

persons required to keep records under section 1040 of this title, as he deems appropriate (and in the case of shell egg packers, packing eggs for the ultimate consumer, at least once each calendar quarter) to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of section 1037 of this title, except that the Secretary of Health and Human Services shall cause such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of said Secretaries shall be afforded access to all such places of business for purposes of making the inspections provided for in this chapter.

**(e) Refrigeration and labeling requirements**

(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

(B) contain labeling that indicates that refrigeration is required.

(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.

(Pub. L. 91-597, §5, Dec. 29, 1970, 84 Stat. 1624; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 102-237, title X, §1012(b), Dec. 13, 1991, 105 Stat. 1899.)

AMENDMENTS

1991—Subsec. (e). Pub. L. 102-237 added subsec. (e).

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (d) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 1012(h) of Pub. L. 102-237 provided that: “This section and the amendments made by this section [amending this section and sections 1037, 1041, 1042, 1046,

and 1052 of this title and enacting provisions set out as a note under section 1031 of this title] shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.” [Final regulations were promulgated Aug. 20, 1998, effective Aug. 27, 1999. See 63 F.R. 45663.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1043, 1046, 1052 of this title.

**§ 1035. Sanitary operating practices in official plants**

**(a) Premises, facilities, and equipment**

Each official plant shall be operated in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the Secretary to effectuate the purposes of this chapter, including requirements for segregation and disposition of restricted eggs.

**(b) Refusal by Secretary to inspect nonconforming plants**

The Secretary shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

(Pub. L. 91-597, §6, Dec. 29, 1970, 84 Stat. 1625.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1037 of this title.

**§ 1036. Pasteurization and labeling of egg products at official plants**

**(a) Contents of label**

Egg products inspected at any official plant under the authority of this chapter and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the Secretary, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the Secretary, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the Secretary may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

**(b) False or misleading or use of nonapproved labeling or containers; determination by Secretary; procedures applicable; appeal**

No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the Secretary. If the Secretary has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the labeling or container does not accept the determination of the Secretary,