

AGRICULTURAL MARKETING ACT OF 1946

[Title II of the Act of August 14, 1946]

[As Amended Through P.L. 113–79, Enacted February 07, 2014]

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TITLE II

This title may be cited as the “Agricultural Marketing Act of 1946”. [7 U.S.C. 1621 note]

Subtitle A—General Provisions

SEC. 202. [7 U.S.C. 1621] The Congress hereby declares that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential to a prosperous agriculture and is indispensable to the maintenance of full employment and to the welfare, prosperity, and health of the Nation. It is further declared to be the policy of Congress to promote through research, study, experimentation, and through cooperation among Federal and State agencies, farm organizations, and private industry a scientific approach to the problems of marketing, transportation, and distribution of agricultural products similar to the scientific methods which have been utilized so successfully during the past eighty-four years in connection with the production of agricultural products so that such products capable of being produced in abundance may be marketed in an orderly manner and efficiently distributed. In order to attain these objectives, it is the intent of Congress to provide for (1) continuous research to improve the marketing, handling, storage, processing, transportation, and distribution of agricultural products; (2) cooperation among Federal and State agencies, producers, industry organizations, and others in the development and effectuation of research and marketing programs to improve the distribution processes; (3) an integrated administration of all laws enacted by Congress to aid the distribution of agricultural products through research, market aids and services, and regulatory activities, to the end that marketing methods and facilities may be improved, that distribution costs may be reduced and the price spread between the producer and consumer may be narrowed, that dietary and nutritional standards may be improved, that new and wider markets for American agricultural products may be developed, both in the United States and in other countries, with a view to making it possible for the full production of American farms to be disposed of usefully, economically, profitably, and in an orderly manner. In effectuating the purposes of this title, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State

extension services. To the maximum extent practicable marketing research work done hereunder in cooperation with the States shall be done in cooperation with the State agricultural experiment stations; marketing educational and demonstrational work done hereunder in cooperation with the States shall be done in cooperation with the State agricultural extension service; market information, inspection, regulatory work and other marketing service done hereunder in cooperation with the State agencies shall be done in cooperation with the State departments of agriculture, and State bureaus and departments of markets.

SEC. 203. [7 U.S.C. 1622] The Secretary of Agriculture is directed and authorized:

(a) To conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products: *Provided*, That the results of such research shall be made available to the public for the purpose of expanding the use of American agricultural products in such manner as the Secretary of Agriculture may determine.

(b) To determine costs of marketing agricultural products in their various forms and through the various channels and to foster and assist in the development and establishment of more efficient marketing methods (including analyses of methods and proposed methods), practices, and facilities, for the purpose of bringing about more efficient and orderly marketing, and reducing the price spread between the producer and the consumer.

(c) To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices. Within thirty days after the enactment of the Food and Agriculture Act of 1977, the Secretary shall be regulation adopt a standard of quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon and contain not less than 20 percent total milk solids, constituted of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. Whey shall not, by weight, be more than 25 percent of the milk solids not fat. Only those products which meet the standard issued by the Secretary may bear a symbol thereon indicating that they meet the Department of Agriculture standard for "ice cream".

(d) To conduct, assist, foster, and direct studies and informational programs designed to eliminate artificial barriers to the free movement of agricultural products.

(e) DEVELOPMENT OF NEW MARKETS.—

(1) IN GENERAL.—To foster and assist in the development of new or expanded markets (domestic and foreign) and new and expanded uses and in the moving of larger quantities of agricultural products through the private marketing system to consumers in the United States and abroad.

(2) FEES AND PENALTIES.—

(A) IN GENERAL.—In carrying out paragraph (1), the Secretary may assess and collect reasonable fees and late payment penalties to mediate and arbitrate disputes aris-

ing between parties in connection with transactions involving agricultural products moving in foreign commerce under the jurisdiction of a multinational entity.

(B) DEPOSIT.—Fees and penalties collected under subparagraph (A) shall be deposited into the account that incurred the cost of providing the mediation or arbitration service.

(C) AVAILABILITY.—Fees and penalties collected under subparagraph (A) shall be available to the Secretary without further Act of appropriation and shall remain available until expended to pay the expenses of the Secretary for providing mediation and arbitration services under this paragraph.

(D) NO REQUIREMENT FOR USE OF SERVICES.—No person shall be required by the Secretary to use the mediation and arbitration services provided under this paragraph.

(f)² To conduct and cooperate in consumer education for the more effective utilization and greater consumption of agricultural products: *Provided*, That no money appropriated under the authority of this Act shall be used to pay for newspaper or periodical advertising space or radio time in carrying out the purposes of this section and section 203(e).

(g) To collect and disseminate marketing information, including adequate outlook information on a market-area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and bringing about a balance between production and utilization of agricultural products.

(h)³

(1) To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed

²Section 729 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by section 1(a) of Public Law 106-387; 114 Stat. 1549A-33; 7 U.S.C. 1622 note), provides as follows:

SEC. 729. Hereafter, none of the funds appropriated by this Act or any other Act may be used to:

(1) carry out the proviso under 7 U.S.C. 1622(f); or

(2) carry out 7 U.S.C. 1622(h) unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products under that section, as determined by the Secretary: *Provided*, That this provision shall not affect the authority of the Secretary to carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

³Section 734 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (Public Law 106-78; 113 Stat. 1165; 7 U.S.C. 1622 note), provides as follows: “None of the funds made available by this Act or any other Act for any fiscal year may be used to carry out section 302(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products under that section, as determined by the Secretary: *Provided*, That this provision shall not affect the authority of the Secretary to carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).” The reference in the quoted matter to “section 302(h)” of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) probably should be “section 203(h)”.

to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, except that no person shall be required to use the service authorized by this subsection.

(2)(A) Any fees collected under this subsection, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the trust fund account that incurs the cost of the services provided under this subsection and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services.

(2)(B) Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

(3) Any official certificate issued under the authority of this subsection shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the statements therein contained.

(4) Whoever knowingly shall falsely make, issue, alter, forge, or counterfeit any official certificate, memorandum, mark, or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under this section or knowingly cause or procure, or aid, assist in, or be a party to, such false making, issuing, altering, forging, or counterfeiting, or whoever knowingly shall possess, without promptly notifying the Secretary of Agriculture or his representative, utter, publish, or use as true, or cause to be uttered, published, or used as true, any such falsely made, altered, forged, or counterfeited official certificate, memorandum, mark, identification, or device, or whoever knowingly represents that an agricultural product has been officially inspected or graded (by an authorized inspector or grader) under the authority of this section when such commodity has in fact not been so graded or inspected shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(5) Shell eggs packed under the voluntary grading program of the Department of Agriculture shall not have been shipped for sale previous to being packed under the program, as determined under a regulation promulgated by the Secretary.

(6) IDENTIFICATION OF HONEY.—⁴

(A) IN GENERAL.—The use of a label or advertising material on, or in conjunction with, packaged honey that bears any official certificate of quality, grade mark or statement, continuous inspection mark or statement, sampling mark or statement, or any combination of the certificates, marks, or statements of the Department of Agriculture is hereby prohibited under this Act unless there appears legibly and permanently in close proximity (such as on the same side(s) or surface(s)) to the certificate,

⁴Section 10402(b) of the Food, Conservation, and Energy Act of 2008 (122 Stat. 2111; Public Law 110-246) provides “The amendments made by subsection (a) take effect on the date that is 1 year after the date of enactment of this Act.”

mark, or statement, and in at least a comparable size, the 1 or more names of the 1 or more countries of origin of the lot or container of honey, preceded by the words "Product of" or other words of similar meaning.

(B) VIOLATION.—A violation of the requirements of subparagraph (A) may be deemed by the Secretary to be sufficient cause for debarment from the benefits of this Act only with respect to honey.

(i) To determine the needs and develop or assist in the development of plans for efficient facilities and methods of operating such facilities for the proper assembly, processing, transportation, storage, distribution, and handling of agricultural products.

(j) To assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Surface Transportation Board, the Federal Maritime Commission, or other Federal or State transportation regulatory body, or the Secretary of Transportation, with respect to rates, charges, tariffs, practices, and services, or by working directly with individual carriers or groups of carriers.

(k) To collect, tabulate, and disseminate statistics on marketing agricultural products, including, but not restricted to statistics on market supplies, storage stocks, quantity, quality, and condition of such products in various positions in the marketing channel, utilization of such products, and shipments and unloads thereof.

(l) To develop and promulgate, for the use and at the request of any Federal agency or State, procurement standards and specifications for agricultural products, and submit such standards and specifications to such agency or State for use or adoption for procurement purposes.

(m) To conduct, assist, encourage, and promote research, investigation, and experimentation to determine the most efficient and practical means, methods, and processes for the handling, storing, preserving, protecting, processing, and distributing of agricultural commodities to the end that such commodities may be marketed in an orderly manner and to the best interest of the producers thereof.

