

§ 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 objectives 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, 2020.¹

(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; Pub. L. 114-54, title I, § 101(a), Sept. 30, 2015, 129 Stat. 513.)

Editorial Notes

AMENDMENTS

2015—Pub. L. 114-54 substituted “September 30, 2020” for “September 30, 2015”.

2010—Pub. L. 111-239 substituted “September 30, 2015” for “September 30, 2010”.

Statutory Notes and Related Subsidiaries

MANDATORY LIVESTOCK REPORTING EXTENSION

Pub. L. 116-260, div. O, title IV, § 401, Dec. 27, 2020, 134 Stat. 2149, provided that: “Section 260 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636i) and section 942 of the Livestock Mandatory Reporting Act of 1999 (7 U.S.C. 1635 note; Public Law 106-78) shall be applied by substituting ‘September 30, 2021’ for ‘September 30, 2020’.”

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.)

Editorial Notes

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;

¹ See Mandatory Livestock Reporting Extension note below.

(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.)

Editorial Notes**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).

Statutory Notes and Related Subsidiaries**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; and¹
- (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 enterprise engaged in the business of selling food to the public.

(4) Lamb

The term “lamb” means meat, other than mutton, produced from sheep.

(5) Perishable agricultural commodity; retailer

The terms “perishable agricultural commodity” and “retailer” have the meanings given the terms in section 499a(b) of this title.

(6) Secretary

The term “Secretary” means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

(7) Wild fish**(A) In general**

The term “wild fish” means naturally-born or hatchery-raised fish and shellfish harvested in the wild.

(B) Inclusions

The term “wild fish” includes a fillet, steak, nugget, and any other flesh from wild fish or shellfish.

(C) Exclusions

The term “wild fish” excludes net-pen aquacultural or other farm-raised fish.

(Aug. 14, 1946, ch. 966, title II, § 281, as added Pub. L. 107-171, title X, § 10816, May 13, 2002, 116 Stat. 533; amended Pub. L. 110-234, title XI, § 11002(1), May 22, 2008, 112 Stat. 1351; Pub. L. 110-246, § 4(a), title XI, § 11002(1), June 18, 2008, 122 Stat. 1664, 2113; Pub. L. 113-79, title XII, § 12104(b)(1), Feb. 7, 2014, 128 Stat. 979; Pub. L. 114-113, div. A, title VII, § 759(a), Dec. 18, 2015, 129 Stat. 2284.)

Editorial Notes**CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub.

¹ So in original. The word “and” probably should not appear.