

§ 463. Rules and regulations

(a) Storage and handling of poultry products; violation of regulations

The Secretary may by regulations prescribe conditions under which poultry products capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, or importing, such articles, whenever the Secretary deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited.

(b) Other necessary rules and regulations

The Secretary shall promulgate such other rules and regulations as are necessary to carry out the provisions of this chapter.

(c) Oral presentation of views

In applying the provisions of section 553(c) of title 5 to proposed rule making under this chapter, an opportunity for the oral presentation of views shall be accorded all interested persons.

(Pub. L. 85-172, §14, Aug. 28, 1957, 71 Stat. 447; Pub. L. 90-492, §13, Aug. 18, 1968, 82 Stat. 803.)

AMENDMENTS

1968—Pub. L. 90-492 designated existing provisions as par. (b), added pars. (a) and (c), and in par. (b), as so designated, substituted “such other rules” for “such rules”.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

§ 464. Exemptions

(a) Persons exempted

The Secretary shall, by regulation and under such conditions as to sanitary standards, practices, and procedures as he may prescribe, exempt from specific provisions of this chapter—

(1) retail dealers with respect to poultry products sold directly to consumers in individual retail stores, if the only processing operation performed by such retail dealers is the cutting up of poultry products on the premises where such sales to consumers are made;

(2) for such period of time as the Secretary determines that it would be impracticable to provide inspection and the exemption will aid in the effective administration of this chapter, any person engaged in the processing of poultry or poultry products for commerce and the poultry or poultry products processed by such person: *Provided, however*, That no such exemption shall continue in effect on and after January 1, 1970; and

(3) persons slaughtering, processing, or otherwise handling poultry or poultry products which have been or are to be processed as required by recognized religious dietary laws, to the extent that the Secretary determines necessary to avoid conflict with such requirements while still effectuating the purposes of this chapter.

(b) Territorial exemption

The Secretary may, under such sanitary conditions as he may by regulations prescribe, ex-

empt from the inspection requirements of this chapter the slaughter of poultry, and the processing of poultry products, by any person in any Territory not organized with a legislative body, solely for distribution within such Territory, when the Secretary determines that it is impracticable to provide such inspection within the limits of funds appropriated for administration of this chapter and that such exemption will aid in the effective administration of this chapter.

(c) Personal slaughtering; custom slaughtering; name and address of the poultry producer or processor in lieu of other labeling requirements; small enterprises; slaughterers or processors of specified number of turkeys; poultry producers raising poultry on own farms

(1) The Secretary shall, by regulation and under such conditions, including sanitary standards, practices, and procedures, as he may prescribe, exempt from specific provisions of this chapter—

(A) the slaughtering by any person of poultry of his own raising, and the processing by him and transportation in commerce of the poultry products exclusively for use by him and members of his household and his non-paying guests and employees;

(B) the custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation in commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees: *Provided*, That such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food;

(C) the slaughtering and processing of poultry products in any State or Territory or the District of Columbia by any poultry producer on his own premises with respect to sound and healthy poultry raised on his premises and the distribution by any person solely within such jurisdiction of the poultry products derived from such operations, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of such poultry producer, and if they are not otherwise misbranded, and are sound, clean, and fit for human food when so distributed; and

(D) the slaughtering of sound and healthy poultry or the processing of poultry products of such poultry in any State or territory or the District of Columbia by any poultry producer or other person for distribution by him solely within such jurisdiction directly to household consumers, restaurants, hotels, and boarding houses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of the processor, and if they are not otherwise misbranded and are sound, clean, and fit for human food when distributed by such processor.

The exemptions provided for in clauses (C) and (D) above shall not apply if the poultry producer

or other person engages in the current calendar year in the business of buying or selling any poultry or poultry products other than as specified in such clauses.

(2) In addition to the specific exemptions provided herein, the Secretary shall, when he determines that the protection of consumers from adulterated or misbranded poultry products will not be impaired by such action, provide by regulation, consistent with subparagraph (3), for the exemption of the operation and products of small enterprises (including poultry producers), not exempted under subparagraph (1), which are engaged in any State or Territory or the District of Columbia in slaughtering and/or cutting up poultry for distribution as carcasses or parts thereof solely for distribution within such jurisdiction, from such provisions of this chapter as he deems appropriate, while still protecting the public from adulterated or misbranded products, under such conditions, including sanitary requirements, as he shall prescribe to effectuate the purposes of this chapter.