(n) GRADING PROGRAM.—To establish within the Department of Agriculture a voluntary fee based grading program for—

(1) all fish of the order Siluriformes; and

(2) any additional species of farm-raised fish or farm-raised shellfish—

(A) for which the Secretary receives a petition requesting such voluntary fee based grading; and

(B) that the Secretary considers appropriate.

(o) To conduct such other research and services and to perform such other activities as will facilitate the marketing, distribution, processing, and utilization of agricultural products through commercial channels.

SEC. 204. [7 U.S.C. 1623] (a) In order to conduct research and service work in connection with the preparation for market, processing, packaging, handling, storing, transporting, distributing, and

marketing of agricultural products as authorized by this title, there is hereby authorized to be appropriated the following sums:

- (1) \$2,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.
- (2) An additional \$2,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.
- (3) An additional \$5,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.
- (4) An additional \$5,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.
- (5) An additional \$5,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.
- (6) In addition to the foregoing, such additional funds beginning with the fiscal year ending June 30, 1952, and thereafter, as the Congress may deem necessary.

Such sums appropriated in pursuance of this title shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to the Department of Agriculture.

(b) The Secretary of Agriculture is authorized to make available from such funds such sums as he may deem appropriate for allotment to State departments of agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in marketing service and in marketing research to effectuate the purposes of title II of this Act: *Provided*, That no such allotment and no payment under any such allotment shall be made for any fiscal year to any State agency in excess of the amount which such State agency makes available out of its own funds for such research. The funds which State agencies are required to make available in order to qualify for such an allotment shall be in addition to any funds now available to such agencies for marketing services and for marketing research. The allotments authorized under this section shall be made to the agency or agencies best equipped and qualified to conduct the specific project to be undertaken. Such allotments shall be covered by cooperative agreements between the Secretary of Agriculture and the cooperating agency and shall include appropriate provisions for preventing duplication or overlapping of work within the State or States cooperating. Should duplication or overlapping occur subsequent to approval of a cooperative project or allotment of funds, the Secretary of Agriculture is authorized and directed to withhold unexpended balances on such projects notwithstanding the prior approval thereof.

SEC. 205. [7 U.S.C. 1624] (a) In carrying out the provisions of title II of this Act, the Secretary of Agriculture may cooperate with other branches of the Government, State agencies, private research organizations, purchasing and consuming organizations, boards of trade, chambers of commerce, other associations of business or trade organizations, transportation and storage agencies and organizations, or other persons or corporations engaged in the production, transportation, storing, processing, marketing, and distribution of agricultural products whether operating in one or more jurisdictions. The Secretary of Agriculture shall have authority to enter into contracts and agreements under the terms of regulations promulgated by him with States and agencies of States, private

firms, institutions, and individuals for the purpose of conducting research and service work, making and compiling reports and surveys, and carrying out other functions relating thereto when in his judgment the services or functions to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture. Contracts hereunder may be made for work to be performed within a period not more than four years from the date of any such contract, and advance, progress, or other payments may be made. The provisions of section 3648 (31 U.S.C., sec. 529) and section 3709 (41 U.S.C., sec. 5) of the Revised Statutes shall not be applicable to contracts or agreements made under the authority of this section. Any unexpended balances of appropriations obligated by contracts as authorized by this section may, notwithstanding the provisions of section 5 of the Act of June 20, 1874, as amended (31 U.S.C., sec. 713), remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Any contract made pursuant to this section shall contain requirements making the result of such research and investigations available to the public by such means as the Secretary of Agriculture shall determine.

(b) The Secretary of Agriculture shall promulgate such orders, rules, and regulations as he deems necessary to carry out the provisions of this title.

SEC. 206. [7 U.S.C. 1625] In order to facilitate administration and to increase the effectiveness of the marketing research, service, and regulatory work of the Department of Agriculture to the fullest extent practicable, the Secretary of Agriculture is authorized, notwithstanding any other provisions of law, to transfer, group, coordinate, and consolidate the functions, powers, duties, and authorities of each and every agency, division, bureau, service, section, or other administrative unit in the Department of Agriculture primarily concerned with research, service, or regulatory activities in connection with the marketing, transportation, storage, processing, distribution of, or service or regulatory activities in connection with, the utilization of, agricultural products, into a single administrative agency. In making such changes as may be necessary to carry out effectively the purposes of this title, the records, property, personnel, and funds of such agencies, divisions, bureaus, services, sections, or other administrative units in the Department of Agriculture affected thereby are authorized to be transferred to and used by such administrative agency to which the transfer may be made, but such unexpended balances of appropriations so transferred shall be used only for the purposes for which such appropriations were made.

SEC. 207. [7 U.S.C. 1626] When used in this title, the term "agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured

product thereof, and the term “State” when used in this chapter⁶ shall include the Virgin Islands and Guam.

SEC. 208. [7 U.S.C. 1627] The Secretary of Agriculture shall have the power to appoint, remove, and fix, in accordance with existing law, the compensation of such officers and employees, and to make such expenditures as he deems necessary, including expenditures for rent outside the District of Columbia, travel, supplies, books, equipment, and such other expenditures as may be necessary to the administration of this title: *Provided*, That the Secretary of Agriculture may appoint and fix the compensation of any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical, or other special services, without regard to the civil-service laws or the Classification Act of 1923, as amended.

SEC. 209. [7 U.S.C. 1627a] SHEEP PRODUCTION AND MARKETING GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture, acting through the Administrator of the Agricultural Marketing Service, shall establish a competitive grant program for the purposes of strengthening and enhancing the production and marketing of sheep and sheep products in the United States, including through—

- (1) the improvement of—
 - (A) infrastructure;
 - (B) business; and
 - (C) resource development; and
- (2) the development of innovative approaches to solve long-term needs.

(b) ELIGIBILITY.—The Secretary shall make grants under this section to at least one national entity, the mission of which is consistent with the purpose of the grant program.

(c) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$1,500,000 for fiscal year 2014, to remain available until expended.

SEC. 210. [7 U.S.C. 1627b] NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term “Board” means the Board of Directors established under subsection (f).

(2) CENTER.—The term “Center” means the National Sheep Industry Improvement Center established under subsection (b).

(3) ELIGIBLE ENTITY.—The term “eligible entity” means an entity that promotes the betterment of the United States sheep or goat industries and that is—

- (A) a public, private, or cooperative organization;
- (B) an association, including a corporation not operated for profit;
- (C) a federally recognized Indian Tribe; or
- (D) a public or quasi-public agency.

⁶ So in original. Probably should be “title”.

(4) **FUND.**—The term “Fund” means the National Sheep Industry Improvement Center Revolving Fund established under subsection (e).

(5) **INTERMEDIARY.**—The term “intermediary” means a financial institution receiving Center funds for establishing a revolving fund and relending to an eligible entity.

(b) **ESTABLISHMENT OF CENTER.**—The Secretary shall establish a National Sheep Industry Improvement Center.

(c) **PURPOSES.**—The purposes of the Center shall be to—

(1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

(2) optimize the use of available human capital and resources within the sheep or goat industries;

(3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

(4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

(5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

(d) **STRATEGIC PLAN.**—

(1) **IN GENERAL.**—The Center shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

(2) **REQUIREMENTS.**—A strategic plan shall identify—

(A) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center;

(B) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

(C) funding priorities;

(D) selection criteria for funding; and

(E) a method of distributing funding.

(e) **REVOLVING FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury the National Sheep Industry Improvement Center Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this section.

(2) **CONTENTS OF FUND.**—There shall be deposited in the Fund—

(A) such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the Center;

(B) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

(C) fees and royalties collected by the Center from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants, contracts, or cooperative agreements executed by the Center;

(D) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Center;

(E) donations or contributions accepted by the Center to support authorized programs and activities; and

(F) any other funds acquired by the Center.

(3) USE OF FUND.—

(A) IN GENERAL.—The Center may use amounts in the Fund to make direct loans, loan guarantees, cooperative agreements, equity interests, investments, repayable grants, and grants to eligible entities, either directly or through an intermediary, in accordance with a strategic plan submitted under subsection (d).

(B) CONTINUED EXISTENCE.—The Center shall manage the Fund in a manner that ensures that sufficient amounts are available in the Fund to carry out subsection (c). The Fund is intended to furnish the initial capital for a revolving fund that will eventually be privatized for the purposes of assisting the United States sheep and goat industries.

(C) DIVERSE AREA.—The Center shall, to the maximum extent practicable, use the Fund to serve broad geographic areas and regions of diverse production.

(D) ADMINISTRATION.—The Center may not use more than 10 percent of the amounts in the portfolio of the Center for each fiscal year for the administration of the Center. The portfolio shall be calculated at the beginning of each fiscal year and shall include a total of—

- (i) all outstanding loan balances;
- (ii) the Fund balance;
- (iii) the outstanding balance to intermediaries;

and

- (iv) the amount the Center paid for all equity interests.

