

any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting exemption under this chapter whenever he deems such action appropriate to effectuate the purposes of this chapter.

(Pub. L. 91-597, §15, Dec. 29, 1970, 84 Stat. 1629; Pub. L. 92-67, Aug. 6, 1971, 85 Stat. 173.)

AMENDMENTS

1971—Subsecs. (b), (c). Pub. L. 92-67 added subsec. (b) and redesignated former subsec. (b) as (c).

§ 1045. Limitation on entry of eggs and egg products and other materials into official plants

The Secretary may limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe to assure that allowing the entry of such articles into such plants will be consistent with the purposes of this chapter.

(Pub. L. 91-597, §16, Dec. 29, 1970, 84 Stat. 1630.)

§ 1046. Imports

(a) Authorization for importation of restricted eggs; prerequisites for importation of egg products; treatment as domestic articles subject to this chapter; marking and labeling exemption for personal consumption

(1) No restricted eggs capable of use as human food shall be imported into the United States except as authorized by regulations of the Secretary.

(2) No egg products capable of use as human food shall be imported into the United States unless they were processed under an approved continuous inspection system of the government of the foreign country of origin or subdivision thereof and are labeled and packaged in accordance with, and otherwise comply with the standards of this chapter and regulations issued thereunder applicable to such articles within the United States.

(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 1034(e) and 1037(c) of this title.

(4) All such imported articles shall upon entry into the United States be deemed and treated as domestic articles subject to the other provisions of this chapter: *Provided*, That they shall be labeled as required by such regulations for imported articles: *Provided further*, That nothing in this section shall apply to eggs or egg products purchased outside the United States by any individual for consumption by him and members of his household and his nonpaying guests and employees.

(b) Terms and conditions for destruction

The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported by the con-

signee within the time fixed therefor by the Secretary or (2) in the case of articles which are not in compliance solely because of misbranding, such articles are brought into compliance with this chapter under supervision of authorized representatives of the Secretary.

(c) Payment of storage, cartage, and labor charges by owner or consignee; liens

All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this chapter by or for such owner or consignee.

(d) Prohibition

The importation of any article contrary to this section is prohibited.

(Pub. L. 91-597, §17, Dec. 29, 1970, 84 Stat. 1630; Pub. L. 102-237, title X, §1012(f), Dec. 13, 1991, 105 Stat. 1901.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-237 designated first sentence as par. (1) and second sentence as par. (2), added par. (3), and designated third sentence as par. (4).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective 12 months after promulgation of final implementing regulations, see section 1012(h) of Pub. L. 102-237, set out as a note under section 1034 of this title.

§ 1047. Refusal or withdrawal of inspection services; hearing; grounds; person deemed to have responsible connection with business; finality of order of Secretary; judicial review; other provisions for refusal of services unaffected

The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter) may refuse to provide or may withdraw inspection service under this chapter with respect to any plant if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this chapter because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any Federal or State court, within the previous ten years, of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected appli-

cant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States court of appeals for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 194 of title 7 shall be applicable to appeals taken under this section.

This section shall not affect in any way other provisions of this chapter for refusal of inspection services.

(Pub. L. 91-597, §18, Dec. 29, 1970, 84 Stat. 1630.)

§ 1048. Administrative detention of violative articles; duration; release; removal of official marks

Whenever any eggs or egg products subject to this chapter, are found by any authorized representative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of this chapter or that they are in any other way in violation of this chapter, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 1049 of this title or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

(Pub. L. 91-597, §19, Dec. 29, 1970, 84 Stat. 1631.)

§ 1049. Seizure and condemnation proceedings

(a) Jurisdiction; disposal of condemned articles; court costs and fees; conformity to supplemental rules for admiralty and maritime claims; jury trial; United States as plaintiff

Any eggs or egg products that are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation, in violation of this chapter, or in any other way are in violation of this chapter; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 1050 of this title within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of the decree, be disposed of by destruction or sale as the court

may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this chapter, the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] or the Fair Packaging and Labeling Act [15 U.S.C. 1451 et seq.], or the laws of the jurisdiction in which they are sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the articles shall not be sold or otherwise disposed of contrary to the provisions of this chapter, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which disposal is made, the court may direct that they be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the articles and they are released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant thereof. The proceedings in such cases shall conform, as nearly as may be, to the supplemental rules for certain admiralty and maritime claims, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(b) Condemnation or seizure under other provisions unaffected

The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this chapter, or other laws.

(Pub. L. 91-597, §20, Dec. 29, 1970, 84 Stat. 1631.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

The Fair Packaging and Labeling Act, referred to in subsec. (a), is Pub. L. 89-755, Nov. 3, 1966, 80 Stat. 1296, as amended, which is classified generally to chapter 39 (§1451 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 15 and Tables.

§ 1050. Jurisdiction of district courts; United States as plaintiff in enforcement and restraining proceedings; subpoenas for witnesses

The United States district courts and the District Court of the Virgin Islands are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this chapter, and shall have jurisdiction in all other cases, arising under this chapter, except as provided in section 1047 of this title. All proceedings for the enforcement or to restrain violations of this chapter shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.