

1956—Subsec. (b). Act July 30, 1956, provided for suspension of licenses, and restricted authority to permit employment to those cases where licenses have been revoked or suspended for failure to pay a reparation award.

1937—Subsec. (a). Act Aug. 20, 1937, among other changes, inserted cl. (a) designation and inserted “or (b) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n(b) of this title” after “section 499b of this title”.

Subsec. (b). Act Aug. 20, 1937, amended subsec. (b) generally.

Subsecs. (c), (d). Act Aug. 20, 1937, added subsecs. (c) and (d).

1934—Subsec. (b). Act Apr. 13, 1934, added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499d of this title.

§ 499i. Accounts, records, and memoranda; duty of licensees to keep; contents; suspension of license for violation of duty

Every commission merchant, dealer, and broker shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. If such accounts, records, and memoranda are not so kept, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(June 10, 1930, ch. 436, § 9, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 559 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499m of this title.

§ 499j. Orders; effective date; continuance in force; suspension, modification and setting aside; penalty

Any order of the Secretary under this chapter other than an order for the payment of money shall take effect within such reasonable time, not less than ten days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, accordingly as it is prescribed in the order, unless such order is suspended, modified, or set aside by the Secretary or is suspended, modified, or set aside by a court of competent jurisdiction. Any such order of the Secretary, if regularly made, shall be final, unless before the date prescribed for its taking effect application is made to a court of competent jurisdiction by the commission merchant, dealer, or broker against whom such order is directed to have such order set aside or its enforcement, operation, or execution suspended or restrained.

(June 10, 1930, ch. 436, § 10, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 560 of this title.

§ 499k. Injunctions; application of injunction laws governing orders of Interstate Commerce Commission

For the purposes of this chapter the provisions of all laws relating to the suspending or restraining of the enforcement, operation, or execution, or the setting-aside, in whole or in part, of the orders of the Interstate Commerce Commission are made applicable to orders of the Secretary under this chapter and to any person subject to the provisions of this chapter.

(June 10, 1930, ch. 436, § 11, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 561 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

§ 499l. Violations; report to Attorney General; proceedings; costs

The Secretary may report any violation of this chapter for which a civil penalty is provided to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay. The costs and expenses of such proceedings shall be paid out of the appropriation for the expenses of the courts of the United States.

(June 10, 1930, ch. 436, § 12, 46 Stat. 536.)

CODIFICATION

Section was formerly classified to section 562 of this title.

§ 499m. Complaints; procedure, penalties, etc.

(a) Investigation by Secretary of Agriculture; inspection of accounts, records, and memoranda; penalty for refusing inspection

The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this chapter, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 499i of this title is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commod-

ity covered by this chapter, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(b) Inspection of records; surety bond; suspension of license

The Secretary or the Secretary's duly authorized agents, in order to insure that the prompt payment provision of section 499b(4) of this title is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding under section 499f(b) of this title to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this chapter and that such commission merchant, dealer, or broker will pay all reparation awards, subject to its right of appeal under section 499g(c) of this title: *Provided*, That if such surety bond is furnished, maintained, and adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda of such commission merchant, dealer, or broker under this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and, by order, suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.

(c) Hearings; subpoenas; oaths; witnesses; evidence

The Secretary, or any officer or employee designated by him for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this chapter.

(d) Disobedience to subpoenas; remedy; contempt

In case of disobedience to a subpoena, the Secretary or any of his examiners may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of accounts, records, and memoranda. Any district court of the United States within the jurisdiction of which any hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring the person to appear before the Secretary or his examiner or to produce accounts, records, and memoranda if so

ordered, or to give evidence touching any matter pertinent to any complaint; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(e) Depositions; production of accounts, records and memoranda

The Secretary may order testimony to be taken by deposition in any proceeding or investigation or incident to any complaint pending under this chapter at any stage thereof. Such depositions may be taken before any person designated by the Secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce accounts, records, and memoranda in the same manner as witnesses may be compelled to appear and testify and produce accounts, records, and memoranda before the Secretary or any of his examiners.

(f) Fees and mileage of witnesses

Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

(June 10, 1930, ch. 436, § 13, 46 Stat. 536; July 30, 1956, ch. 786, § 6, 70 Stat. 727; Pub. L. 91-452, title II, § 205, Oct. 15, 1970, 84 Stat. 928; Pub. L. 95-562, § 3, Nov. 1, 1978, 92 Stat. 2381.)

