

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.)

Editorial Notes

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 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.”

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.)

Statutory Notes and Related Subsidiaries

NEGOTIATED RULEMAKING PROCESS

Pub. L. 111-239, § 2(b)(2)-(4), Sept. 27, 2010, 124 Stat. 2501, as amended by Pub. L. 117-286, § 4(a)(25), Dec. 27, 2022, 136 Stat. 4307, 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 CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—Any negotiated rulemaking committee established by the Secretary of Agriculture pursuant to paragraph (2) shall not be subject to chapter 10 of title 5, United States Code.

“(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.)

Statutory Notes and Related Subsidiaries

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