wherever appearing.

Subsec. (f)(2)(B) to (E). Pub. L. 114-113, § 759(b)(2), redesignated subpars. (D) and (E) as (B) and (C), respectively, and struck out former subpars. (B) and (C), which read as follows:

“(B) the voluntary country of origin beef labeling system carried out under this Act;

“(C) voluntary programs established to certify certain premium beef cuts;”.

2014—Subsec. (a)(2). Pub. L. 113-79, § 12104(b)(2)(A), substituted “goat, and venison” for “and goat” in heading.

Subsec. (a)(2)(A), (B)(i), (C), (D). Pub. L. 113-79, § 12104(b)(2)(B), substituted “goat, or venison” for “or goat”.

Subsec. (a)(2)(E). Pub. L. 113-79, § 12104(b)(2)(C), substituted “goat, and venison” for “and goat” in heading and “ground goat, or ground venison” for “or ground goat” wherever appearing in text.

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 retailer¹ of the determination of the Secretary; and

(2) provide the retailer¹ a 30-day period, beginning on the date on which the retailer¹ receives the notice under paragraph (1) from the Secretary, during which the retailer¹ 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.

¹ So in original. Probably should be “retailer or person”.

(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”.

SUBCHAPTER V—NATIONAL BIOENGINEERED FOOD DISCLOSURE STANDARD

§ 1639. Definitions

In this subchapter:

(1) Bioengineering

The term “bioengineering”, and any similar term, as determined by the Secretary, with respect to a food, refers to a food—

(A) that contains genetic material that has been modified through in vitro recombinant deoxyribonucleic acid (DNA) techniques; and

(B) for which the modification could not otherwise be obtained through conventional breeding or found in nature.

(2) Food

The term “food” means a food (as defined in section 321 of title 21) that is intended for human consumption.

(3) Secretary

The term “Secretary” means the Secretary of Agriculture.

(Aug. 14, 1946, ch. 966, title II, § 291, as added Pub. L. 114-216, § 1, July 29, 2016, 130 Stat. 834.)

§ 1639a. Applicability

(a) In general

This subchapter shall apply to any claim in a disclosure that a food bears that indicates that the food is a bioengineered food.

(b) Application of definition

The definition of the term “bioengineering” under section 1639 of this title shall not affect any other definition, program, rule, or regulation of the Federal Government.

(c) Application to foods

This subchapter shall apply only to a food subject to—

(1) the labeling requirements under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

(2) the labeling requirements under 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.) only if—

(A) the most predominant ingredient of the food would independently be subject to the labeling requirements under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

(B)(i) the most predominant ingredient of the food is broth, stock, water, or a similar solution; and

(ii) the second-most predominant ingredient of the food would independently be subject to the labeling requirements under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(Aug. 14, 1946, ch. 966, title II, § 292, as added Pub. L. 114–216, § 1, July 29, 2016, 130 Stat. 834.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(1), (2)(A), (B)(ii), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Federal Meat Inspection Act, referred to in subsec. (c)(2), is titles I to IV of act Mar. 4, 1907, ch. 2907, as added Pub. L. 90–201, Dec. 15, 1967, 81 Stat. 584, which are classified generally to subchapters I to IV (§601 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 21 and Tables.

The Poultry Products Inspection Act, referred to in subsec. (c)(2), is Pub. L. 85–172, Aug. 28, 1957, 71 Stat. 441, which is classified generally to chapter 10 (§451 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 451 of Title 21 and Tables.

The Egg Products Inspection Act, referred to in subsec. (c)(2), is Pub. L. 91–597, Dec. 29, 1970, 84 Stat. 1620, which is classified principally to chapter 15 (§1031 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 1031 of Title 21 and Tables.

§ 1639b. Establishment of national bioengineered food disclosure standard

(a) Establishment of mandatory standard

Not later than 2 years after July 29, 2016, the Secretary shall—

(1) establish a national mandatory bioengineered food disclosure standard with respect to any bioengineered food and any food that may be bioengineered; and

(2) establish such requirements and procedures as the Secretary determines necessary to carry out the standard.

