

entrance into the United States, such diseases may be spread through the medium of raw or improperly treated garbage which is fed to swine;

(3) African swine fever, which is potentially the most dangerous and destructive of all communicable swine diseases, has been confirmed in several countries of the Western Hemisphere, including the Dominican Republic, Haiti, and Cuba;

(4) swine in the United States have no resistance to any of such exotic diseases and in the case of African swine fever there is a particular danger because there are no effective vaccines to this deadly disease;

(5) all articles and animals which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce, and regulation by the Secretary and cooperation by the States and other jurisdictions as contemplated by this chapter are necessary to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of the people of the United States;

(6) the interstate and foreign commerce in swine and swine products and producers and consumers of pork products could be severely injured economically if any exotic animal diseases, particularly African swine fever, enter this country;

(7) it is impossible to assure that all garbage fed to swine is properly treated to kill disease organisms unless such treatment is closely regulated;

(8) therefore, in order to protect the commerce of the United States and the health and welfare of the people of this country, it is necessary to regulate the treatment of garbage to be fed to swine and the feeding thereof in accordance with the provisions of this chapter.

(Pub. L. 96-468, §2, Oct. 17, 1980, 94 Stat. 2229.)

#### SHORT TITLE

Section 1 of Pub. L. 96-468 provided: "That this Act [enacting this chapter] may be cited as the 'Swine Health Protection Act'."

#### § 3802. Definitions

For purposes of this chapter—

(1) the term "Secretary" means the Secretary of Agriculture;

(2) the term "garbage" means all waste material derived in whole or in part from the meat of any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking, or consumption of food, except that such term shall not include waste from ordinary household operations which is fed directly to swine on the same premises where such household is located;

(3) the term "person" means any individual, corporation, company, association, firm, partnership, society, or joint stock company or other legal entity; and

(4) the term "State" means the fifty States, the District of Columbia, Guam, Puerto Rico,

the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(Pub. L. 96-468, §3, Oct. 17, 1980, 94 Stat. 2229; Pub. L. 96-592, title V, §511, Dec. 24, 1980, 94 Stat. 3451.)

#### AMENDMENTS

1980—Par. (4). Pub. L. 96-592 added par. (4).

#### § 3803. Prohibition of certain garbage feeding; exemption

(a) No person shall feed or permit the feeding of garbage to swine except in accordance with subsection (b) of this section.

(b) Garbage may be fed to swine only if treated to kill disease organisms, in accordance with regulations issued by the Secretary, at a facility holding a valid permit issued by the Secretary, or the chief agricultural or animal health official of the State where located if such State has entered into an agreement with the Secretary pursuant to section 3808 of this title or has primary enforcement responsibility pursuant to section 3809 of this title. No person shall operate a facility for the treatment of garbage knowing it is to be fed to swine unless such person holds a valid permit issued pursuant to this chapter. The Secretary may exempt any facility or premises from the requirements of this section whenever the Secretary determines that there would not be a risk to the swine industry in the United States.

(Pub. L. 96-468, §4, Oct. 17, 1980, 94 Stat. 2230.)

#### § 3804. Permits to operate garbage treatment facility

##### (a) Application; issuance

Any person desiring to obtain a permit to operate a facility to treat garbage that is to be fed to swine shall apply therefor to (1) the Secretary, or (2) the chief agricultural or animal health official of the State where the facility is located if such State has entered into an agreement with the Secretary pursuant to section 3808 of this title or has primary enforcement responsibility pursuant to section 3809 of this title, and provide such information as the Secretary shall by regulation prescribe. No permit shall be issued unless the facility—

(1) meets such requirements as the Secretary shall prescribe to prevent the introduction or dissemination of any infectious or communicable disease of animals or poultry, and

(2) is so constructed that swine are unable to have access to untreated garbage of such facility or material coming in contact with such untreated garbage.

##### (b) Cease and desist orders; suspension or revocation orders; judicial review

Whenever the Secretary finds, after notice and opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5, that any person holding a permit to operate a facility to treat garbage in any State is violating or has violated this chapter or any regulation of the Secretary issued hereunder, the Secretary may

issue an order requiring such person to cease and desist from continuing such violations or an order suspending or revoking such permit, or both. Any person aggrieved by an order of the Secretary issued pursuant to this subsection may, within sixty days after entry of such order, seek review of such order in the appropriate United States court of appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, and such court shall have jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order. Judicial review of any such order shall be upon the record upon which the determination and order are based.

**(c) Automatic revocation**

The permit of any person to operate a facility to treat garbage in any State shall be automatically revoked, without action of the Secretary, upon the final effective date of the second conviction of such person pursuant to section 3806 of this title.

(Pub. L. 96-468, §5, Oct. 17, 1980, 94 Stat. 2230.)

**§ 3805. Civil penalties**

**(a) Assessment by Secretary**

Any person who the Secretary determines, after notice and opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5, is violating or has violated any provision of this chapter or any regulation of the Secretary issued hereunder, other than a violation for which a criminal penalty has been imposed under this chapter, may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation. Each offense shall be a separate violation. The amount of such civil penalty shall be assessed by the Secretary by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and may be reviewed only as provided in subsection (b) of this section.

**(b) Judicial review**

The determination and order of the Secretary with respect thereto imposing a civil penalty under this section shall be final and conclusive unless the person against whom such an order is issued files application for judicial review within sixty days after entry of such order in the appropriate United States court of appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, and such court shall have jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order. Judicial review of any such order shall be upon the record upon which the determination and order are based.

**(c) Collection action by Attorney General**

If any person fails to pay a civil penalty under a final order of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall institute a civil action to recover the amount assessed in any appropriate district court of the United States. In such collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

**(d) Payment into United States Treasury**

All penalties collected under authority of this section shall be paid into the Treasury of the United States.

**(e) Compromise, modification, or remittance**

The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this chapter.

(Pub. L. 96-468, §6, Oct. 17, 1980, 94 Stat. 2231.)

**§ 3806. Criminal penalties**

(a) Whoever willfully violates any provision of this chapter or the regulations of the Secretary issued hereunder shall be guilty of a misdemeanor and shall be fined not more than \$10,000, or imprisoned not more than one year, or both.

(b) Any person who fails to obey any order of the Secretary issued under the provisions of section 3804 of this title, or such order as modified—

(1) after the expiration of the time allowed for filing a petition in the court of appeals to review such order, if no such petition has been filed within such time; or

(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) after such order, or such order as modified, has been sustained by the courts as provided in section 3804(b) of this title;

shall on conviction be fined not more than \$10,000, or imprisoned for not more than one year, or both. Each day during which such failure continues shall be deemed a separate offense.

(Pub. L. 96-468, §7, Oct. 17, 1980, 94 Stat. 2231.)

**§ 3807. General enforcement provisions**

**(a) Injunctions**

The Attorney General, upon the request of the Secretary, shall bring an action to enjoin the violation of, or to compel compliance with, any provision of this chapter or any regulation issued by the Secretary hereunder by any person. Such action shall be brought in the appropriate United States district court for the judicial district in which such person resides or transacts business or in which the violation or omission has occurred or is about to occur. Process in such cases may be served in any judicial district wherein the defendant resides or transacts business or wherever the defendant may be found.

**(b) Access to premises or facility and books and records; examination; samples**

Any person subject to the provisions of this chapter shall, at all reasonable times, upon notice by a duly authorized representative of the Secretary, afford such representative access to his premises or facility and opportunity to examine the premises or facility, the garbage there at, and books and records thereof, to copy all such books and records and to take reasonable samples of such garbage.