

(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.)

§ 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, such person may request a hearing, but the use of the labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 194 of title 7,¹ shall be applicable to appeals taken under this section.

(Pub. L. 91-597, § 7, Dec. 29, 1970, 84 Stat. 1625.)

§ 1037. Prohibited acts

(a)(1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business in commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the Sec-

retary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for commerce except that such eggs may be so possessed and used when authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(b)(1) No person shall process any egg products for commerce at any plant except in compliance with the requirements of this chapter.

(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in commerce any egg products required to be inspected under this chapter unless they have been so inspected and are labeled and packaged in accordance with the requirements of section 1036 of this title.

(3) No operator of any official plant shall fail to comply with any requirements of section 1035(a) of this title or the regulations thereunder.

(4) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.

(d) No person shall violate any provision of section 1039, 1040 or 1046 of this title.

(e) No person shall—

(1) manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary;

(2) forge or alter any official device, mark, or certificate;

(3) without authorization from the Secretary, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under section 1036 of this title after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section;

(4) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(5) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make any false statement in any shipper's certificate or other nonofficial

¹ So in original. The comma probably should not appear.