(E) INFLUENCING LEGISLATION.—None of the amounts in the Fund may be used to influence legislation.

(F) ACCOUNTING.—To be eligible to receive amounts from the Fund, an entity must agree to account for the amounts using generally accepted accounting principles.

(G) USES OF FUND.—The Center may use amounts in the Fund to—

- (i) participate with Federal and State agencies in financing activities that are in accordance with a strategic plan submitted under subsection (d), including participation with several States in a regional effort;
- (ii) participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

(iii) provide security for, or make principal or interest payments on, revenue or general obligation bonds issued by a State, if the proceeds from the sale of the bonds are deposited in the Fund;

(iv) accrue interest;

(v) guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for a project that is in accordance with the strategic plan;

(vi) sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Center; or

(vii) purchase equity interests.

(4) LOANS.—

(A) RATE.—A loan from the Fund may be made at an interest rate that is below the market rate or may be interest free.

(B) TERM.—The term of a loan may not exceed the shorter of—

(i) the useful life of the activity financed; or

(ii) 40 years.

(C) SOURCE OF REPAYMENT.—The Center may not make a loan from the Fund unless the recipient establishes an assured source of repayment.

(D) PROCEEDS.—All payments of principal and interest on a loan made from the Fund shall be deposited into the Fund.

(5) MAINTENANCE OF EFFORT.—The Center shall use the Fund only to supplement and not to supplant Federal, State, and private funds expended for rural development.

(f) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The management of the Center shall be vested in a Board of Directors.

(2) POWERS.—The Board shall—

(A) be responsible for the general supervision of the Center;

(B) review any contract, direct loan, loan guarantee, cooperative agreement, equity interest, investment, repayable grant, and grant to be made or entered into by the Center and any financial assistance provided to the Center;

(C) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

(D) develop and establish a budget plan and a long-term operating plan to carry out the goals of the Center.

(3) COMPOSITION.—The Board shall be composed of—

(A) 7 voting members, of whom—

(i) 4 members shall be active producers of sheep or goats in the United States;

(ii) 2 members shall have expertise in finance and management; and

(iii) 1 member shall have expertise in lamb, wool, goat, or goat product marketing; and

(B) 2 nonvoting members, of whom—

(i) 1 member shall be the Under Secretary of Agriculture for Rural Development; and

(ii) 1 member shall be the Under Secretary of Agriculture for Research, Education, and Economics.

(4) NOMINATION.—

(A) NOMINATING BODY.—The Secretary shall appoint the voting members of the Board from nominations submitted by organizations described in subparagraph (B).

(B) NATIONAL ORGANIZATIONS.—A national organization is described in this subparagraph if the organization—

(i) consists primarily of active sheep or goat producers in the United States; and

(ii) has as the primary interest of the organization the production of sheep or goats in the United States.

(5) TERM OF OFFICE.—

(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a voting member of the Board shall be 3 years.

(B) STAGGERED INITIAL TERMS.—The initial voting members of the Board (other than the chairperson of the initially established Board) shall serve for staggered terms of 1, 2, and 3 years, as determined by the Secretary.

(C) REAPPOINTMENT.—A voting member may be reappointed for not more than one additional term.

(6) VACANCY.—

(A) IN GENERAL.—A vacancy on the Board shall be filled in the same manner as the original Board.

(B) REAPPOINTMENT.—A voting member appointed to fill a vacancy for an unexpired term may be reappointed for one full term.

(7) CHAIRPERSON.—

(A) IN GENERAL.—The Board shall select a chairperson from among the voting members of the Board.

(B) TERM.—The term of office of the chairperson shall be 2 years.

(8) ANNUAL MEETING.—

(A) IN GENERAL.—The Board shall meet not less than once each fiscal year at the call of the chairperson or at the request of the executive director appointed under subsection (g)(1).

(B) LOCATION.—The location of a meeting of the Board shall be established by the Board.

(9) VOTING.—

(A) QUORUM.—A quorum of the Board shall consist of a majority of the voting members.

(B) MAJORITY VOTE.—A decision of the Board shall be made by a majority of the voting members of the Board.

(10) CONFLICTS OF INTEREST.—

(A) IN GENERAL.—Except as provided in subparagraph (D), a member of the Board shall not vote on any matter respecting any application, contract, claim, or other particular matter pending before the Board in which, to the knowledge of the member, an interest is held by—

- (i) the member;
- (ii) any spouse of the member;
- (iii) any child of the member;
- (iv) any partner of the member;
- (v) any organization in which the member is serving as an officer, director, trustee, partner, or employee; or
- (vi) any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest.

(B) REMOVAL.—Any action by a member of the Board that violates subparagraph (A) shall be cause for removal from the Board.

(C) VALIDITY OF ACTION.—An action by a member of the Board that violates subparagraph (A) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

(D) DISCLOSURE.—

(i) IN GENERAL.—If a member of the Board makes a full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in subparagraph (E)(iii).

(ii) VOTE.—A member that discloses an interest under clause (i) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

(E) REMANDS.—

(i) IN GENERAL.—The Secretary may vacate and remand to the Board for reconsideration any decision made pursuant to subsection (e)(3)(H) if the Secretary determines that there has been a violation of this paragraph or any conflict of interest provision of the bylaws of the Board with respect to the decision.

(ii) REASONS.—In the case of any violation and remand of a funding decision to the Board under clause (i), the Secretary shall inform the Board of the reasons for the remand.

(iii) CONFLICTED MEMBERS NOT TO VOTE ON REMANDED DECISIONS.—If a decision with respect to a matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

(11) COMPENSATION.—

(A) IN GENERAL.—A member of the Board shall not receive any compensation by reason of service on the Board.

(B) EXPENSES.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary ex-

penses incurred by the member in the performance of a duty of the member.

(12) BYLAWS.—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Center.

(13) PUBLIC HEARINGS.—Not later than 1 year after the date of enactment of this section, the Board shall hold public hearings on policy objectives of the program established under this section.

(14) ORGANIZATIONAL SYSTEM.—The Board shall provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the Board.

(15) USE OF DEPARTMENT OF AGRICULTURE.—The Board may, with the consent of the Secretary, utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Center.

(g) OFFICERS AND EMPLOYEES.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Board shall appoint an executive director to be the chief executive officer of the Center.

(B) TENURE.—The executive director shall serve at the pleasure of the Board.

(C) COMPENSATION.—Compensation for the executive director shall be established by the Board.

(2) OTHER OFFICERS AND EMPLOYEES.—The Board may select and appoint officers, attorneys, employees, and agents who shall be vested with such powers and duties as the Board may determine.

(3) DELEGATION.—The Board may, by resolution, delegate to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board other than voting on a grant, loan, contract, agreement, budget, or annual strategic plan.

(h) CONSULTATION.—To carry out this section, the Board may consult with—

- (1) State departments of agriculture;
- (2) Federal departments and agencies;
- (3) nonprofit development corporations;
- (4) colleges and universities;
- (5) banking and other credit-related agencies;
- (6) agriculture and agribusiness organizations; and
- (7) regional planning and development organizations.

(i) OVERSIGHT.—

(1) IN GENERAL.—The Secretary shall review and monitor compliance by the Board and the Center with this section.

(2) SANCTIONS.—If, following notice and opportunity for a hearing, the Secretary finds that the Board or the Center is not in compliance with this section, the Secretary may—

- (A) cease making deposits to the Fund;
- (B) suspend the authority of the Center to withdraw funds from the Fund; or
- (C) impose other appropriate sanctions, including recoupment of money improperly expended for purposes

prohibited or not authorized by this Act and disqualification from receipt of financial assistance under this section.

(3) RESCISSION OF SANCTIONS.—The Secretary shall rescind sanctions imposed under paragraph (2) on a finding by the Secretary that there is no longer any failure by the Board or the Center to comply with this section or that the noncompliance will be promptly corrected.

Subtitle B—Livestock Mandatory Reporting⁷

CHAPTER 1—PURPOSE; DEFINITIONS

SEC. 211. [7 U.S.C. 1635] PURPOSE.

The purpose of this subtitle is to establish a program of information regarding the marketing of cattle, swine, lambs, and products of such livestock that—

- (1) provides information that can be readily understood by producers, packers, and other market participants, including information with respect to the pricing, contracting for purchase, and supply and demand conditions for livestock, livestock production, and livestock products;
- (2) improves the price and supply reporting services of the Department of Agriculture; and
- (3) encourages competition in the marketplace for livestock and livestock products.

SEC. 212. [7 U.S.C. 1635a] DEFINITIONS.

In this subtitle:

- (1) BASE PRICE.—The term “base price” means the price paid for livestock, delivered at the packing plant, before application of any premiums or discounts, expressed in dollars per hundred pounds of carcass weight.
- (2) BASIS LEVEL.—The term “basis level” means the agreed-on adjustment to a future price to establish the final price paid for livestock.
- (3) CURRENT SLAUGHTER WEEK.—The term “current slaughter week” means the period beginning Monday, and ending Sunday, of the week in which a reporting day occurs.
- (4) F.O.B.—The term “F.O.B.” means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.
- (5) LIVESTOCK.—The term “livestock” means cattle, swine, and lambs.
- (6) LOT.—The term “lot” means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller.