(b) Regulations

(1) In general

A food may bear a disclosure that the food is bioengineered only in accordance with regulations promulgated by the Secretary in accordance with this subchapter.

(2) Requirements

A regulation promulgated by the Secretary in carrying out this subchapter shall—

(A) prohibit a food derived from an animal to be considered a bioengineered food solely because the animal consumed feed produced from, containing, or consisting of a bioengineered substance;

(B) determine the amounts of a bioengineered substance that may be present in food, as appropriate, in order for the food to be a bioengineered food;

(C) establish a process for requesting and granting a determination by the Secretary regarding other factors and conditions under which a food is considered a bioengineered food;

(D) in accordance with subsection (d), require that the form of a food disclosure under this section be a text, symbol, or electronic or digital link, but excluding Internet website Uniform Resource Locators not embedded in the link, with the disclosure option to be selected by the food manufacturer;

(E) provide alternative reasonable disclosure options for food contained in small or very small packages;

(F) in the case of small food manufacturers, provide—

(i) an implementation date that is not earlier than 1 year after the implementation date for regulations promulgated in accordance with this section; and

(ii) on-package disclosure options, in addition to those available under subparagraph (D), to be selected by the small food manufacturer, that consist of—

(I) a telephone number accompanied by appropriate language to indicate that the phone number provides access to additional information; and

(II) an Internet website maintained by the small food manufacturer in a manner consistent with subsection (d), as appropriate; and

(G) exclude—

(i) food served in a restaurant or similar retail food establishment; and

(ii) very small food manufacturers.

(3) Safety

For the purpose of regulations promulgated and food disclosures made pursuant to paragraph (2), a bioengineered food that has successfully completed the pre-market Federal regulatory review process shall not be treated as safer than, or not as safe as, a non-bioengineered counterpart of the food solely because the food is bioengineered or produced or developed with the use of bioengineering.

(c) Study of electronic or digital link disclosure

(1) In general

Not later than 1 year after July 29, 2016, the Secretary shall conduct a study to identify potential technological challenges that may impact whether consumers would have access to the bioengineering disclosure through electronic or digital disclosure methods.

(2) Public comments

In conducting the study under paragraph (1), the Secretary shall solicit and consider comments from the public.

(3) Factors

The study conducted under paragraph (1) shall consider whether consumer access to the bioengineering disclosure through electronic or digital disclosure methods under this subchapter would be affected by the following factors:

- (A) The availability of wireless Internet or cellular networks.
- (B) The availability of landline telephones in stores.
- (C) Challenges facing small retailers and rural retailers.
- (D) The efforts that retailers and other entities have taken to address potential technology and infrastructure challenges.
- (E) The costs and benefits of installing in retail stores electronic or digital link scanners or other evolving technology that provide bioengineering disclosure information.

(4) Additional disclosure options

If the Secretary determines in the study conducted under paragraph (1) that consumers, while shopping, would not have sufficient access to the bioengineering disclosure through electronic or digital disclosure methods, the Secretary, after consultation with food retailers and manufacturers, shall provide additional and comparable options to access the bioengineering disclosure.

(d) Disclosure

In promulgating regulations under this section, the Secretary shall ensure that—

- (1) on-package language accompanies—
 - (A) the electronic or digital link disclosure, indicating that the electronic or digital link will provide access to an Internet website or other landing page by stating only “Scan here for more food information”, or equivalent language that only reflects technological changes; or
 - (B) any telephone number disclosure, indicating that the telephone number will provide access to additional information by stating only “Call for more food information.”;
- (2) the electronic or digital link will provide access to the bioengineering disclosure located, in a consistent and conspicuous manner, on the first product information page that appears for the product on a mobile device, Internet website, or other landing page, which shall exclude marketing and promotional information;
- (3)(A) the electronic or digital link disclosure may not collect, analyze, or sell any personally identifiable information about consumers or the devices of consumers; but
 - (B) if information described in subparagraph (A) must be collected to carry out the purposes of this subchapter, that information shall be deleted immediately and not used for any other purpose;
- (4) the electronic or digital link disclosure also includes a telephone number that provides access to the bioengineering disclosure; and
- (5) the electronic or digital link disclosure is of sufficient size to be easily and effectively scanned or read by a digital device.

