

Secretary shall obtain the information for the reports from one or more sources including—

- (A) a consistently representative set of retail transactions; and
- (B) both prices and sales quantities for the transactions.

**(2) Source of information**

The Secretary may—

- (A) obtain the information from retailers or commercial information sources; and
- (B) use valid statistical sampling procedures, if necessary.

**(3) Adjustments**

In providing information on retail prices under this section, the Secretary may make adjustments to take into account differences in—

- (A) the geographic location of consumption;
- (B) the location of the principal source of supply;
- (C) distribution costs; and
- (D) such other factors as the Secretary determines reflect a verifiable comparative retail price for a representative food product.

**(e) Administration**

The Secretary—

- (1) shall collect information under this section only on a voluntary basis; and
- (2) shall not impose a penalty on a person for failure to provide the information or otherwise compel a person to provide the information.

(Aug. 14, 1946, ch. 966, title II, § 257, as added Pub. L. 106-78, title IX, §911(2), Oct. 22, 1999, 113 Stat. 1204.)

**§ 1636g. Suspension authority regarding specific terms of price reporting requirements**

**(a) In general**

The Secretary may suspend any requirement of this subchapter if the Secretary determines that application of the requirement is inconsistent with the purposes of this subchapter.

**(b) Suspension procedure**

**(1) Period**

A suspension under subsection (a) of this section shall be for a period of not more than 240 days.

**(2) Action by Congress**

If an Act of Congress concerning the requirement that is the subject of the suspension under subsection (a) of this section is not enacted by the end of the period of the suspension established under paragraph (1), the Secretary shall implement the requirement.

(Aug. 14, 1946, ch. 966, title II, § 258, as added Pub. L. 106-78, title IX, §911(2), Oct. 22, 1999, 113 Stat. 1205.)

**§ 1636h. Federal preemption**

In order to achieve the goals, purposes, and objectives of this chapter on a nationwide basis and to avoid potentially conflicting State laws that could impede the goals, purposes, or objec-

tives 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, 2015.

(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.)

AMENDMENTS

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 enforce-

ment 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.