⁷ This subtitle was added by section 911(2) of title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (Public Law 106-78). Section 942 of that title (113 Stat. 1211; 7 U.S.C. 1635 note), as amended by section 1 of Public Law 108-444 (118 Stat. 2635), section 1(b) of Public Law 109-296 (120 Stat. 1464), and section 2(a)(2) of Public Law 111-239 (124 Stat. 2501), provides that: “The authority provided by this title and the amendments made by this title (other than section 911 of subtitle A and the amendments made by that section) terminate on September 30, 2015.”

(7) **MARKETING.**—The term “marketing” means the sale or other disposition of livestock, livestock products, or meat or meat food products in commerce.

(8) **NEGOTIATED PURCHASE.**—The term “negotiated purchase” means a cash or spot market purchase by a packer of livestock from a producer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(9) **NEGOTIATED SALE.**—The term “negotiated sale” means a cash or spot market sale by a producer of livestock to a packer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(10) **PRIOR SLAUGHTER WEEK.**—The term “prior slaughter week” means the Monday through Sunday prior to a reporting day.

(11) **PRODUCER.**—The term “producer” means any person engaged in the business of selling livestock to a packer for slaughter (including the sale of livestock from a packer to another packer).

(12) **REPORTING DAY.**—The term “reporting day” means a day on which—

(A) a packer conducts business regarding livestock committed to the packer, or livestock purchased, sold, or slaughtered by the packer;

(B) the Secretary is required to make information concerning the business described in subparagraph (A) available to the public; and

(C) the Department of Agriculture is open to conduct business.

(13) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(14) **STATE.**—The term “State” means each of the 50 States.

CHAPTER 2—CATTLE REPORTING

SEC. 221. [7 U.S.C. 1635d] DEFINITIONS.

In this chapter:

(1) **CATTLE COMMITTED.**—The term “cattle committed” means cattle that are scheduled to be delivered to a packer within the 7-day period beginning on the date of an agreement to sell the cattle.

(2) **CATTLE TYPE.**—The term “cattle type” means the following types of cattle purchased for slaughter:

(A) Fed steers.

(B) Fed heifers.

- (C) Fed Holsteins and other fed dairy steers and heifers.
- (D) Cows.
- (E) Bulls.
- (3) FORMULA MARKETING ARRANGEMENT.—The term “formula marketing arrangement” means the advance commitment of cattle for slaughter by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.
- (4) FORWARD CONTRACT.—The term “forward contract” means—
 - (A) an agreement for the purchase of cattle, executed in advance of slaughter, under which the base price is established by reference to—
 - (i) prices quoted on the Chicago Mercantile Exchange; or
 - (ii) other comparable publicly available prices; or
 - (B) such other forward contract as the Secretary determines to be applicable.
- (5) PACKER.—The term “packer” means any person engaged in the business of buying cattle in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from cattle for sale or shipment in commerce, or of marketing meats or meat food products from cattle in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that—
 - (A) the term includes only a cattle processing plant that is federally inspected;
 - (B) for any calendar year, the term includes only a cattle processing plant that slaughtered an average of at least 125,000 head of cattle per year during the immediately preceding 5 calendar years; and
 - (C) in the case of a cattle processing plant that did not slaughter cattle during the immediately preceding 5 calendar years, the Secretary shall consider the plant capacity of the processing plant in determining whether the processing plant should be considered a packer under this chapter.
- (6) PACKER-OWNED CATTLE.—The term “packer-owned cattle” means cattle that a packer owns for at least 14 days immediately before slaughter.
- (7) TERMS OF TRADE.—The term “terms of trade” includes, with respect to the purchase of cattle for slaughter—
 - (A) whether a packer provided any financing agreement or arrangement with regard to the cattle;
 - (B) whether the delivery terms specified the location of the producer or the location of the packer’s plant;
 - (C) whether the producer is able to unilaterally specify the date and time during the business day of the packer that the cattle are to be delivered for slaughter; and
 - (D) the percentage of cattle purchased by a packer as a negotiated purchase that are delivered to the plant for

slaughter more than 7 days, but fewer than 14 days, after the earlier of—

(i) the date on which the cattle were committed to the packer; or

(ii) the date on which the cattle were purchased by the packer.

(8) TYPE OF PURCHASE.—The term “type of purchase”, with respect to cattle, means—

(A) a negotiated purchase;

(B) a formula market arrangement; and

(C) a forward contract.

SEC. 222. [7 U.S.C. 1635e] MANDATORY REPORTING FOR LIVE CATTLE.

(a) ESTABLISHMENT.—The Secretary shall establish a program of live cattle price information reporting that will—

(1) provide timely, accurate, and reliable market information;

(2) facilitate more informed marketing decisions; and

(3) promote competition in the cattle slaughtering industry.

(b) GENERAL REPORTING PROVISIONS APPLICABLE TO PACKERS AND THE SECRETARY.—

(1) IN GENERAL.—Whenever the prices or quantities of cattle are required to be reported or published under this section, the prices or quantities shall be categorized so as to clearly delineate—

(A) the prices or quantities, as applicable, of the cattle purchased in the domestic market; and

(B) the prices or quantities, as applicable, of imported cattle.

(2) PACKER-OWNED CATTLE.—Information required under this section for packer-owned cattle shall include quantity and carcass characteristics, but not price.

(c) DAILY REPORTING.—

(1) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day (including once not later than 10:00 a.m. Central Time and once not later than 2:00 p.m. Central Time) the following information for each cattle type:

(A) The prices for cattle (per hundredweight) established on that day, categorized by—

(i) type of purchase;

(ii) the quantity of cattle purchased on a live weight basis;

(iii) the quantity of cattle purchased on a dressed weight basis;

(iv) a range of the estimated live weights of the cattle purchased;

(v) an estimate of the percentage of the cattle purchased that were of a quality grade of choice or better; and

(vi) any premiums or discounts associated with—

(I) weight, grade, or yield; or

(II) any type of purchase.

(B) The quantity of cattle delivered to the packer (quoted in numbers of head) on that day, categorized by—

- (i) type of purchase;
- (ii) the quantity of cattle delivered on a live weight basis; and
- (iii) the quantity of cattle delivered on a dressed weight basis.

(C) The quantity of cattle committed to the packer (quoted in numbers of head) as of that day, categorized by—

- (i) type of purchase;
- (ii) the quantity of cattle committed on a live weight basis; and
- (iii) the quantity of cattle committed on a dressed weight basis.

(D) The terms of trade regarding the cattle, as applicable.

(2) PUBLICATION.—The Secretary shall make the information available to the public not less frequently than three times each reporting day.

(d) WEEKLY REPORTING.—

(1) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information applicable to the prior slaughter week:

(A) The quantity of cattle purchased through a forward contract that were slaughtered.

(B) The quantity of cattle delivered under a formula marketing arrangement that were slaughtered.

(C) The quantity and carcass characteristics of packer-owned cattle that were slaughtered.

(D) The quantity, basis level, and delivery month for all cattle purchased through forward contracts that were agreed to by the parties.

(E) The range and average of intended premiums and discounts that are expected to be in effect for the current slaughter week.

(2) FORMULA PURCHASES.—The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary, on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information for cattle purchased through a formula marketing arrangement and slaughtered during the prior slaughter week:

(A) The quantity (quoted in both numbers of head and hundredweights) of cattle.

(B) The weighted average price paid for a carcass, including applicable premiums and discounts.

(C) The range of premiums and discounts paid.

(D) The weighted average of premiums and discounts paid.

(E) The range of prices paid.

(F) The aggregate weighted average price paid for a carcass.

(G) The terms of trade regarding the cattle, as applicable.

(3) PUBLICATION.—The Secretary shall make available to the public the information obtained under paragraphs (1) and (2) on the first reporting day of the current slaughter week, not later than 10:00 a.m. Central Time.

(e) REGIONAL REPORTING OF CATTLE TYPES.—

(1) IN GENERAL.—The Secretary shall determine whether adequate data can be obtained on a regional basis for fed Holsteins and other fed dairy steers and heifers, cows, and bulls based on the number of packers required to report under this section.

(2) REPORT.—Not later than 2 years after the date of the enactment of this subtitle, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the determination of the Secretary under paragraph (1).

SEC. 223. [7 U.S.C. 1635f] MANDATORY PACKER REPORTING OF BOXED BEEF SALES.

(a) DAILY REPORTING.—The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day (not less than once before, and once after, 12:00 noon Central Time) information on total boxed beef sales, including—

(1) the price for each lot of each negotiated boxed beef sale (determined by seller-buyer interaction and agreement), quoted in dollars per hundredweight (on a F.O.B. plant basis);

(2) the quantity for each lot of each sale, quoted by number of boxes sold; and

(3) information regarding the characteristics of each lot of each sale, including—

(A) the grade of beef (USDA Choice or better, USDA Select, or ungraded no-roll product);

(B) the cut of beef; and

(C) the trim specification.

