

## 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; and<sup>1</sup>
- (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 enter-

<sup>1</sup> So in original. The word “and” probably should not appear.