(e) State food labeling standards

Notwithstanding section 1639i of this title, no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce any requirement relating to the labeling or disclosure of whether a food is bioengineered or was developed or produced using bioengineering for a food that is the subject of the national bioengineered food disclosure standard under this section that is not identical to the mandatory disclosure requirement under that standard.

(f) Consistency with certain laws

The Secretary shall consider establishing consistency between—

- (1) the national bioengineered food disclosure standard established under this section; and
- (2) the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) and any rules or regulations implementing that Act.

(g) Enforcement**(1) Prohibited act**

It shall be a prohibited act for a person to knowingly fail to make a disclosure as required under this section.

(2) Recordkeeping

Each person subject to the mandatory disclosure requirement under this section shall maintain, and make available to the Secretary, on request, such records as the Secretary determines to be customary or reasonable in the food industry, by regulation, to establish compliance with this section.

(3) Examination and audit**(A) In general**

The Secretary may conduct an examination, audit, or similar activity with respect to any records required under paragraph (2).

(B) Notice and hearing

A person subject to an examination, audit, or similar activity under subparagraph (A) shall be provided notice and opportunity for a hearing on the results of any examination, audit, or similar activity.

(C) Audit results

After the notice and opportunity for a hearing under subparagraph (B), the Secretary shall make public the summary of any examination, audit, or similar activity under subparagraph (A).

(4) Recall authority

The Secretary shall have no authority to recall any food subject to this subchapter on the basis of whether the food bears a disclosure that the food is bioengineered.

(Aug. 14, 1946, ch. 966, title II, §293, as added Pub. L. 114–216, §1, July 29, 2016, 130 Stat. 835.)

REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in subsec. (f)(2), is title XXI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§6501 et seq.) of this title. For complete

classification of this Act to the Code, see Short Title note set out under section 6501 of this title and Tables.

§ 1639c. Savings provisions

(a) Trade

This subchapter shall be applied in a manner consistent with United States obligations under international agreements.

(b) Other authorities

Nothing in this subchapter—

(1) affects the authority of the Secretary of Health and Human Services or creates any rights or obligations for any person under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

(2) affects the authority of the Secretary of the Treasury or creates any rights or obligations for any person under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.).

(c) Other

A food may not be considered to be “not bio-engineered”, “non-GMO”, or any other similar claim describing the absence of bioengineering in the food solely because the food is not required to bear a disclosure that the food is bio-engineered under this subchapter.

(Aug. 14, 1946, ch. 966, title II, §294, as added Pub. L. 114-216, §1, July 29, 2016, 130 Stat. 838.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Federal Alcohol Administration Act, referred to in subsec. (b)(2), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, which is classified generally to subchapter I (§201 et seq.) of chapter 8 of Title 27, Intoxicating Liquors. For complete classification of this Act to the Code, see section 201 of Title 27 and Tables.

SUBCHAPTER VI—LABELING OF CERTAIN FOOD

§ 1639i. Federal preemption

(a) Definition of food

In this subchapter, the term “food” has the meaning given the term in section 321 of title 21.

(b) Federal preemption

No State or a political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food or seed in interstate commerce any requirement relating to the labeling of whether a food (including food served in a restaurant or similar establishment) or seed is genetically engineered (which shall include such other similar terms as determined by the Secretary of Agriculture) or was developed or produced using genetic engineering, including any requirement for claims that a food or seed is or contains an ingredient that was developed or produced using genetic engineering.

(Aug. 14, 1946, ch. 966, title II, §295, as added Pub. L. 114-216, §1, July 29, 2016, 130 Stat. 838.)

§ 1639j. Exclusion from Federal preemption

Nothing in this subchapter, subchapter V, or any regulation, rule, or requirement promul-

gated in accordance with this subchapter or subchapter V shall be construed to preempt any remedy created by a State or Federal statutory or common law right.

(Aug. 14, 1946, ch. 966, title II, §296, as added Pub. L. 114-216, §1, July 29, 2016, 130 Stat. 838.)

SUBCHAPTER VII—HEMP PRODUCTION

§ 1639o. Definitions

In this subchapter:

(1) Hemp

The term “hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(2) Indian tribe

The term “Indian tribe” has the meaning given the term in section 5304 of title 25.