(b) PUBLICATION.—The Secretary shall make available to the public the information required to be reported under subsection (a) not less frequently than twice each reporting day.

CHAPTER 3—SWINE REPORTING

SEC. 231. [7 U.S.C. 1635i] DEFINITIONS.

In this chapter:

(1) AFFILIATE.—The term “affiliate”, with respect to a packer, means—

(A) a person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of the packer;

(B) a person 5 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the packer; and

(C) a person that directly or indirectly controls, or is controlled by or under common control with, the packer.

(2) APPLICABLE REPORTING PERIOD.—The term “applicable reporting period” means the period of time prescribed by the prior day report, the morning report, and the afternoon report, as required under section 232(c).

(3) BARROW.—The term “barrow” means a neutered male swine.

(4) BASE MARKET HOG.—The term “base market hog” means a barrow or gilt for which no discounts are subtracted from and no premiums are added to the base price.

(5) BOAR.—The term “boar” means a sexually-intact male swine.

(6) FORMULA PRICE.—The term “formula price” means a price determined by a mathematical formula under which the price established for a specified market serves as the basis for the formula.

(7) GILT.—The term “gilt” means a young female swine that has not produced a litter.

(8) HOG CLASS.—The term “hog class” means, as applicable—

(A) barrows or gilts;

(B) sows; or

(C) boars or stags.

(9) NONCARCASS MERIT PREMIUM.—The term “noncarcass merit premium” means an increase in the base price of the swine offered by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium is known before the sale and delivery of the swine.

(10) OTHER MARKET FORMULA PURCHASE.—

(A) IN GENERAL.—The term “other market formula purchase” means a purchase of swine by a packer in which the pricing mechanism is a formula price based on any market other than the market for swine, pork, or a pork product.

(B) INCLUSION.—The term “other market formula purchase” includes a formula purchase in a case in which the price formula is based on one or more futures or options contracts.

(11) OTHER PURCHASE ARRANGEMENT.—The term “other purchase arrangement” means a purchase of swine by a packer that—

(A) is not a negotiated purchase, swine or pork market formula purchase, or other market formula purchase; and

(B) does not involve packer-owned swine.

(12) PACKER.—The term “packer” means any person engaged in the business of buying swine in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from swine for sale or shipment in commerce, or of marketing meats or meat food products from swine in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that—

- (A) the term includes only a swine processing plant that is federally inspected;
- (B) for any calendar year, the term includes only—
- (i) a swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding five calendar years; and
 - (ii) a person that slaughtered an average of at least 200,000 sows, boars, or any combination thereof, per year during the immediately preceding five calendar years; and
- (C) in the case of a swine processing plant or person that did not slaughter swine during the immediately preceding 5 calendar years, the Secretary shall consider the plant capacity of the processing plant or person in determining whether the processing plant or person should be considered a packer under this chapter.
- (13) PACKER-OWNED SWINE.—The term “packer-owned swine” means swine that a packer (including a subsidiary or affiliate of the packer) owns for at least 14 days immediately before slaughter.
- (14) PACKER-SOLD SWINE.—The term “packer-sold swine” means the swine that are—
- (A) owned by a packer (including a subsidiary or affiliate of the packer) for more than 14 days immediately before sale for slaughter; and
 - (B) sold for slaughter to another packer.
- (15) PORK.—The term “pork” means the meat of a porcine animal.
- (16) PORK PRODUCT.—The term “pork product” means a product or byproduct produced or processed in whole or in part from pork.
- (17) PURCHASE DATA.—The term “purchase data” means all of the applicable data, including weight (if purchased live), for all swine purchased during the applicable reporting period, regardless of the expected delivery date of the swine, reported by—
- (A) hog class;
 - (B) type of purchase; and
 - (C) packer-owned swine.
- (18) SLAUGHTER DATA.—The term “slaughter data” means all of the applicable data for all swine slaughtered by a packer during the applicable reporting period, regardless of when the price of the swine was negotiated or otherwise determined, reported by—
- (A) hog class;
 - (B) type of purchase; and
 - (C) packer-owned swine.
- (19) SOW.—The term “sow” means an adult female swine that has produced one or more litters.
- (20) SWINE.—The term “swine” means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.
- (21) SWINE OR PORK MARKET FORMULA PURCHASE.—The term “swine or pork market formula purchase” means a pur-

chase of swine by a packer in which the pricing mechanism is a formula price based on a market for swine, pork, or a pork product, other than a future or option for swine, pork, or a pork product.

(22) TYPE OF PURCHASE.—The term “type of purchase”, with respect to swine, means—

- (A) a negotiated purchase;
- (B) other market formula purchase;
- (C) a swine or pork market formula purchase; and
- (D) other purchase arrangement.

SEC. 232. [7 U.S.C. 1635j] MANDATORY REPORTING FOR SWINE.

(a) ESTABLISHMENT.—The Secretary shall establish a program of swine price information reporting that will—

- (1) provide timely, accurate, and reliable market information;
- (2) facilitate more informed marketing decisions; and
- (3) promote competition in the swine slaughtering industry.

(b) GENERAL REPORTING PROVISIONS APPLICABLE TO PACKERS AND THE SECRETARY.—

(1) IN GENERAL.—The Secretary shall establish and implement a price reporting program in accordance with this section that includes the reporting and publication of information required under this section.

(2) PACKER-OWNED SWINE.—Information required under this section for packer-owned swine shall include quantity and carcass characteristics, but not price.

(3) PACKER-SOLD SWINE.—If information regarding the type of purchase is required under this section, the information shall be reported according to the numbers and percentages of each type of purchase comprising—

- (A) packer-sold swine; and
- (B) all other swine.

(4) ADDITIONAL INFORMATION.—

(A) REVIEW.—The Secretary shall review the information required to be reported by packers under this section at least once every 2 years.

(B) OUTDATED INFORMATION.—After public notice and an opportunity for comment, subject to subparagraph (C), the Secretary shall promulgate regulations that specify additional information that shall be reported under this section if the Secretary determines under the review under subparagraph (A) that—

- (i) information that is currently required no longer accurately reflects the methods by which swine are valued and priced by packers; or
- (ii) packers that slaughter a significant majority of the swine produced in the United States no longer use backfat or lean percentage factors as indicators of price.

(C) LIMITATION.—Under subparagraph (B), the Secretary may not require packers to provide any new or additional information that—

(i) is not generally available or maintained by packers; or

(ii) would be otherwise unduly burdensome to provide.

(c) DAILY REPORTING; BARROWS AND GILTS.—

(1) PRIOR DAY REPORT.—

(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary, for each business day of the packer, such information as the Secretary determines necessary and appropriate to—

(i) comply with the publication requirements of this section; and

(ii) provide for the timely access to the information by producers, packers, and other market participants.

(B) REPORTING DEADLINE AND PLANTS REQUIRED TO REPORT.—A packer required to report under subparagraph (A) shall—

(i) not later than 7:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts purchased or priced, and

(ii) not later than 9:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts slaughtered,

during the prior business day of the packer.

(C) INFORMATION REQUIRED.—The information from the prior business day of a packer required under this paragraph shall include—

(i) all purchase data, including—

(I) the total number of—

(aa) barrows and gilts purchased; and

(bb) barrows and gilts scheduled for delivery; and

(II) the base price and purchase data for slaughtered barrows and gilts for which a price has been established;

(ii) all slaughter data for the total number of barrows and gilts slaughtered, including—

(I) information concerning the net price, which shall be equal to the total amount paid by a packer to a producer (including all premiums, less all discounts) per hundred pounds of carcass weight of barrows and gilts delivered at the plant—

(aa) including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer or the accumulation of a balance to later be repaid by the packer to the producer; and

(bb) excluding any sum earlier paid to a producer that must later be repaid to the packer;

(II) information concerning the average net price, which shall be equal to the quotient (stated per hundred pounds of carcass weight of barrows and gilts) obtained by dividing—

(aa) the total amount paid for the barrows and gilts slaughtered at a packing plant during the applicable reporting period, including all premiums and discounts, and including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer, or the accumulation of a balance to later be repaid by the packer to the producer, less all discounts; by

(bb) the total carcass weight (in hundred pound increments) of the barrows and gilts;

(III) information concerning the lowest net price, which shall be equal to the lowest net price paid for a single lot or a group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;

(IV) information concerning the highest net price, which shall be equal to the highest net price paid for a single lot or group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;

(V) the average carcass weight, which shall be equal to the quotient obtained by dividing—

(aa) the total carcass weight of the barrows and gilts slaughtered at the packing plant during the applicable reporting period, by

(bb) the number of the barrows and gilts described in item (aa),

adjusted for special slaughter situations (such as skinning or foot removal), as the Secretary determines necessary to render comparable carcass weights;

