

study to determine whether, and to what extent, milk-fat is being produced in the United States in excess of commercial market needs as a result of any provision of law, regulation, or order that affects the manner in which producers receive payment for milk on the basis of the milk components contained in their marketings of milk under any Federal or State milk pricing program, to report to Congress on the study not later than 180 days after Nov. 28, 1990, and to announce a hearing on multiple component pricing provisions in individual Federal milk marketing orders issued under this section.

MARKETWIDE SERVICE PAYMENTS

Pub. L. 99-260, § 9, Mar. 20, 1986, 100 Stat. 51, provided that:

“(a) HEARING.—Not later than 90 days after receipt of a proposal to amend a milk marketing order in accordance with section 8c(5)(J) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(5)(J)) (as added by section 133 of the Food Security Act of 1985), the Secretary of Agriculture shall conduct a hearing on the proposal.

“(b) IMPLEMENTATION.—Not later than 120 days after a hearing is conducted under subsection (a), the Secretary shall implement, in accordance with the Agricultural Adjustment Act [this chapter], a marketwide service payment program under section 8c(5)(J) of such Act that meets the requirements of such Act.”

TERMINATION OF MARKETING ORDERS

Pub. L. 99-198, title XVI, §1662(b), Dec. 23, 1985, 99 Stat. 1631, provided that: “The Secretary of Agriculture may not terminate any marketing order under section 8c(16) of the of the [so in original] Agricultural Adjustment Act (7 U.S.C. 608c(16)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, if such termination becomes effective before January 16, 1986.”

REPORT TO HOUSES OF CONGRESS REGARDING IMPLEMENTATION OF PROVISIONS RELATING TO HANDLING OF COMMODITIES

Pub. L. 95-279, title IV, § 401(b), May 15, 1978, 92 Stat. 243, provided that, within a period of 60 days following the second anniversary of the implementation of section 401 of Pub. L. 95-279, the Secretary of Agriculture was to submit to Congress a report describing how section 401 was implemented.

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1985 AMENDMENT STATUS

Pub. L. 99-198, title I, §134, Dec. 23, 1985, 99 Stat. 1373, provided that: “The legal status of producer handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title [probably means this subtitle, subtitle C (§§131-134) of title I of Pub. L. 99-198, amending subsec. (5) of this section and provisions set out as a note above] take effect as it was before the effective date of such amendments.”

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1981 AMENDMENT STATUS

Pub. L. 97-98, title I, §102, Dec. 22, 1981, 95 Stat. 1219, provided that: “The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 [this chapter] shall be the same subsequent to the adoption of the amendment made by the Agriculture and Food Act of 1981 [see Tables] as it was prior thereto.”

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1977 AMENDMENT STATUS

Pub. L. 95-113, title II, §202, Sept. 29, 1977, 91 Stat. 919, provided that: “The legal status of producer handlers of

milk under the provisions of the Agricultural Adjustment Act [see Short Title note set out under section 601 of this title], as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended [act June 3, 1937, ch. 296, 50 Stat. 246, set out as a note under section 601 of this title] shall be the same subsequent to the adoption of the amendment made by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title] as it was prior thereto.”

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1973 AMENDMENT STATUS

Pub. L. 91-524, title II, §206, as added by Pub. L. 93-86, §1(6), Aug. 10, 1973, 87 Stat. 224; amended Pub. L. 93-125, §1(a)(iii), Oct. 18, 1973, 87 Stat. 450, provided that: “The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93-86, amending this section and sections 450f, 1446, and 1446a of this title] as it was prior thereto.”

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1970 AMENDMENT STATUS

Pub. L. 91-524, title II, §201(b), Nov. 30, 1970, 84 Stat. 1361, provided that the legal status of producer handlers of milk under the Agricultural Adjustment Act shall be the same subsequent to the adoption of the amendments made by Pub. L. 91-524 as it was prior thereto. For termination of this provision, see Termination of 1970 Amendment note above.

RATIFICATION, LEGALIZATION, CONFIRMATION, AND EXTENSION OF CLASS I BASE PLAN PROVISIONS IN MARKETING ORDERS ISSUED PRIOR TO NOV. 30, 1970

Pub. L. 91-524, title II, §201(c), Nov. 30, 1970, 84 Stat. 1361, validated and expressly ratified, legalized, and confirmed class I base plan provisions of marketing orders previously issued by the Secretary of Agriculture. For termination of this provision, see Termination of 1970 Amendment note above.

REAFFIRMATION OF SUBSEC. (5)(G) OF THIS SECTION

Pub. L. 91-524, title II, §201(d), Nov. 30, 1970, 84 Stat. 1361, clarified Congressional intent that subsection (5)(G) be fully reaffirmed and in no way altered, rescinded, or amended. For termination of this provision, see Termination of 1970 Amendment note above.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, ch. 296, §1, 50 Stat. 246, affirmed and validated, and reenacted without change the provisions of this section, except for the amendments to subsections (5)(B)(d) and (6)(B) by section 2 of the act, and the addition of subsections (18) and (19) by said section 2. See Validity of Certain Sections Affirmed note set out under section 601 of this title.

§ 608c-1. Repealed. June 29, 1945, ch. 196, 59 Stat. 263

Section, acts Apr. 13, 1938, ch. 143, §3, 52 Stat. 215; May 26, 1939, ch. 150, 53 Stat. 782; Feb. 10, 1942, ch. 52, §1, 56 Stat. 85, related to orders applicable to hops. Section was not a part of the Agricultural Adjustment Act of 1933.