(3) Secretary

The term “Secretary” means the Secretary of Agriculture.

(4) State

The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico; and
- (D) any other territory or possession of the United States.

(5) State department of agriculture

The term “State department of agriculture” means the agency, commission, or department of a State government responsible for agriculture in the State.

(6) Tribal government

The term “Tribal government” means the governing body of an Indian tribe.

(Aug. 14, 1946, ch. 966, title II, §297A, as added Pub. L. 115-334, title X, §10113, Dec. 20, 2018, 132 Stat. 4908.)

INTERSTATE COMMERCE

Pub. L. 115-334, title X, §10114, Dec. 20, 2018, 132 Stat. 4914, provided that:

“(a) RULE OF CONSTRUCTION.—Nothing in this title [enacting this subchapter and sections 1627c and 6521a of this title, amending sections 136a, 1622b, 1632a, 1632b, 2204h, 2207b, 2276, 2401, 2402, 2541, 2568, 3003, 5925c, 6502, 6514, 6515, 6518, 6519, 6521-6523, and 7655a of this title and section 714i of Title 15, Commerce and Trade, repealing sections 3005 and 3006 of this title, enacting provisions set out as notes under sections 1627c, 1639o, 6503, and 6521a of this title, and amending provisions set out as a note under section 1621 of this title] or an amendment made by this title prohibits the interstate commerce of hemp (as defined in section 297A of the Agricultural Marketing Act of 1946 [7 U.S.C. 1639o] (as added by section 10113)) or hemp products.

“(b) TRANSPORTATION OF HEMP AND HEMP PRODUCTS.—No State or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 [7 U.S.C. 1639o et seq.] (as added by section 10113) through the State or the territory of the Indian Tribe, as applicable.”

§ 1639p. State and tribal plans**(a) Submission****(1) In general**

A State or Indian tribe desiring to have primary regulatory authority over the production of hemp in the State or territory of the Indian tribe shall submit to the Secretary, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, a plan under which the State or Indian tribe monitors and regulates that production as described in paragraph (2).

(2) Contents

A State or Tribal plan referred to in paragraph (1)—

(A) shall only be required to include—

(i) a practice to maintain relevant information regarding land on which hemp is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years;

(ii) a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian tribe;

(iii) a procedure for the effective disposal of—

(I) plants, whether growing or not, that are produced in violation of this subchapter; and

(II) products derived from those plants;

(iv) a procedure to comply with the enforcement procedures under subsection (e);

(v) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subchapter;

(vi) a procedure for submitting the information described in section 1639q(d)(2) of this title, as applicable, to the Secretary not more than 30 days after the date on which the information is received; and

(vii) a certification that the State or Indian tribe has the resources and personnel to carry out the practices and procedures described in clauses (i) through (vi); and

(B) may include any other practice or procedure established by a State or Indian tribe, as applicable, to the extent that the practice or procedure is consistent with this subchapter.

(3) Relation to State and tribal law**(A) No preemption**

Nothing in this subsection preempts or limits any law of a State or Indian tribe that—

(i) regulates the production of hemp; and

(ii) is more stringent than this subchapter.

(B) References in plans

A State or Tribal plan referred to in paragraph (1) may include a reference to a law of

the State or Indian tribe regulating the production of hemp, to the extent that law is consistent with this subchapter.

(b) Approval**(1) In general**

Not later than 60 days after receipt of a State or Tribal plan under subsection (a), the Secretary shall—

(A) approve the State or Tribal plan if the State or Tribal plan complies with subsection (a); or

(B) disapprove the State or Tribal plan only if the State or Tribal plan does not comply with subsection (a).

(2) Amended plans

If the Secretary disapproves a State or Tribal plan under paragraph (1)(B), the State, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, may submit to the Secretary an amended State or Tribal plan that complies with subsection (a).

(3) Consultation

The Secretary shall consult with the Attorney General in carrying out this subsection.

(c) Audit of State compliance**(1) In general**

The Secretary may conduct an audit of the compliance of a State or Indian tribe with a State or Tribal plan approved under subsection (b).