(VI) the average sort loss, which shall be equal to the average discount (in dollars per hundred pounds carcass weight) for barrows and gilts slaughtered during the applicable reporting period, resulting from the fact that the barrows and gilts did not fall within the individual packer's established carcass weight or lot variation range;

(VII) the average backfat, which shall be equal to the average of the backfat thickness (in inches) measured between the third and fourth from the last ribs, 7 centimeters from the carcass

split (or adjusted from the individual packer's measurement to that reference point using an adjustment made by the Secretary) of the barrows and gilts slaughtered during the applicable reporting period;

(VIII) the average lean percentage, which shall be equal to the average percentage of the carcass weight comprised of lean meat for the barrows and gilts slaughtered during the applicable reporting period, except that when a packer is required to report the average lean percentage under this subclause, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary may convert to the carcass measurements or lean percentage of the barrows and gilts of the individual packer to correlate to a common percent lean measurement; and

(IX) the total slaughter quantity, which shall be equal to the total number of barrows and gilts slaughtered during the applicable reporting period, including all types of purchases and barrows and gilts that qualify as packer-owned swine; and

(iii) packer purchase commitments, which shall be equal to the number of barrows and gilts scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

(D) PUBLICATION.—

(i) IN GENERAL.—The Secretary shall publish the information obtained under this paragraph in a prior day report—

(I) in the case of information regarding barrows and gilts purchased or priced, not later than 8:00 a.m. Central Time, and

(II) in the case of information regarding barrows and gilts slaughtered, not later than 10:00 a.m. Central Time,

on the reporting day on which the information is received from the packer.

(ii) PRICE DISTRIBUTIONS.—The information published by the Secretary under clause (i) shall include a distribution of net prices in the range between and including the lowest net price and the highest net price reported. The publication shall include a delineation of the number of barrows and gilts at each reported price level or, at the option of the Secretary, the number of barrows and gilts within each of a series of reasonable price bands within the range of prices.

(2) MORNING REPORT.—

(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant

that processes barrows or gilts shall report to the Secretary not later than 10:00 a.m. Central Time each reporting day—

(i) the packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(iv) the base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis.

(B) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in the morning report as soon as practicable, but not later than 11:00 a.m. Central Time, on each reporting day.

(3) AFTERNOON REPORT.—

(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary not later than 2:00 p.m. Central Time each reporting day—

(i) the packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(iv) the base price paid for all base market hogs purchased up to that time of the reporting day through each type of purchase other than negotiated purchase, unless such information is unavailable due to pricing that is determined on a delayed basis.

(B) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in the afternoon report as soon as practicable, but not later than 3:00 p.m. Central Time, on each reporting day.

(d) DAILY REPORTING; SOWS AND BOARS.—

(1) PRIOR DAY REPORT.—The corporate officers or officially designated representatives of each packer of sows and boars

shall report to the Secretary, for each business day of the packer, such information reported by hog class as the Secretary determines necessary and appropriate to—

(A) comply with the publication requirements of this section; and

(B) provide for the timely access to the information by producers, packers, and other market participants.

(2) REPORTING.—Not later than 9:30 a.m. Central Time, or such other time as the Secretary considers appropriate, on each reporting day, a packer required to report under paragraph (1) shall report information regarding all sows and boars purchased or priced during the prior business day of the packer.

(3) INFORMATION REQUIRED.—The information from the prior business day of a packer required under this subsection shall include all purchase data, including—

(A) the total number of sows purchased and the total number of boars purchased, each divided into at least three reasonable and meaningful weight classes specified by the Secretary;

(B) the number of sows that qualify as packer-owned swine;

(C) the number of boars that qualify as packer-owned swine;

(D) the average price paid for all sows;

(E) the average price paid for all boars;

(F) the average price paid for sows in each weight class specified by the Secretary under subparagraph (A);

(G) the average price paid for boars in each weight class specified by the Secretary under subparagraph (A);

(H) the number of sows and the number of boars for which prices are determined, by each type of purchase;

(I) the average prices for sows and the average prices for boars for which prices are determined, by each type of purchase; and

(J) such other information as the Secretary considers appropriate to carry out this subsection.

(4) PRICE CALCULATIONS WITHOUT PACKER-OWNED SWINE.—A packer shall omit the prices of sows and boars that qualify as packer-owned swine from all average price calculations, price range calculations, and reports required by this subsection.

(5) REPORTING EXCEPTION: PUBLIC AUCTION PURCHASES.—The information required to be reported under this subsection shall not include purchases of sows or boars made by agents of the reporting packer at a public auction at which the title of the sows and boars is transferred directly from the producer to such packer.

(6) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in a prior day report not later than 11:00 a.m. Central Time on the reporting day on which the information is received from the packer.

(7) ELECTRONIC SUBMISSION OF INFORMATION.—The Secretary of Agriculture shall provide for the electronic submis-

sion of any information required to be reported under this subsection through an Internet website or equivalent electronic means maintained by the Department of Agriculture.

(e) WEEKLY NONCARCASS MERIT PREMIUM REPORT.—

(1) IN GENERAL.—Not later than 4:00 p.m. Central Time on the first reporting day of each week, the corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary a noncarcass merit premium report that lists—

(A) each category of standard noncarcass merit premiums used by the packer in the prior slaughter week; and

(B) the amount (in dollars per hundred pounds of carcass weight) paid to producers by the packer, by category.

(2) PREMIUM LIST.—A packer shall maintain and make available to a producer, on request, a current listing of the dollar values (per hundred pounds of carcass weight) of each noncarcass merit premium used by the packer during the current or the prior slaughter week.

(3) AVAILABILITY.—A packer shall not be required to pay a listed noncarcass merit premium to a producer that meets the requirements for the premium if the need for swine in a given category is filled at a particular point in time.

(4) PUBLICATION.—The Secretary shall publish the information obtained under this subsection as soon as practicable, but not later than 5:00 p.m. Central Time, on the first reporting day of each week.

SEC. 233. [7 U.S.C. 1635k] MANDATORY REPORTING OF WHOLESALE PORK CUTS.

(a) REPORTING.—The corporate officers or officially designated representatives of each packer shall report to the Secretary information concerning the price and volume of wholesale pork cuts, as the Secretary determines is necessary and appropriate.

(b) PUBLICATION.—The Secretary shall publish information reported under subsection (a) as the Secretary determines necessary and appropriate.

CHAPTER 4—LAMB REPORTING

SEC. 241. [7 U.S.C. 1635m] MANDATORY REPORTING FOR LAMBS.

(a) ESTABLISHMENT.—The Secretary may establish a program of mandatory lamb price information reporting that will—

(1) provide timely, accurate, and reliable market information;

(2) facilitate more informed marketing decisions; and

(3) promote competition in the lamb slaughtering industry.

(b) NOTICE AND COMMENT.—If the Secretary establishes a mandatory price reporting program under subsection (a), the Secretary shall provide an opportunity for comment on proposed regulations to establish the program during the 30-day period beginning on the date of the publication of the proposed regulations.

CHAPTER 5—ADMINISTRATION**SEC. 251. [7 U.S.C. 1636] GENERAL PROVISIONS.**

(a) **CONFIDENTIALITY.**—The Secretary shall make available to the public information, statistics, and documents obtained from, or submitted by, packers, retail entities, and other persons under this subtitle in a manner that ensures that confidentiality is preserved regarding—

(1) the identity of persons, including parties to a contract; and

(2) proprietary business information.

(b) **DISCLOSURE BY FEDERAL GOVERNMENT EMPLOYEES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), no officer, employee, or agent of the United States shall, without the consent of the packer or other person concerned, divulge or make known in any manner, any facts or information regarding the business of the packer or other person that was acquired through reporting required under this subtitle.

(2) **EXCEPTIONS.**—Information obtained by the Secretary under this subtitle may be disclosed—

(A) to agents or employees of the Department of Agriculture in the course of their official duties under this subtitle;

(B) as directed by the Secretary or the Attorney General, for enforcement purposes; or

(C) by a court of competent jurisdiction.

(3) **DISCLOSURE UNDER FREEDOM OF INFORMATION ACT.**—Notwithstanding any other provision of law, no facts or information obtained under this subtitle shall be disclosed in accordance with section 552 of title 5, United States Code.

(c) **REPORTING BY PACKERS.**—A packer shall report all information required under this subtitle on an individual lot basis.

(d) **REGIONAL REPORTING AND AGGREGATION.**—The Secretary shall make information obtained under this subtitle available to the public only in a manner that—

(1) ensures that the information is published on a national and a regional or statewide basis as the Secretary determines to be appropriate;

(2) ensures that the identity of a reporting person is not disclosed; and

(3) conforms to aggregation guidelines established by the Secretary.