(3) No exemption under subparagraph (1)(C) or (D) or subparagraph (2) shall apply to any poultry producer or other person who, in the current calendar year—

(A) slaughters or processes the products of more than 20,000 poultry; or

(B) slaughters or processes the products of poultry at a facility used for slaughtering or processing of the products of poultry by any other poultry producer or person.

Notwithstanding clause (B), the Secretary may grant such exemption to any poultry producer or other person if the Secretary determines, upon application of such poultry producer or other person, that granting such exemption will not impair effectuating the purposes of this chapter.

(4) The provisions of this chapter shall not apply to poultry producers with respect to poultry of their own raising on their own farms if (i) such producers slaughter not more than 1,000 poultry during the calendar year for which this exemption is being determined; (ii) such poultry producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms; and (iii) none of such poultry moves in commerce (as defined in section 453(a) of this title).

(d) Pizzas containing poultry products

(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under this section that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a poultry product from the inspection requirements of this chapter if—

(A) the poultry product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this chapter; and

(B) the pizzas are to be served in public or private nonprofit institutions.

(2) The Secretary may withdraw or modify any exemption under this subsection whenever the

Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.

(e) Applicability of adulteration and misbranding provisions to articles exempted from inspection

The adulteration and misbranding provisions of this chapter, other than the requirement of the inspection legend, shall apply to articles which are exempted from inspection under this section, except as otherwise specified under paragraphs (a) and (d).

(f) Suspension or termination of exemption

The Secretary may by order suspend or terminate any exemption under this section with respect to any person whenever he finds that such action will aid in effectuating the purposes of this chapter.

(Pub. L. 85-172, §15, Aug. 28, 1957, 71 Stat. 447; Pub. L. 90-492, §14, Aug. 18, 1968, 82 Stat. 803; Pub. L. 97-206, June 30, 1982, 96 Stat. 136; Pub. L. 102-237, title X, §1016(b), Dec. 13, 1991, 105 Stat. 1903.)

AMENDMENTS

1991—Subsecs. (d) to (f). Pub. L. 102-237 added subsec. (d), redesignated former subsec. (d) as (e) and substituted “(d)” for “(c)”, and redesignated former subsec. (e) as (f).

1982—Par. (c)(3). Pub. L. 97-206, §1, substituted provisions that no exemption would be given to persons who during the current calendar year either slaughter or process the products of more than 20,000 poultry, or slaughter or process such poultry at a facility of another poultry producer or person, but that, in the latter case, the Secretary may grant the exemption upon application of such poultry producer or person if granting such exemption would not impair the purposes of this chapter, for provisions that an exemption would not be granted to those who slaughter or process the products of more than 5,000 turkeys or an equivalent number of poultry of all species in the current calendar year (four birds of other species being deemed equivalent of one turkey).

Par. (c)(4)(i). Pub. L. 97-206, §2, substituted “1,000 poultry during the calendar year for which this exemption is being determined” for “250 turkeys, or not more than an equivalent number of birds of all species during the calendar year for which this exemption is being determined (four birds of other species being deemed the equivalent of one turkey)”.

1968—Par. (a). Pub. L. 90-492, §14(a), (b), redesignated subpars. (2) to (4) as (1) to (3), respectively, and in subpar. (2), as so redesignated, substituted “January 1, 1970” for “July 1, 1960”. Former subpar. (1), which exempted poultry producers with respect to poultry of their own raising on their own farms which they sold directly to household consumers, hotels, etc., for use in their own dining rooms or in the preparation of meals for sales direct to consumers only, provided that such producers did not engage in buying or selling poultry products other than those produced from poultry raised on their own farms, was struck out.

Pars. (b) to (e). Pub. L. 90-492, §14(c), added pars. (b) to (d) and redesignated former par. (b) as (e).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective upon the expiration of sixty days after Aug. 18, 1968, see section 20(b) of Pub. L. 90-492, set out as a note under section 451 of this title.