

[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 L. 110-234 was repealed by section 4(a) of Pub.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 Secretary 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

(2) the provision of the information would be unduly burdensome.

(c) Purchases of cattle or swine

A record of a purchase of a lot of cattle or a lot of swine by a packer shall evidence whether the purchase occurred—

(1) before 10:00 a.m. Central Time;

(2) between 10:00 a.m. and 2:00 p.m. Central Time; or

(3) after 2:00 p.m. Central Time.

(Aug. 14, 1946, ch. 966, title II, § 255, as added Pub. L. 106-78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1203.)

§ 1636e. Voluntary reporting

The Secretary shall encourage voluntary reporting by packers (as defined in section 191 of this title) to which the mandatory reporting requirements of this subchapter do not apply.

(Aug. 14, 1946, ch. 966, title II, § 256, as added Pub. L. 106-78, title IX, § 911(2), Oct. 22, 1999, 113 Stat. 1204.)

§ 1636f. Publication of information on retail purchase prices for representative meat products**(a) In general**

Beginning not later than 90 days after October 22, 1999, the Secretary shall compile and publish at least monthly (weekly, if practicable) information on retail prices for representative food products made from beef, pork, chicken, turkey, veal, or lamb.

(b) Information

The report published by the Secretary under subsection (a) shall include—

(1) information on retail prices for each representative food product described in subsection (a); and

(2) information on total sales quantity (in pounds and dollars) for each representative food product.

(c) Meat Price Spreads Report

During the period ending 2 years after the initial publication of the report required under subsection (a), the Secretary shall continue to publish the Meat Price Spreads Report in the same manner as the Report was published before October 22, 1999.

(d) Information collection**(1) In general**

To ensure the accuracy of the reports required under subsection (a), the Secretary shall obtain the information for the reports from one or more sources including—

(A) a consistently representative set of retail transactions; and

(B) both prices and sales quantities for the transactions.

(2) Source of information

The Secretary may—

(A) obtain the information from retailers or commercial information sources; and

(B) use valid statistical sampling procedures, if necessary.

(3) Adjustments

In providing information on retail prices under this section, the Secretary may make adjustments to take into account differences in—

(A) the geographic location of consumption;

(B) the location of the principal source of supply;

(C) distribution costs; and

(D) such other factors as the Secretary determines reflect a verifiable comparative retail price for a representative food product.

(e) Administration

The Secretary—

(1) shall collect information under this section only on a voluntary basis; and

(2) shall not impose a penalty on a person for failure to provide the information or otherwise compel a person to provide the information.