

(Pub. L. 95–501, title III, §302, formerly §303, as added Pub. L. 101–624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3680; renumbered §302 and amended Pub. L. 110–246, title III, §3103(b)(2), (3), June 18, 2008, 122 Stat. 1832.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 302 of Pub. L. 95–501 was renumbered section 301 and is classified to section 5652 of this title.

##### AMENDMENTS

2008—Pub. L. 110–246, §3103(b)(3), struck out “, such as that established under section 5651 of this title,” after “any program”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

### SUBCHAPTER IV—GENERAL PROVISIONS

#### PART A—PROGRAM CONTROLS

### § 5661. Program controls for export programs

#### (a) Arrival certification

With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 5621 or 5622 of this title, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.

#### (b) Diversion

The unauthorized diversion of commodities under the programs authorized in sections 5621 and 5622 of this title is prohibited. The Commodity Credit Corporation shall establish procedures providing for the annual audit of a sufficient number of export transactions under such programs to ensure that the agricultural commodities that were the subject of such transactions arrived in the country of destination as provided in the sales agreement.

#### (c) Good faith

The failure of an exporter, seller or other person to comply with the provisions of this section shall not affect the validity of any credit guarantee or other obligation of the Commodity Credit Corporation under the programs under this chapter with respect to any exporter, seller, or person who had no knowledge of such failure to comply at the time such exporter, seller, or person was assigned the credit guarantee or at the time the Corporation entered into such obligation.

(Pub. L. 95–501, title IV, §401, as added Pub. L. 101–624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3680; amended Pub. L. 104–127, title II, §246, Apr. 4, 1996, 110 Stat. 969; Pub. L. 110–246, title III, §3103(b)(4), June 18, 2008, 122 Stat. 1832.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 401 of Pub. L. 95–501 enacted sections 1765a to 1765h and 1769 of this title, amended section 1766b of this title, and redesignated sections 1762(d), (f), and 1763, as sections 1766a to 1766c of this title prior to the complete revision of Pub. L. 95–501 by Pub. L. 101–624.

##### AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, §3103(b)(4)(A), substituted “section 5621 or 5622” for “section 5621, 5622, or 5651”.

Subsec. (b). Pub. L. 110–246, §3103(b)(4)(B), substituted “sections 5621 and 5622” for “sections 5621, 5622, and 5651”.

1996—Subsec. (a). Pub. L. 104–127 added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “With respect to commodities or other assistance provided, or for which financing or credit guarantees are made available, under the programs authorized in sections 5621, 5622, and 5651 of this title, the Commodity Credit Corporation shall—

“(1) require the exporter to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and have access to such documents or records as needed to verify the arrival of agricultural commodities exported in connection with such programs in the countries that were the intended destination of such commodities; and

“(2) obtain certification from the seller or exporter of record of such commodities, that there were no corrupt payments or extra sales services, or other items extraneous to the transaction provided, financed, or guaranteed in connection with the transaction, and that the transaction complied with applicable United States law.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

### § 5662. Compliance provisions

#### (a) Records

##### (1) In general

In the administration of the programs established under sections 5621, 5622, and 5623(b) of this title the Secretary shall require by regulation each exporter or other participant under the program to maintain all records concerning a program transaction for a period of not to exceed 5 years after completion of the program transaction, and to permit the Secretary to have full and complete access, for such 5-year period, to such records.

##### (2) Confidentiality

The personally identifiable information contained in reports under subsection (a) may be withheld in accordance with section 552(b)(4) of title 5. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18 shall be subject to section 1905 of title 18. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

#### (b) Violation

If any exporter, assignee, or other participant has engaged in fraud with respect to the pro-