(2) Noncompliance

If the Secretary determines under an audit conducted under paragraph (1) that a State or Indian tribe is not materially in compliance with a State or Tribal plan—

(A) the Secretary shall collaborate with the State or Indian tribe to develop a corrective action plan in the case of a first instance of noncompliance; and

(B) the Secretary may revoke approval of the State or Tribal plan in the case of a second or subsequent instance of noncompliance.

(d) Technical assistance

The Secretary may provide technical assistance to a State or Indian tribe in the development of a State or Tribal plan under subsection (a).

(e) Violations**(1) In general**

A violation of a State or Tribal plan approved under subsection (b) shall be subject to enforcement solely in accordance with this subsection.

(2) Negligent violation**(A) In general**

A hemp producer in a State or the territory of an Indian tribe for which a State or Tribal plan is approved under subsection (b) shall be subject to subparagraph (B) of this paragraph if the State department of agriculture or Tribal government, as applicable,

determines that the hemp producer has negligently violated the State or Tribal plan, including by negligently—

- (i) failing to provide a legal description of land on which the producer produces hemp;
- (ii) failing to obtain a license or other required authorization from the State department of agriculture or Tribal government, as applicable; or
- (iii) producing *Cannabis sativa* L. with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.

(B) Corrective action plan

A hemp producer described in subparagraph (A) shall comply with a plan established by the State department of agriculture or Tribal government, as applicable, to correct the negligent violation, including—

- (i) a reasonable date by which the hemp producer shall correct the negligent violation; and
- (ii) a requirement that the hemp producer shall periodically report to the State department of agriculture or Tribal government, as applicable, on the compliance of the hemp producer with the State or Tribal plan for a period of not less than the next 2 calendar years.

(C) Result of negligent violation

A hemp producer that negligently violates a State or Tribal plan under subparagraph (A) shall not as a result of that violation be subject to any criminal enforcement action by the Federal Government or any State government, Tribal government, or local government.

(D) Repeat violations

A hemp producer that negligently violates a State or Tribal plan under subparagraph (A) 3 times in a 5-year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.

(3) Other violations

(A) In general

If the State department of agriculture or Tribal government in a State or the territory of an Indian tribe for which a State or Tribal plan is approved under subsection (b), as applicable, determines that a hemp producer in the State or territory has violated the State or Tribal plan with a culpable mental state greater than negligence—

- (i) the State department of agriculture or Tribal government, as applicable, shall immediately report the hemp producer to—
 - (I) the Attorney General; and
 - (II) the chief law enforcement officer of the State or Indian tribe, as applicable; and
- (ii) paragraph (1) of this subsection shall not apply to the violation.

(B) Felony

(i) In general

Except as provided in clause (ii), any person convicted of a felony relating to a

controlled substance under State or Federal law before, on, or after December 20, 2018, shall be ineligible, during the 10-year period following the date of the conviction—

(I) to participate in the program established under this section or section 1639q of this title; and

(II) to produce hemp under any regulations or guidelines issued under section 1639r(a) of this title.

(ii) Exception

Clause (i) shall not apply to any person growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by section 5940 of this title before December 20, 2018.

(C) False statement

Any person who materially falsifies any information contained in an application to participate in the program established under this section shall be ineligible to participate in that program.

(f) Effect

Nothing in this section prohibits the production of hemp in a State or the territory of an Indian tribe—

- (1) for which a State or Tribal plan is not approved under this section, if the production of hemp is in accordance with section 1639q of this title or other Federal laws (including regulations); and
- (2) if the production of hemp is not otherwise prohibited by the State or Indian tribe.

(Aug. 14, 1946, ch. 966, title II, §297B, as added Pub. L. 115-334, title X, §10113, Dec. 20, 2018, 132 Stat. 4909.)

§ 1639q. Department of Agriculture

(a) Department of Agriculture plan

(1) In general

In the case of a State or Indian tribe for which a State or Tribal plan is not approved under section 1639p of this title, the production of hemp in that State or the territory of that Indian tribe shall be subject to a plan established by the Secretary to monitor and regulate that production in accordance with paragraph (2).

