

§ 211. Order of Secretary as to charges or practices; prescribing rates and practices generally

Whenever after full hearing upon a complaint made as provided in section 210 of this title, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be violative of section 205, 206, or 208 of this title, the Secretary—

(a) May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate or charge, or rates or charges, to be thereafter in such case observed as the maximum or minimum or both to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed: *Provided*, That the Secretary shall prescribe the rate or charge, or rates or charges, on a percentage or per head basis at the election of the stockyard owner or market agency, or on any other basis elected by the stockyard owner or market agency unless the Secretary finds such other basis to be violative of section 206 of this title; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services other than the rate or charge or rates or charges so prescribed; and (3) shall conform to and observe the regulation or practice so prescribed.

(Aug. 15, 1921, ch. 64, title III, §310, 42 Stat. 166; Aug. 10, 1939, ch. 663, 53 Stat. 1351; Pub. L. 95-409, §1(b), Oct. 2, 1978, 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95-409, §1(b)(1), in provision preceding subsec. (a), substituted “violative of section 205, 206 or 208 of this title” for “unjust, unreasonable, or discriminatory”.

Subsec. (a). Pub. L. 95-409, §1(b)(2), substituted “May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate” for “May determine and prescribe what will be the just and reasonable rate”, and “as the maximum or minimum or both” for “as both the maximum and minimum”, and inserted proviso relating to prescription by the Secretary of rates or charges on a percentage or per head basis at the election of the owner or agency or any other basis unless violative of section 206 of this title.

Subsec. (b). Pub. L. 95-409, §1(b)(3), substituted “other than the rate or charge or rates or charges” for “more or less than the rate or charge”.

1939—Subsec. (a). Act Aug. 10, 1939, substituted “as both” for “or the”.

Subsec. (b)(2). Act Aug. 10, 1939, substituted “more or less than the rate or charge so prescribed” for “other than the rate or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be”.

§ 212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce

Whenever in any investigation under the provisions of this subchapter, or in any investigation instituted by petition of the stockyard owner, market agency, or dealer concerned, which petition is authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, market agency, or dealer, for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of livestock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in livestock on the one hand and interstate or foreign commerce in livestock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in livestock, which is hereby forbidden and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners, market agencies, or dealers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(Aug. 15, 1921, ch. 64, title III, §311, 42 Stat. 167; Pub. L. 85-909, §2(4), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 94-410, §3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94-410 substituted “livestock” for “live stock” wherever appearing.

1958—Pub. L. 85-909 substituted “stockyard owner, market agency, or dealer” for “stockyard owner or market agency” wherever occurring, and “stockyard owners, market agencies, or dealers” for “stockyard owners or market agencies”.

§ 213. Prevention of unfair, discriminatory, or deceptive practices

(a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subsection (a), the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. The Secretary may also assess a civil penalty of not more than \$10,000 for each such violation. In determining