

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.

(Pub. L. 91-597, §21, Dec. 29, 1970, 84 Stat. 1632.)

§ 1051. Other Federal laws applicable for administration and enforcement of chapter; prosecution of inquiries; exercise of jurisdiction

For the efficient administration and enforcement of this chapter, the provisions (including penalties) of sections 46, 48, 49, and 50 of title 15 (except paragraphs (c) through (h) of section 46 and the last paragraph of section 49¹ of title 15), and the provisions of section 409(l)¹ of title 47, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this chapter and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States, and the powers conferred by said sections 49 and 50 of title 15, on the district courts of the United States may be exercised for the purposes of this chapter by any court designated in section 1050 of this title.

(Pub. L. 91-597, §22, Dec. 29, 1970, 84 Stat. 1632.)

REFERENCES IN TEXT

The last paragraph of section 49 of title 15, and the provisions of section 409(l) of title 47, referred to in text, which related to immunity of witnesses, were repealed by sections 211 and 242, respectively, of Pub. L. 91-452, Oct. 15, 1970, title II, 84 Stat. 929, 930. For provisions relating to immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

§ 1052. State or local regulation

(a) Prohibition against additional or different requirements than Federal requirements relating to premises, facilities, and operations at official plants; authority to impose record-keeping and related requirements consistent with Federal requirements

Requirements within the scope of this chapter with respect to premises, facilities, and operations of any official plant which are in addition to or different than those made under this chapter may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 1040 of this title, if consistent therewith, with respect to any such plant.

(b) Prohibition against additional or different standards than Federal standards of quality, etc., or requiring labeling to show area of production or origin; authority to require name, address, and license number of processor or packer on containers; prohibition against additional or different requirements than Federal requirements relating to labeling, packaging or ingredients; authority to prevent distribution of violative articles; validity of nonconflicting laws

For eggs which have moved or are moving in interstate or foreign commerce, (1) no State or local jurisdiction may require the use of standards of quality, condition, weight, quantity, or grade which are in addition to or different from

the official Federal standards, (2) with respect to egg handlers specified in paragraphs (1) and (2) of section 1034(e) of this title, no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3) no State or local jurisdiction other than those in noncontiguous areas of the United States may require labeling to show the State or other geographical area of production or origin: *Provided, however,* That this shall not preclude a State from requiring that the name, address, and license number of the person processing or packaging eggs, be shown on each container. Labeling, packaging, or ingredient requirements, in addition to or different than those made under this chapter, the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] and the Fair Packaging and Labeling Act [15 U.S.C. 1451 et seq.], may not be imposed by any State or local jurisdiction, with respect to egg products processed at any official plant in accordance with the requirements under this chapter and such Acts. However, any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of such a plant and are in violation of any of said Federal Acts or any State or local law consistent therewith. Otherwise the provisions of this chapter shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this chapter.

(c) Applicability of other Federal laws and authority of other Federal officials relating to eggs, egg products, or other food products unaffected; authority of Secretary of Agriculture to regulate official plants processing egg products

The provisions of this chapter shall not affect the applicability of 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 other Federal laws to eggs, egg products, or other food products or diminish any authority conferred on the Secretary of Health and Human Services or other Federal officials by such other laws, except that the Secretary of Agriculture shall have exclusive jurisdiction to regulate official plants processing egg products and operations thereof as to all matters within the scope of this chapter.

(d) Detainer authority

The detainer authority conferred on representatives of the Secretary of Agriculture by section 1048 of this title shall also apply to any authorized representative of the Secretary of Health and Human Services for the purposes of section 1034(d) of this title, with respect to any eggs or egg products that are outside any plant processing egg products.

(Pub. L. 91-597, §23, Dec. 29, 1970, 84 Stat. 1632; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 102-237, title X, §1012(g), Dec. 13, 1991, 105 Stat. 1901.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (b) and (c), is act June 25, 1938, ch. 675, 52

¹ See References in Text note below.