(2) Content

A plan established by the Secretary under paragraph (1) shall include—

- (A) a practice to maintain relevant information regarding land on which hemp is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years;
- (B) a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian tribe;
- (C) a procedure for the effective disposal of—
 - (i) plants, whether growing or not, that are produced in violation of this subsection; and

(ii) products derived from those plants;

(D) a procedure to comply with the enforcement procedures under subsection (c)(2);

(E) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subchapter; and

(F) such other practices or procedures as the Secretary considers to be appropriate, to the extent that the practice or procedure is consistent with this subchapter.

(b) Licensing

The Secretary shall establish a procedure to issue licenses to hemp producers in accordance with a plan established under subsection (a).

(c) Violations

(1) In general

In the case of a State or Indian tribe for which a State or Tribal plan is not approved under section 1639p of this title, it shall be unlawful to produce hemp in that State or the territory of that Indian tribe without a license issued by the Secretary under subsection (b).

(2) Negligent and other violations

A violation of a plan established under subsection (a) shall be subject to enforcement in accordance with paragraphs (2) and (3) of section 1639p(e) of this title, except that the Secretary shall carry out that enforcement instead of a State department of agriculture or Tribal government.

(3) Reporting to Attorney General

In the case of a State or Indian tribe covered by paragraph (1), the Secretary shall report the production of hemp without a license issued by the Secretary under subsection (b) to the Attorney General.

(d) Information sharing for law enforcement

(1) In general

The Secretary shall—

(A) collect the information described in paragraph (2); and

(B) make the information collected under subparagraph (A) accessible in real time to Federal, State, territorial, and local law enforcement.

(2) Content

The information collected by the Secretary under paragraph (1) shall include—

(A) contact information for each hemp producer in a State or the territory of an Indian tribe for which—

(i) a State or Tribal plan is approved under section 1639p(b) of this title; or

(ii) a plan is established by the Secretary under this section;

(B) a legal description of the land on which hemp is grown by each hemp producer described in subparagraph (A); and

(C) for each hemp producer described in subparagraph (A)—

(i) the status of—

(I) a license or other required authorization from the State department of ag-

riculture or Tribal government, as applicable; or

(II) a license from the Secretary; and

(ii) any changes to the status.

(Aug. 14, 1946, ch. 966, title II, §297C, as added Pub. L. 115-334, title X, §10113, Dec. 20, 2018, 132 Stat. 4912.)

§ 1639r. Regulations and guidelines; effect on other law

(a) Promulgation of regulations and guidelines; report

(1) Regulations and guidelines

(A) In general

The Secretary shall promulgate regulations and guidelines to implement this subchapter as expeditiously as practicable.

(B) Consultation with Attorney General

The Secretary shall consult with the Attorney General on the promulgation of regulations and guidelines under subparagraph (A).

(2) Report

The Secretary shall annually submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing updates on the implementation of this subchapter.

(b) Authority

Subject to subsection (c)(3)(B), the Secretary shall have sole authority to promulgate Federal regulations and guidelines that relate to the production of hemp, including Federal regulations and guidelines that relate to the implementation of sections 1639p and 1639q of this title.

(c) Effect on other law

Nothing in this subchapter shall affect or modify—

(1) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

(2) section 262 of title 42; or

(3) the authority of the Commissioner of Food and Drugs and the Secretary of Health and Human Services—

(A) under—

(i) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

(ii) section 262 of title 42; or

(B) to promulgate Federal regulations and guidelines that relate to the production of hemp under the Act described in subparagraph (A)(i) or the section described in subparagraph (A)(ii).

(Aug. 14, 1946, ch. 966, title II, §297D, as added Pub. L. 115-334, title X, §10113, Dec. 20, 2018, 132 Stat. 4913.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(1), (3)(A)(i), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

§ 1639s. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Aug. 14, 1946, ch. 966, title II, § 297E, as added Pub. L. 115-334, title X, § 10113, Dec. 20, 2018, 132 Stat. 4914.)

