

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.

**(c) Additional powers**

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 46 and 48 through 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this chapter and to any person subject to the provisions of this chapter, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States.

(Pub. L. 96-468, § 8, Oct. 17, 1980, 94 Stat. 2232.)

**§ 3808. Cooperation with States**

In order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of this chapter and State laws and regulations relating to the feeding of garbage to swine, the Secretary is authorized to enter into cooperative agreements with State departments of agriculture and other State agencies charged with the administration and enforcement of such State laws and regulations and to provide that any such State agency