

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 Repealed.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".

cumvent the grade, size, quality or maturity standards of a seasonal marketing order applicable to such commodity produced in the United States; and

(C) the availability and price of commodities of the variety covered by the marketing order during any additional period the marketing order requirements are to be in effect.

(3) An additional period established by the Secretary in accordance with this subsection shall be—

(A) announced not later than 30 days before the date such additional period is to be in effect; and

(B) reviewed by the Secretary on request, through notice and comment procedures, at least every 3 years in order to determine if the additional period is still needed to prevent circumvention of the seasonal marketing order by imported commodities.

(4) For the purposes of carrying out this subsection, the Secretary is authorized to make such reasonable inspections as may be necessary.

(c) Notification of United States Trade Representative of import restrictions; advisement of Secretary of Agriculture

Prior to any import prohibition or regulation under this section being made effective with respect to any commodity—

(1) the Secretary of Agriculture shall notify the United States Trade Representative of such import prohibition or regulation; and

(2) the United States Trade Representative shall advise the Secretary of Agriculture, within 60 days of the notification under paragraph (1), to ensure that the application of the grade, size, quality, and maturity provisions of the relevant marketing order, or comparable restrictions, to imports is not inconsistent with United States international obligations under any trade agreement, including the General Agreement on Tariffs and Trade.

(d) Proposed prohibition or regulation; authority of Secretary of Agriculture to proceed

The Secretary may proceed with the proposed prohibition or regulation if the Secretary receives the advice and concurrence of the United States Trade Representative within 60 days of the notification under subsection (c)(1) of this section.

(May 12, 1933, ch. 25, title I, §8e, as added Aug. 28, 1954, ch. 1041, title IV, §401(e), 68 Stat. 907; amended Aug. 31, 1954, ch. 1172, §3(a), 68 Stat. 1047; Pub. L. 87-128, title I, §141(5), Aug. 8, 1961, 75 Stat. 305; Pub. L. 91-670, title IV, §401, Jan. 11, 1971, 84 Stat. 2047; Pub. L. 95-113, title X, §1006, Sept. 29, 1977, 91 Stat. 951; Pub. L. 97-312, §2, Oct. 14, 1982, 96 Stat. 1461; Pub. L. 100-418, title IV, §4603, Aug. 23, 1988, 102 Stat. 1407; Pub. L. 101-624, title XIII, §§1307, 1308, Nov. 28, 1990, 104 Stat. 3561; Pub. L. 107-171, title X, §10601(b), May 13, 2002, 116 Stat. 511; Pub. L. 110-234, title X, §10102, May 22, 2008, 122 Stat. 1335; Pub. L. 110-246, §4(a), title X, §10102, June 18, 2008, 122 Stat. 1664, 2097.)

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. (a). Pub. L. 110-246, §10102, inserted “clementines,” after “nectarines,” in first sentence.

2002—Subsec. (a). Pub. L. 107-171 substituted “apples, or caneberries (including raspberries, blackberries, and loganberries)” for “or apples” in first sentence.

1990—Subsec. (a). Pub. L. 101-624, §§1307, 1308(1), substituted “Subject to the provisions of subsections (c) and (d) of this section and notwithstanding any other provision of law,” for “Notwithstanding any other provision of law,” and “eggplants, kiwifruit, nectarines, plums, pistachios, or apples” for “or eggplants”.

Subsecs. (c), (d). Pub. L. 101-624, §1308(2), added subsecs. (c) and (d).

1988—Pub. L. 100-418 designated existing provisions as subsec. (a) and added subsec. (b).

1982—Pub. L. 97-312 extended import prohibition to table grapes.

1977—Pub. L. 95-113 extended import prohibition to filberts.

1971—Pub. L. 91-670 extended import prohibition to raisins, olives (other than Spanish-style green olives), and prunes.

1961—Pub. L. 87-128 extended importation prohibition to oranges, onions, walnuts and dates, other than dates for processing.

1954—Act Aug. 31, 1954, made section applicable to mangoes.

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 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.

EFFECTIVE DATE OF 1954 AMENDMENT

Act Aug. 31, 1954, ch. 1172, §3(b), 68 Stat. 1047, provided that: “The amendment made by this section [amending this section] shall become effective upon the enactment of this Act [Aug. 31, 1954] or upon the enactment of the Agricultural Act of 1954 [Aug. 28, 1954], whichever occurs later.”

§ 608f. Repealed. Pub. L. 89-106, §9, Aug. 4, 1965, 79 Stat. 432

Section, act May 12, 1933, ch. 25, title I, §8f, formerly §8(5), 48 Stat. 34; renumbered §8f and amended Aug. 24, 1935, ch. 641, §7, 49 Stat. 762; Oct. 8, 1940, ch. 759, 54 Stat. 1019, prohibited, except in specified cases, the shipment of grain from public grain warehouses to other warehouse without cancellation of warehouse receipts to avoid conflict with other laws regulating warehousemen.

§ 609. Processing tax; methods of computation; rate; what constitutes processing; publicity as to tax to avoid profiteering

(a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 608 of this title are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such