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 rights, obtain the benefits, and fulfill the obligations of the United States under the International Wheat Agreement of 1949 signed by Australia, Canada, France, the United States, Uruguay, and certain wheat importing countries, along with the agreements signed by the United States and certain other countries revising and renewing such agreement of 1949 for periods through July 31, 1965 (hereinafter collectively called the "International Wheat Agreement"). Nothing in this chapter shall be construed to preclude the Secretary of Agriculture, in carrying out programs to encourage the exportation of agricultural commodities and products thereof pursuant to section 612c of this title, from utilizing funds available for such programs in such manner as, either separately or jointly with the Commodity Credit Corporation, to exercise the rights, obtain the benefits, and fulfill all or any part of the obligations of the United States under the International Wheat Agreement or to preclude the Commodity Credit Corporation in otherwise carrying out wheat and wheat-flour export programs as authorized by law. Nothing contained in this chapter shall limit the duty of the Commodity Credit Corporation to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business to utilize the usual and customary channels, facilities, and arrangements of trade and commerce in making available or causing to be made available wheat and wheat-flour under this chapter. The pricing provisions of section 1510(e)¹ of title 22 and section 713a-9 of title 15, shall not be applicable to domestic wheat and wheat-flour supplied to countries which are parties to the International Wheat Agreement and credited to their guaranteed purchases thereunder on and after August 1, 1949, and up to and including June 30, 1950. Where prices in excess of the International Wheat Agreement prices have been paid for such

wheat and wheat-flour financed by the Economic Cooperation Administration on or after August 1, 1949, and up to and including June 30, 1950, the Secretary of Agriculture or Commodity Credit Corporation is authorized to reimburse the Economic Cooperation Administration for such excess amounts. Funds realized from such reimbursement shall revert to the respective appropriation or appropriations from which funds were expended for the procurement of such wheat and wheat-flour. There are authorized to be appropriated such sums as may be necessary to make payments to the Commodity Credit Corporation of its estimated or actual net costs of carrying out its functions hereunder. Such net costs in connection with the International Wheat Agreement, 1959, shall include those with respect to all transactions which qualify as commercial purchases (as defined in such agreement) from the United States by importing member countries. Such net costs in connection with the International Wheat Agreement, 1962, shall include those with respect to all transactions which qualify as commercial purchases (as defined in such agreement) from the United States by member and provisional member importing countries, including transactions entered into prior to the deposit of instruments of acceptance or accession by any of the countries involved, if the loading period is not earlier than the date the agreement enters into force. The Commodity Credit Corporation is authorized in carrying out its functions under this chapter to utilize, in advance of such appropriations or payments, any assets available to it.

(Oct. 27, 1949, ch. 772, § 2, 63 Stat. 945; Aug. 1, 1953, ch. 306, § 1, 67 Stat. 358; Aug. 3, 1956, ch. 911, § 1, 70 Stat. 966; Pub. L. 86-336, Sept. 21, 1959, 73 Stat. 600; Pub. L. 87-632, Sept. 5, 1962, 76 Stat. 434.)

REFERENCES IN TEXT

Section 1510 of title 22, referred to in text, was repealed by act Aug. 26, 1954, ch. 937, title V, § 542(a), 68 Stat. 861.

AMENDMENTS

1962—Pub. L. 87-632 extended authority of President to act under wheat agreements revising and renewing the Agreement of 1949 for periods through July 31, 1965, included within the net costs connected with the International Wheat Agreement of 1962, those with respect to commercial purchases from the United States by member and provisional member importing countries, including transactions entered into prior to deposit of instruments of acceptance or accession, if the loading period is not earlier than the date the agreement enters force.

1959—Pub. L. 86-336 authorized this chapter to be used to implement the 1959 agreement and provided that net costs in connection with the 1959 agreement include those with respect to all transactions which qualify as commercial purchases from the United States by importing member countries.

1956—Act Aug. 3, 1956, permitted this chapter to be used to implement the new agreement ratified on July 11, 1956.

1953—Act Aug. 1, 1953, permitted this chapter to be used to implement the new agreement ratified on July 14, 1953.

SHORT TITLE

Act Oct. 27, 1949, ch. 772, § 1, 63 Stat. 945, provided that: "This Act [enacting this chapter] shall be known as the 'International Wheat Agreement Act of 1949'."

¹ See References in Text note below.