(e) **ADJUSTMENTS.**—Prior to the publication of any information required under this subtitle, the Secretary may make reasonable adjustments in information reported by packers to reflect price aberrations or other unusual or unique occurrences that the Secretary determines would distort the published information to the detriment of producers, packers, or other market participants.

(f) **VERIFICATION.**—The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under chapter 2, 3, or 4.

(g) **ELECTRONIC REPORTING AND PUBLISHING.**—

(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subtitle by electronic means.

(2) IMPROVEMENTS AND EDUCATION.—

(A) ENHANCED ELECTRONIC PUBLISHING.—The Secretary shall develop and implement an enhanced system of electronic publishing to disseminate information collected pursuant to this subtitle. Such system shall—

(i) present information in a format that can be readily understood by producers, packers, and other market participants;

(ii) adhere to the publication deadlines in this subtitle;

(iii) present information in charts and graphs, as appropriate;

(iv) present comparative information for prior reporting periods, as the Secretary considers appropriate; and

(v) be updated as soon as practicable after information is reported to the Secretary.

(B) EDUCATION.—The Secretary shall carry out a market news education program to educate the public and persons in the livestock and meat industries about—

(i) usage of the system developed under subparagraph (A); and

(ii) interpreting and understanding information collected and disseminated through such system.

(h) REPORTING OF ACTIVITIES ON WEEKENDS AND HOLIDAYS.—

(1) IN GENERAL.—Livestock committed to a packer, or purchased, sold, or slaughtered by a packer, on a weekend day or holiday shall be reported by the packer to the Secretary (to the extent required under this subtitle), and reported by the Secretary, on the immediately following reporting day.

(2) LIMITATION ON REPORTING BY PACKERS.—A packer shall not be required to report actions under paragraph (1) more than once on the immediately following reporting day.

(i) EFFECT ON OTHER LAWS.—Nothing in this subtitle, the Livestock Mandatory Reporting Act of 1999, or amendments made by that Act restricts or modifies the authority of the Secretary to—

(1) administer or enforce the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(2) administer, enforce, or collect voluntary reports under this title or any other law; or

(3) access documentary evidence as provided under sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50).

SEC. 252. [7 U.S.C. 1636a] UNLAWFUL ACTS.

It shall be unlawful and a violation of this subtitle for any packer or other person subject to this subtitle (in the submission of information required under chapter 2, 3, or 4, as determined by the Secretary) to willfully—

(1) fail or refuse to provide, or delay the timely reporting of, accurate information to the Secretary (including estimated information);

(2) solicit or request that a packer, the buyer or seller of livestock or livestock products, or any other person fail to provide, as a condition of any transaction, accurate or timely information required under this subtitle;

(3) fail or refuse to comply with this subtitle; or

(4) report estimated information in any report required under this subtitle in a manner that demonstrates a pattern of significant variance in accuracy when compared to the actual information that is reported for the same reporting period, or as determined by any audit, oversight, or other verification procedures of the Secretary.

SEC. 253. [7 U.S.C. 1636b] ENFORCEMENT.

(a) CIVIL PENALTY.—

(1) **IN GENERAL.**—Any packer or other person that violates this subtitle may be assessed a civil penalty by the Secretary of not more than \$10,000 for each violation.

(2) **CONTINUING VIOLATION.**—Each day during which a violation continues shall be considered to be a separate violation.

(3) **FACTORS.**—In determining the amount of a civil penalty to be assessed under paragraph (1), the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the ability of the person that has committed the violation to continue in business.

(4) **MULTIPLE VIOLATIONS.**—In determining whether to assess a civil penalty under paragraph (1), the Secretary shall consider whether a packer or other person subject to this subtitle has engaged in a pattern of errors, delays, or omissions in violation of this subtitle.

(b) **CEASE AND DESIST.**—In addition to, or in lieu of, a civil penalty under subsection (a), the Secretary may issue an order to cease and desist from continuing any violation.

(c) **NOTICE AND HEARING.**—No penalty shall be assessed, or cease and desist order issued, by the Secretary under this section unless the person against which the penalty is assessed or to which the order is issued is given notice and opportunity for a hearing before the Secretary with respect to the violation.

(d) FINALITY AND JUDICIAL REVIEW.—

(1) **IN GENERAL.**—The order of the Secretary assessing a civil penalty or issuing a cease and desist order under this section shall be final and conclusive unless the 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.

(2) **STANDARD OF REVIEW.**—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) ENFORCEMENT.—

(1) **IN GENERAL.**—If, after the lapse of the period allowed for appeal or after the affirmance of a penalty assessed under this section, the person against which the civil penalty is as-

sessed fails to pay the penalty, the Secretary may refer the matter to the Attorney General who may recover the penalty by an action in United States district court.

(2) FINALITY.—In the action, the final order of the Secretary shall not be subject to review.

(f) INJUNCTION OR RESTRAINING ORDER.—

(1) IN GENERAL.—If the Secretary has reason to believe that any person subject to this subtitle has failed or refused to provide the Secretary information required to be reported pursuant to this subtitle, and that it would be in the public interest to enjoin the person from further failure to comply with the reporting requirements, the Secretary may notify the Attorney General of the failure.

(2) ATTORNEY GENERAL.—The Attorney General may apply to the appropriate district court of the United States for a temporary or permanent injunction or restraining order.

(3) COURT.—When needed to carry out this subtitle, the court shall, on a proper showing, issue a temporary injunction or restraining order without bond.

(g) FAILURE TO OBEY ORDERS.—

(1) IN GENERAL.—If a person subject to this subtitle fails to obey a cease and desist or civil penalty order issued under this subsection 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 district court for enforcement of the order.

(2) 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.

(3) CIVIL PENALTY.—If the court finds that the person violated the cease and desist provisions of the order, the person shall be subject to a civil penalty of not more than \$10,000 for each offense.

SEC. 254. [7 U.S.C. 1636c] FEES.

The Secretary shall not charge or assess a user fee, transaction fee, service charge, assessment, reimbursement, or any other fee for the submission or reporting of information, for the receipt or availability of, or access to, published reports or information, or for any other activity required under this subtitle.

SEC. 255. [7 U.S.C. 1636d] RECORDKEEPING.

(a) IN GENERAL.—Subject to subsection (b), each packer required to report information to the Secretary under this subtitle shall maintain, and make available to the Secretary on request, for 2 years—

(1) the original contracts, agreements, receipts and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock; and

(2) such records or other information as is necessary or appropriate to verify the accuracy of the information required to be reported under this subtitle.

(b) LIMITATIONS.—Under subsection (a)(2), the Secretary may not require a packer to provide new or additional information if—

- (1) the information is not generally available or maintained by packers; or
- (2) the provision of the information would be unduly burdensome.

(c) PURCHASES OF CATTLE OR SWINE.—A record of a purchase of a lot of cattle or a lot of swine by a packer shall evidence whether the purchase occurred—

- (1) before 10:00 a.m. Central Time;
- (2) between 10:00 a.m. and 2:00 p.m. Central Time; or
- (3) after 2:00 p.m. Central Time.

SEC. 256. [7 U.S.C. 1636e] VOLUNTARY REPORTING.

The Secretary shall encourage voluntary reporting by packers (as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)) to which the mandatory reporting requirements of this subtitle do not apply.

SEC. 257. [7 U.S.C. 1636f] PUBLICATION OF INFORMATION ON RETAIL PURCHASE PRICES FOR REPRESENTATIVE MEAT PRODUCTS.

(a) IN GENERAL.—Beginning not later than 90 days after the date of the enactment of this subtitle, the Secretary shall compile and publish at least monthly (weekly, if practicable) information on retail prices for representative food products made from beef, pork, chicken, turkey, veal, or lamb.

(b) INFORMATION.—The report published by the Secretary under subsection (a) shall include—

- (1) information on retail prices for each representative food product described in subsection (a); and
- (2) information on total sales quantity (in pounds and dollars) for each representative food product.

(c) MEAT PRICE SPREADS REPORT.—During the period ending 2 years after the initial publication of the report required under subsection (a), the Secretary shall continue to publish the Meat Price Spreads Report in the same manner as the Report was published before the date of the enactment of this subtitle.

(d) INFORMATION COLLECTION.—

(1) IN GENERAL.—To ensure the accuracy of the reports required under subsection (a), the 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.

SEC. 258. [7 U.S.C. 1636g] SUSPENSION AUTHORITY REGARDING SPECIFIC TERMS OF PRICE REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Secretary may suspend any requirement of this subtitle if the Secretary determines that application of the requirement is inconsistent with the purposes of this subtitle.

(b) SUSPENSION PROCEDURE.—

(1) PERIOD.—A suspension under subsection (a) 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) is not enacted by the end of the period of the suspension established under paragraph (1), the Secretary shall implement the requirement.

SEC. 259. [7 U.S.C. 1636h] FEDERAL PREEMPTION.

In order to achieve the goals, purposes, and objectives of this title on a nationwide basis and to avoid potentially conflicting State laws that could impede the goals, purposes, or objectives of this title, no State or political subdivision of a State may impose a requirement that is in addition to, or inconsistent with, any requirement of this subtitle 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.

