

Subsec. (c). Pub. L. 107-171, §3103, designated existing provisions as par. (1), inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), added subpar. (A) and struck out former subpar. (A) relating to funds available for market access activities authorized to be carried out by the Commodity Credit Corporation for fiscal years 1991 through 2002, and added par. (2).

1996—Subsec. (b). Pub. L. 104-127, §243(b), added subsec. (b) and struck out former subsec. (b) which authorized short and intermediate term export credit guarantees for each of fiscal years 1991 through 1995 and further provided for limitation on origination fees for short-term guarantees.

Subsec. (c). Pub. L. 104-127, §244(a)(2)(B)(i), (ii), substituted “Market access programs” for “Marketing promotion programs” in heading and “market access activities” for “market promotion activities” in introductory provisions.

Subsec. (c)(1). Pub. L. 104-127, §244(c), struck out “and” after “1993,” and substituted “through 1995, and not more than \$90,000,000 for each of fiscal years 1996 through 2002,” for “through 1997.”

Pub. L. 104-127, §244(a)(2)(B)(iii), substituted “market access program” for “market development program”.

Subsec. (c)(2). Pub. L. 104-127, §244(a)(2)(B)(iv), substituted “market access program” for “marketing promotion program”.

1993—Subsec. (c)(1). Pub. L. 103-66 substituted “through 1993, and not less than \$110,000,000 for each of the fiscal years 1994 through 1997,” for “through 1995”.

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.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-127, title II, §244(c), Apr. 4, 1996, 110 Stat. 968, provided that the amendment made by section 244(c) is effective Oct. 1, 1995.

SUBCHAPTER III—BARRIERS TO EXPORTS

§ 5651. Repealed. Pub. L. 110-246, title III, §3103(a), June 18, 2008, 122 Stat. 1832

Section, Pub. L. 95-501, title III, §301, as added Pub. L. 101-624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3678; amended Pub. L. 102-237, title III, §311, Dec. 13, 1991, 105 Stat. 1856; Pub. L. 102-511, title VII, §709(b), Oct. 24, 1992, 106 Stat. 3352; Pub. L. 103-465, title IV, §411(a)(3), (4), Dec. 8, 1994, 108 Stat. 4963; Pub. L. 104-127, title II, §245, Apr. 4, 1996, 110 Stat. 968; Pub. L. 107-171, title III, §3104(a), May 13, 2002, 116 Stat. 290, related to an export enhancement program and cash bonuses to exporters, users, and processors.

EFFECTIVE DATE OF REPEAL

Repeal 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.

§ 5652. Relief from unfair trade practices

(a) Use of programs

(1) In general

The Secretary may, for each article described in paragraph (2), make available some or all of the commercial export promotion programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice serving as the basis for the proceeding described in paragraph (2).

(2) Commodities specified

Paragraph (1) shall apply in the case of articles for which the United States has insti-

tuted, under any international trade agreement, any dispute settlement proceeding based on an unfair trade practice if such proceeding has been prevented from progressing to a decision by the refusal of the party maintaining the unfair trade practice to permit the proceeding to progress.

(b) Consultations required

For any article described in subsection (a)(2), the Secretary shall—

(1) promptly consult with representatives of the industry producing such articles and other allied groups or individuals regarding specific actions or the development of an integrated marketing strategy utilizing some or all of the commercial export programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice identified in subsection (a)(2); and

(2) ascertain and take into account the industry preference for the practical use of available commercial export promotion programs in implementing subsection (a)(1).

(Pub. L. 95-501, title III, §301, formerly §302, as added Pub. L. 101-624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3680; renumbered §301, Pub. L. 110-246, title III, §3103(b)(2), June 18, 2008, 122 Stat. 1832.)

PRIOR PROVISIONS

A prior section 301 of Pub. L. 95-501 was classified to section 5651 of this title prior to repeal by Pub. L. 110-246.

Another prior section 301 of Pub. L. 95-501 amended sections 1761, 1762, 1764, and 1765 of this title prior to the complete revision of Pub. L. 95-501 by Pub. L. 101-624.

§ 5653. Equitable treatment of high-value and value-added United States agricultural commodities

In the case of any program operated by the Secretary or the Commodity Credit Corporation during the fiscal years 1991 through 1995, for the purpose of discouraging unfair trade practices, the Secretary shall establish as an objective to expend annually at least 25 percent of the total funds available (or 25 percent of the value of any commodities employed) for program activities involving the export sales of high-value agricultural commodities and value-added products of United States agricultural commodities.

(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.)

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”.

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.)

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.”

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 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 programs authorized under this chapter, or has otherwise violated program requirements under this chapter, the Commodity Credit Corporation may—

(1) hold such exporter, assignee, or participant liable for any and all losses to the Corporation resulting from such fraud or violation;

(2) require a refund of any assistance provided to such exporter, assignee, or participant plus interest, as determined by the Secretary; and

(3) collect liquidated damages from such exporter, assignee, or participant in an amount determined appropriate by the Secretary.

The provisions of this subsection shall be without prejudice to any other remedy that is available under any other provision of law.

(c) Suspension and debarment

The Commodity Credit Corporation may suspend or debar for 1 or more years any exporter, assignee, or other participant from participation in one or more of the programs authorized by