CODIFICATION

Section was formerly classified to section 563 of this title.

AMENDMENTS

1978—Subsecs. (b) to (f). Pub. L. 95-562 added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

1970—Subsec. (f). Pub. L. 91-452 struck out subsec. (f) which related to immunity from prosecution of any natural person compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1956—Subsec. (a). Act July 30, 1956, permitted inspection of accounts, records and memoranda to determine ownership, control, packer, or State, country, or region of origin in connection with commodity inspection, and to ascertain whether section 499i of this title is being complied with, and to permit inspection of lots of perishable agricultural commodities.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2023 of this title.

§ 499n. Inspection of perishable agricultural commodities

(a) Employment of inspectors; fees and expenses; inspection certificate as evidence

The Secretary is authorized, independently and in cooperation with other branches of the Government, State, or municipal agencies and/or any person, whether operating in one or more jurisdictions, to employ and/or license inspectors to inspect and certify, without regard to the filing of a complaint under this chapter, to any interested person the class, quality, and/or condition of any lot of any perishable agricultural commodity when offered for interstate or foreign shipment or when received at places where the Secretary shall find it practicable to provide such service, under such rules and regulations as he may prescribe, including the payment of such fees and expenses as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That fees for inspections made by a licensed inspector, less the percentage thereof which he is allowed by the terms of his contract of employment with the Secretary as compensation for his services, shall be deposited into the Treasury of the United States as miscellaneous receipts; and fees for inspections made by an inspector acting under a cooperative agreement with a State, municipality, or other person shall be disposed of in accordance with the terms of such agreement: *Provided further*, That expenses for travel and subsistence incurred by inspectors shall be paid by the applicant for inspection to the United States Department of Agriculture to be credited to the appropriation for carrying out the purposes of this chapter: *And provided further*, That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act (7 U.S.C. 1 et seq.), as prima-facie evidence of the truth of the statements therein contained.

(b) Issuance of fraudulent certificates; penalties

Whoever shall falsely make, issue, alter, forge, or counterfeit, or cause or procure to be falsely made, issued, altered, forged, or counterfeited, or willingly aid, cause, procure or assist in, or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate of inspection issued under authority of this chapter, sections 491, 493 to 497 of this title, or any Act making appropriations for the Department of Agriculture; or shall utter or publish as true or cause to be uttered or published as true any such false, forged, altered, or counterfeited certificate, for a fraudulent purpose, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

(June 10, 1930, ch. 436, §14, 46 Stat. 537; Apr. 13, 1934, ch. 120, §15, 48 Stat. 588; Aug. 20, 1937, ch. 719, §12, 50 Stat. 730; Pub. L. 102-237, title X, §1011(7), Dec. 13, 1991, 105 Stat. 1898.)

REFERENCES IN TEXT

The Commodities Exchange Act, referred to in subsec. (a), probably means act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, known as the Commodity Exchange Act, which is classified generally to chapter 1 (§1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

CODIFICATION

Section was formerly classified to section 564 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 substituted “(7 U.S.C. 1 et seq.)” for “(7 U.S.C., Supp. 2, secs. 1 to 17(a))” and a period for semicolon at end.

1937—Act Aug. 20, 1937, designated existing provisions as subsec. (a) and, among other changes inserted “That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act” before “as prima facie” in third proviso, and added subsec. (b).

1934—Act Apr. 13, 1934, inserted “and in all proceedings under this chapter” after “United States” in third proviso.

POTATO INSPECTION

Pub. L. 99-198, title XVII, §1704, Dec. 23, 1985, 99 Stat. 1635, as amended by Pub. L. 104-66, title I, §1011(g), Dec. 21, 1995, 109 Stat. 710, provided that: “The Secretary of Agriculture shall perform random spot checks of potatoes entering through ports of entry in the north-eastern United States.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499h of this title; title 42 section 418.

§ 499o. Rules, regulations, and orders; appointment, removal, and compensation of officers and employees; expenditures; authorization of appropriations; abrogation of inconsistent statutes

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, lawbooks, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, from the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title and any supplements to such fund, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with