SEC. 260. [7 U.S.C. 1636i] TERMINATION OF AUTHORITY.

The authority provided by this subtitle terminates on September 30, 2015.

Subtitle C—Dairy Product Mandatory Reporting

SEC. 271. [7 U.S.C. 1637] PURPOSE.

The purpose of this subtitle 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.

SEC. 272. [7 U.S.C. 1637a] DEFINITIONS.

In this subtitle:

- (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 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; 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.

SEC. 273. [7 U.S.C. 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 the date of enactment of this subtitle 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 subtitle.

(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 subtitle 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 subtitle shall be disclosed in accordance with section 552 of title 5, United States Code.

(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 subtitle.

(B) QUARTERLY AUDITS.—The Secretary shall quarterly conduct an audit of information submitted or reported under this subtitle and compare such information with other related dairy market statistics.

(4) ENFORCEMENT.—

(A) UNLAWFUL ACT.—It shall be unlawful and a violation of this subtitle for any person subject to this subtitle to willfully fail or refuse to provide, or delay the timely reporting of, accurate information to the Secretary in accordance with this subtitle.

(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 subtitle.

(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 subtitle 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 subtitle 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 subtitle.

(6) RECORDKEEPING.—Each person required to report information to the Secretary under this subtitle 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.

Subtitle D—Country of Origin Labeling

SEC. 281. [7 U.S.C. 1638] DEFINITIONS.

In this subtitle:

(1) BEEF.—The term “beef” means meat produced from cattle (including veal).

(2) COVERED COMMODITY.—

(A) IN GENERAL.—The term “covered commodity” means—

(i) muscle cuts of beef, lamb, pork, and venison;

(ii) ground beef, ground lamb, ground pork, and ground venison;

(iii) farm-raised fish;

(iv) wild fish;

(v) a perishable agricultural commodity;

(vi) peanuts; and

(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.

(3) 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.

(4) 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.

(5) LAMB.—The term “lamb” means meat, other than mutton, produced from sheep.

(6) PERISHABLE AGRICULTURAL COMMODITY; RETAILER.—The terms “perishable agricultural commodity” and “retailer” have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(b)).

(7) PORK.—The term “pork” means meat produced from hogs.

(8) SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

(9) 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.

SEC. 282. [7 U.S.C. 1638a] NOTICE OF COUNTRY OF ORIGIN.

(a) IN GENERAL.—

(1) REQUIREMENT.—Except as provided in subsection (b), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

(2) DESIGNATION OF COUNTRY OF ORIGIN FOR BEEF, LAMB, PORK, CHICKEN, GOAT, AND VENISON MEAT.—

(A) UNITED STATES COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, goat, or venison meat may designate the covered commodity as exclusively having a United States country of origin only if the covered commodity is derived from an animal that was—

(i) exclusively born, raised, and slaughtered in the United States;

(ii) born and raised in Alaska or Hawaii and transported for a period of not more than 60 days through Canada to the United States and slaughtered in the United States; or

(iii) present in the United States on or before July 15, 2008, and once present in the United States, remained continuously in the United States.

(B) MULTIPLE COUNTRIES OF ORIGIN.—

(i) IN GENERAL.—A retailer of a covered commodity that is beef, lamb, pork, chicken, goat, or venison meat that is derived from an animal that is—

(I) not exclusively born, raised, and slaughtered in the United States,

(II) born, raised, or slaughtered in the United States, and

(III) not imported into the United States for immediate slaughter,

may designate the country of origin of such covered commodity as all of the countries in which the animal may have been born, raised, or slaughtered.

(ii) RELATION TO GENERAL REQUIREMENT.—Nothing in this subparagraph alters the mandatory requirement to inform consumers of the country of origin of covered commodities under paragraph (1).

(C) IMPORTED FOR IMMEDIATE SLAUGHTER.—A retailer of a covered commodity that is beef, lamb, pork, chicken, goat, or venison meat that is derived from an animal that is imported into the United States for immediate slaughter shall designate the origin of such covered commodity as—

(i) the country from which the animal was imported; and

(ii) the United States.

(D) FOREIGN COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, goat, or venison meat that is derived from an animal that is not born, raised, or slaughtered in the United States shall designate a country other than the United States as the country of origin of such commodity.

(E) GROUND BEEF, PORK, LAMB, CHICKEN, GOAT, AND VENISON.—The notice of country of origin for ground beef, ground pork, ground lamb, ground chicken, ground goat, or ground venison shall include—

(i) a list of all countries of origin of such ground beef, ground pork, ground lamb, ground chicken, ground goat, or ground venison; or

(ii) a list of all reasonably possible countries of origin of such ground beef, ground pork, ground lamb, ground chicken, ground goat, or ground venison.

(3) DESIGNATION OF COUNTRY OF ORIGIN FOR FISH.—

(A) IN GENERAL.—A retailer of a covered commodity that is farm-raised fish or wild fish may designate the cov-

ered commodity as having a United States country of origin only if the covered commodity—

(i) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States; and

(ii) in the case of wild fish, is—

(I) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and

(II) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States.

(B) DESIGNATION OF WILD FISH AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

(4) DESIGNATION OF COUNTRY OF ORIGIN FOR PERISHABLE AGRICULTURAL COMMODITIES, GINSENG, PEANUTS, PECANS, AND MACADAMIA NUTS.—

(A) IN GENERAL.—A retailer of a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively produced in the United States.

(B) STATE, REGION, LOCALITY OF THE UNITED STATES.—With respect to a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where such commodity was produced shall be sufficient to identify the United States as the country of origin.

(b) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS.—Subsection (a) shall not apply to a covered commodity if the covered commodity is—

(1) prepared or served in a food service establishment; and

(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

(B) served to consumers at the food service establishment.

(c) METHOD OF NOTIFICATION.—

(1) IN GENERAL.—The information required by subsection (a) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

(2) LABELED COMMODITIES.—If the covered commodity is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.

(d) AUDIT VERIFICATION SYSTEM.—

(1) IN GENERAL.—The Secretary may conduct an audit of any person that prepares, stores, handles, or distributes a covered commodity for retail sale to verify compliance with this subtitle (including the regulations promulgated under section 284(b)).

(2) RECORD REQUIREMENTS.—

(A) IN GENERAL.—A person subject to an audit under paragraph (1) shall provide the Secretary with verification of the country of origin of covered commodities. Records maintained in the course of the normal conduct of the business of such person, including animal health papers, import or customs documents, or producer affidavits, may serve as such verification.

(B) PROHIBITION ON REQUIREMENT OF ADDITIONAL RECORDS.—The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the course of the normal conduct of the business of such person.

(e) INFORMATION.—Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.

(f) CERTIFICATION OF ORIGIN.—

(1) MANDATORY IDENTIFICATION.—The Secretary shall not use a mandatory identification system to verify the country of origin of a covered commodity.

(2) EXISTING CERTIFICATION PROGRAMS.—To certify the country of origin of a covered commodity, the Secretary may use as a model certification programs in existence on the date of enactment of this Act, including—

(A) the carcass grading and certification system carried out under this Act;

(B) the voluntary country of origin beef labeling system carried out under this Act;

(C) voluntary programs established to certify certain premium beef cuts;

(D) the origin verification system established to carry out the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); or

(E) the origin verification system established to carry out the market access program under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

SEC. 283. [7 U.S.C. 1638b] ENFORCEMENT.

(a) WARNINGS.—If the Secretary determines that a retailer or person engaged in the business of supplying a covered commodity to a retailer is in violation of section 282, the Secretary shall—

(1) notify the retailer of the determination of the Secretary; and

(2) provide the retailer a 30-day period, beginning on the date on which the retailer receives the notice under paragraph (1) from the Secretary, during which the retailer may take necessary steps to comply with section 282.

(b) FINES.—If, on completion of the 30-day period described in subsection (a)(2), the Secretary determines that the retailer or person engaged in the business of supplying a covered commodity to a retailer has—

(1) not made a good faith effort to comply with section 282, and

(2) continues to willfully violate section 282 with respect to the violation about which the retailer or person received notification under subsection (a)(1),

after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer or person in an amount of not more than \$1,000 for each violation.

SEC. 284. [7 U.S.C. 1638c] REGULATIONS.

(a) GUIDELINES.—Not later than September 30, 2002, the Secretary shall issue guidelines for the voluntary country of origin labeling of covered commodities based on the requirements of section 282.

(b) REGULATIONS.—Not later than September 30, 2004, the Secretary shall promulgate such regulations as are necessary to implement this subtitle.

(c) PARTNERSHIPS WITH STATES.—In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to assist in the administration of this subtitle.

SEC. 285. [7 U.S.C. 1638d] APPLICABILITY.

This subtitle shall apply to the retail sale of a covered commodity beginning September 30, 2008, except for “farm-raised fish” and “wild fish” which shall be September 30, 2004.