

(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 subchapter), 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 subchapter, 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 chapter or any other law; or
- (3) access documentary evidence as provided under sections 49 and 50 of title 15.

(Aug. 14, 1946, ch. 966, title II, §251, as added Pub. L. 106-78, title IX, §911(2), Oct. 22, 1999, 113 Stat. 1200; amended Pub. L. 110-234, title XI, §11001(a)(1), May 22, 2008, 122 Stat. 1350; Pub. L. 110-246, §4(a), title XI, §11001(a)(1), June 18, 2008, 122 Stat. 1664, 2112.)

REFERENCES IN TEXT

The Livestock Mandatory Reporting Act of 1999, referred to in subsec. (i), is title IX of Pub. L. 106-78, Oct. 22, 1999, 113 Stat. 1188, which is set out as a note under section 1635 of this title.

The Packers and Stockyards Act, 1921, referred to in subsec. (i)(1), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, as amended, which is classified generally to chapter 9 (§181 et seq.) of this title. For complete classification of this Act to the Code, see section 181 of this title and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (g). Pub. L. 110-246, §11001(a)(1), amended subsec. (g) generally. Prior to amendment, text read as follows: “The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subchapter by electronic means.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the

date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

IMPLEMENTATION OF ENHANCED ELECTRONIC PUBLISHING

Pub. L. 110-234, title XI, §11001(a)(2), May 22, 2008, 122 Stat. 1351, and Pub. L. 110-246, §4(a), title XI, §11001(a)(2), June 18, 2008, 122 Stat. 1664, 2112, provided that:

“(A) ENHANCED REPORTING.—The Secretary of Agriculture shall develop and implement the system required under paragraph (2)(A) of section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)), as amended by paragraph (1), not later than one year after the date on which the Secretary determines sufficient funds have been appropriated pursuant to subsection (c) [122 Stat. 2113].

“(B) CURRENT SYSTEM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall continue to use the information format for disseminating information under subtitle B [7 U.S.C. 1635 et seq.] of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) in effect on the date of the enactment of this Act [June 18, 2008] at least until the date that is two years after the date on which the Secretary makes the determination referred to in subparagraph (A).”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

§ 1636a. Unlawful acts

It shall be unlawful and a violation of this subchapter for any packer or other person subject to this subchapter (in the submission of information required under part B, C, or D of this subchapter, 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 subchapter;

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

(4) report estimated information in any report required under this subchapter 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.

(Aug. 14, 1946, ch. 966, title II, §252, as added Pub. L. 106-78, title IX, §911(2), Oct. 22, 1999, 113 Stat. 1201.)

§ 1636b. Enforcement**(a) Civil penalty****(1) In general**

Any packer or other person that violates this subchapter 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 Sec-

retary 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 subchapter has engaged in a pattern of errors, delays, or omissions in violation of this subchapter.

(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 assessed 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 subchapter has failed or refused to provide the Secretary information required to be reported pursuant to this subchapter, 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 subchapter, 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 subchapter 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.

(Aug. 14, 1946, ch. 966, title II, §253, as added Pub. L. 106-78, title IX, §911(2), Oct. 22, 1999, 113 Stat. 1202.)

§ 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 subchapter.

(Aug. 14, 1946, ch. 966, title II, §254, as added Pub. L. 106-78, title IX, §911(2), Oct. 22, 1999, 113 Stat. 1203.)

§ 1636d. Recordkeeping

(a) In general

Subject to subsection (b), each packer required to report information to the Secretary under this subchapter 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 subchapter.

(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