tinues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Intentional violations; penalty

Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than $1,000, or imprisoned not more than one year, or both.

(Aug. 15, 1921, ch. 64, title III, § 306, 42 Stat. 164; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94–410 substituted ''livestock'' for ''live stock'' after ''earnings on their''.

§ 208. Unreasonable or discriminatory practices generally; rights of stockyard owner of management and regulation

(a) It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

(b) It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market. Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions.

(Aug. 15, 1921, ch. 64, title III, § 307, 42 Stat. 165; Pub. L. 90–446, § 1(d), July 31, 1968, 82 Stat. 475.)

AMENDMENTS

1968—Pub. L. 90–446 designated existing provisions as subsec. (a) and added subsec. (b).

§ 209. Liability to individuals for violations; enforcement generally

(a) If any person subject to this chapter violates any of the provisions of this chapter, or of any order of the Secretary under this chapter, relating to the purchase, sale, or handling of livestock, the purchase or sale of poultry, or relating to any poultry growing arrangement or swine production contract, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 210 of this title, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

(Aug. 15, 1921, ch. 64, title III, § 308, 42 Stat. 165; Pub. L. 94–410, § 6, Sept. 13, 1976, 90 Stat. 1250; Pub. L. 100–173, § 5, Nov. 23, 1987, 101 Stat. 918; Pub. L. 107–171, title X, § 10502(b)(2)(B), May 13, 2002, 116 Stat. 510.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171 inserted ''or swine production contract'' after ''poultry growing arrangement''.

1987—Subsec. (a). Pub. L. 100–173 inserted ''the purchase or sale of poultry, or relating to any poultry growing arrangement,'' after ''livestock,''.

1976—Subsec. (a). Pub. L. 94–410 struck out references to violations of specific sections and added packers to categories of regulated persons against whom private action could be brought for violation of chapter.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as a note under section 182 of this title.

§ 210. Proceedings before Secretary for violations

(a) Complaint; response; satisfaction or investigation

Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the ''defendant'') in violation of the provisions of this subchapter, or of an order of the Secretary made under this subchapter, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) Complaints forwarded by agencies of a State or Territory

The Secretary, at the request of the livestock commissioner, board of agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subsection (a) of this section.

(c) Inquiries instituted by Secretary

The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this subchapter, or concerning which any question may arise under any of the provisions of this subchapter, or relating to the enforcement of any of the provisions of this subchapter. The Secretary shall have the same power and authority to proceed

with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) Damage to complainant not required

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) Award and payment of damages

If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) Enforcement of orders

If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit.

(Aug. 15, 1921, ch. 64, title III, § 309, 42 Stat. 165; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–410 substituted ''livestock'' for ''live-stock'' after ''request of the''.

§ 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