§ 608d. Books and records

(1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such

agreement or order has been carried out or has effectuated the declared policy of this chapter and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 607 of this title, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section, as well as information for marketing order programs that is categorized as trade secrets and commercial or financial information exempt under section 552(b)(4) of title 5 from disclosure under section 552 of such title, shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Notwithstanding the preceding sentence, any such information relating to a marketing agreement or order applicable to milk may be released upon the authorization of any regulated milk handler to whom such information pertains. The Secretary shall notify the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than 10 legislative days before the contemplated release under law, of the names and addresses of producers participating in such marketing agreements and orders, and shall include in such notice a statement of reasons relied upon by the Secretary in making the determination to release such names and addresses. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the pro-

visions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(3) COLLECTION OF CRANBERRY INVENTORY DATA.—

(A) IN GENERAL.—If an order is in effect with respect to cranberries, the Secretary of Agriculture may require persons engaged in the handling or importation of cranberries or cranberry products (including producer-handlers, second handlers, processors, brokers, and importers) to provide such information as the Secretary considers necessary to effectuate the declared policy of this chapter, including information on acquisitions, inventories, and dispositions of cranberries and cranberry products.

(B) DELEGATION TO COMMITTEE.—The Secretary may delegate the authority to carry out subparagraph (A) to any committee that is responsible for administering an order covering cranberries.

(C) CONFIDENTIALITY.—Paragraph (2) shall apply to information provided under this paragraph.

(D) VIOLATIONS.—Any person who violates this paragraph shall be subject to the penalties provided under section 608c(14) of this title.

(May 12, 1933, ch. 25, title I, §8d, as added Aug. 24, 1935, ch. 641, §6, 49 Stat. 761; amended June 3, 1937, ch. 296, §1, 50 Stat. 246; Pub. L. 99-198, title XVI, §1663, Dec. 23, 1985, 99 Stat. 1631; Pub. L. 106-78, title VII, §757(b), Oct. 22, 1999, 113 Stat. 1171.)

CODIFICATION

Act Aug. 24, 1935, struck out provisions of section 8(4) of act May 12, 1933, formerly appearing in section 608(4) of this title and added a new section 8d containing provisions appearing in text.

AMENDMENTS

1999—Subsec. (3). Pub. L. 106-78 added subsec. (3).

1985—Subsec. (2). Pub. L. 99-198, §1663(1), extended confidentiality requirement to include information for marketing order programs that is categorized as trade secrets and commercial or financial information that is exempt from disclosure under section 552 of title 5.

Pub. L. 99-198, §1663(2), inserted provisions directing that confidential information relating to a marketing agreement or order applicable to milk may be released upon the authorization of any regulated milk handler to whom such information pertains and that the Secretary notify the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than 10 legislative days before the contemplated release under law, of the names and addresses of producers participating in such marketing agreements and orders, and include in such notice a statement of reasons relied upon by the Secretary in making the determination to release such names and addresses.

RELEASE OF INFORMATION

Pub. L. 103-111, title VII, §715, Oct. 21, 1993, 107 Stat. 1079, provided that: "Hereafter, none of the funds available to the Department of Agriculture may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended [see section 674 of this title]: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement pur-

poses: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-341, title VII, § 721, Aug. 14, 1992, 106 Stat. 908.

Pub. L. 102-142, title VII, § 728, Oct. 28, 1991, 105 Stat. 914.

Pub. L. 101-506, title VI, § 630, Nov. 5, 1990, 104 Stat. 1349.

Pub. L. 101-161, title VI, § 630, Nov. 21, 1989, 103 Stat. 985.

Pub. L. 100-460, title VI, § 630, Oct. 1, 1988, 102 Stat. 2262.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note set out under section 601 of this title.

§ 608e. Repealed. July 3, 1948, ch. 827, title III, § 302(d), 62 Stat. 1258

Section, act May 12, 1933, ch. 25, title I, § 8e, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 762; amended June 3, 1937, ch. 296, § 1, 50 Stat. 246, related to determination of base period.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1950, see section 303 of act July 3, 1948 set out as an Effective Date of 1948 Amendment note under section 1301 of this title.

§ 608e-1. Import prohibitions on specified foreign produce

(a) Import prohibitions on tomatoes, avocados, limes, etc.

Subject to the provisions of subsections (c) and (d) of this section and notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of this title contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, raisins, olives (other than Spanish-style green olives), prunes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, filberts, table grapes, eggplants, kiwifruit, nectarines, clementines, plums, pistachios, apples, or caneberrries (including raspberries, blackberries, and loganberries) produced in the United States the importation into the United States of any such commodity, other than dates for processing, during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: *Provided*, That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where this chapter has force and effect: *Provided further*, That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such com-

modity, other than dates for processing, shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with respect to the imported commodity, other than dates for processing, such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision if¹ this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 608a(5) of this title or, upon conviction, a penalty in the amount prescribed in section 608c(14) of this title, or to both such forfeiture and penalty.

(b) Extension of time for marketing order; factors; review

(1) The Secretary may provide for a period of time (not to exceed 35 days) in addition to the period of time covered by a marketing order during which the marketing order requirements would be in effect for a particular commodity during any year if the Secretary determines that such additional period of time is necessary—

(A) to effectuate the purposes of this chapter; and

(B) to prevent the circumvention of the grade, size, quality, or maturity standards of a seasonal marketing order applicable to a commodity produced in the United States by imports of such commodity.

(2) In making the determination required by paragraph (1), the Secretary, through notice and comment procedures, shall consider—

(A) to what extent, during the previous year, imports of a commodity that did not meet the requirements of a marketing order applicable to such commodity were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not for any additional period established by the Secretary);

(B) if the importation into the United States of such commodity did, or was likely to, cir-

¹ So in original. Probably should be “of”.