

## EFFECTIVE DATE

See section 1610 of this title.

**§ 1598. Notice of intention to prosecute**

Before any violation of this chapter is reported by the Secretary of Agriculture to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present<sup>1</sup> his views, either orally or in writing, with regard to such contemplated proceeding.

(Aug. 9, 1939, ch. 615, title IV, § 408, 53 Stat. 1286.)

## EFFECTIVE DATE

See section 1610 of this title.

**§ 1599. Cease and desist proceedings****(a) Hearing**

Whenever the Secretary of Agriculture has reason to believe that any person has violated or is violating any of the provisions of this chapter or the rules and regulations made and promulgated thereunder, he shall cause a complaint in writing to be served upon the person, stating his charges in that respect, and requiring the person to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the person a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such rules and regulations as the Secretary of Agriculture may prescribe. At any time prior to the close of the hearing the Secretary of Agriculture may amend the complaint; but in case of any amendment adding new provisions the hearing shall, on the request of the person, be adjourned for a period not exceeding fifteen days.

**(b) Report of Secretary of Agriculture**

If, after such hearing, the Secretary of Agriculture finds that the person has violated or is violating any provisions of the chapter or rules and regulations covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the person an order requiring such person to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

**(c) Amendment of report**

Until the record in such hearing has been filed in a court of appeals as provided in section 1600 of this title, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order, in whole or in part.

**(d) Service**

Complaints, orders, and other processes of the Secretary of Agriculture under this section may

be served by anyone duly authorized by the Secretary of Agriculture, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (3) by mailing a copy thereof by registered mail or by certified mail addressed to such person, partnership, or corporation at his or its last known principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said order shall be proof of the same, and the return post-office receipt for said complaint, order, or other process mailed by registered mail or by certified mail as aforesaid shall be proof of the service of the same.

(Aug. 9, 1939, ch. 615, title IV, § 409, 53 Stat. 1287; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 85-791, § 24(a), Aug. 28, 1958, 72 Stat. 949; Pub. L. 86-507, § 1(7), June 11, 1960, 74 Stat. 200.)

## AMENDMENTS

1960—Subsec. (d). Pub. L. 86-507 substituted “mailing a copy thereof by registered mail or by certified mail” for “registering and mailing a copy thereof” and “mailed by registered mail or by certified mail” for “registered and mailed”.

1958—Subsec. (c). Pub. L. 85-791 struck out “a transcript of” before “the record”.

## CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted “court of appeals” for “circuit court of appeals” which appeared in subsec. (c) of this section.

## EFFECTIVE DATE

See section 1610 of this title.

**§ 1600. Appeal to court of appeals**

An order made under section 1599 of this title shall be final and conclusive unless within thirty days after the service the person appeals to the court of appeals for the circuit in which such person resides or has his principal place of business by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such person will pay the costs of the proceedings if the court so directs.

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

At any time after such petition is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from vio-

<sup>1</sup> So in original. Probably should be “present”.