

under the supervision of an inspector: *Provided*, That carcasses, parts, and products, which may by reprocessing be made not adulterated, need not be so condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the carcasses, parts, or products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained the carcasses, parts, and products shall be destroyed for human food purposes under the supervision of an inspector.

(Pub. L. 85-172, § 6, Aug. 28, 1957, 71 Stat. 443; Pub. L. 90-492, § 6, Aug. 18, 1968, 82 Stat. 798.)

#### AMENDMENTS

1968—Par. (a). Pub. L. 90-492, § 6(a), substituted “of, or the burdening of commerce by, any poultry product which is capable of use as human food and is adulterated,” for “or a designated major consuming area of any poultry product which is unwholesome or adulterated,” “each official establishment” for “any official establishment”, and “otherwise subject to inspection under this chapter” for “in, or for marketing in a designated city or area”.

Par. (b). Pub. L. 90-492, § 6(b), substituted “segregation, and reinspection” for “segregation, reinspection”, and “otherwise subject to inspection under this chapter” for “in, or for marketing in a designated city or area”, and inserted “capable of use as human food” after “necessary of poultry and poultry products”.

Par. (c). Pub. L. 90-492, § 6(c), inserted “other” before “poultry products”, and substituted “to be adulterated” for “to be unwholesome or adulterated”, “made not adulterated” for “made not unwholesome and not adulterated”, and “to be not adulterated” for “to be not unwholesome and not adulterated”.

#### 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.

#### APPLICABILITY OF CHAPTER REQUIREMENTS TO BIRDS OF THE ORDER RATITAE

Pub. L. 106-387, § 1(a) [title VII, § 752], Oct. 28, 2000, 114 Stat. 1549, 1549A-41, provided that: “Effective 180 days after the date of the enactment of this Act [Oct. 28, 2000] and continuing for the remainder of fiscal year 2001 and each subsequent fiscal year, establishments in the United States that slaughter or process birds of the order Ratitae, such as ostriches, emus and rheas, and squab, for distribution in commerce as human food shall be subject to the ante mortem and post mortem inspection, reinspection, and sanitation requirements of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) rather than the voluntary poultry inspection program of the Department of Agriculture under section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622).”

### § 456. Operation of premises, facilities and equipment

#### (a) Sanitary practices

Each official establishment slaughtering poultry or processing poultry products for commerce or otherwise subject to inspection under this chapter shall have such premises, facilities, and equipment, and be operated in accordance with such sanitary practices, as are required by regu-

lations promulgated by the Secretary for the purpose of preventing the entry into or flow or movement in commerce or burdensome effect upon commerce, of poultry products which are adulterated.

#### (b) Refusal of inspection

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

(Pub. L. 85-172, § 7, Aug. 28, 1957, 71 Stat. 444; Pub. L. 90-492, § 7, Aug. 18, 1968, 82 Stat. 799.)

#### AMENDMENTS

1968—Par. (a). Pub. L. 90-492 substituted “otherwise subject to inspection under this chapter” for “in or for marketing in a designated major consuming area”, “burdensome effect upon commerce” for “in a designated major consuming area”, and “which are adulterated” for “which are unwholesome or adulterated”.

#### 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.

### § 457. Labeling and container standards

#### (a) Requirements for shipping containers and immediate containers; nonconsumer packaged carcasses

All poultry products inspected at any official establishment under the authority of this chapter and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, on their shipping containers and immediate containers as the Secretary may require, the information required under paragraph (h) of section 453 of this title. In addition, the Secretary whenever he determines such action is practicable and necessary for the protection of the public, may require nonconsumer packaged carcasses at the time they leave the establishment to bear directly thereon in distinctly legible form any information required under such paragraph (h).

#### (b) Labeling requirements; definitions and standards of identity or composition or articles and standards of fill of container; standards consistent with Federal Food, Drug, and Cosmetic Act; consistency between Federal and State standards

The Secretary, whenever he determines such action is necessary for the protection of the public, may prescribe: (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling in marketing and labeling any articles or poultry subject to this chapter; (2) definitions and standards of identity or composition or articles subject to this chapter and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], and there shall be consultation between the Secretary and the Secretary of Health and Human Services prior to the issuance of such standards under either Act relating to articles subject to this chapter to avoid inconsistency in such standards and possible impairment of the coordinated ef-

fective administration of this chapter and the Federal Food, Drug, and Cosmetic Act. There shall also be consultation between the Secretary and an appropriate advisory committee provided for in section 454 of this title, prior to the issuance of such standards under this chapter, to avoid, insofar as feasible, inconsistency between Federal and State standards.

**(c) Use of trade names; false or misleading marking or labeling; misleading form or size of container**

No article subject to this chapter shall be sold or offered for sale by any person in commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Secretary are permitted.

**(d) Withholding use of false or misleading mark, label, or container size or form; modification; hearing; conclusiveness of determination; appeal**

If the Secretary has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this chapter is false or misleading in any particular, he may direct that such use be withheld unless the marking, 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 marketing, labeling, or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the marking, 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 shall be applicable to appeals taken under this section.

(Pub. L. 85-172, §8, Aug. 28, 1957, 71 Stat. 444; Pub. L. 90-492, §8, Aug. 18, 1968, 82 Stat. 799; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in par. (b), 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.

AMENDMENTS

1968—Par. (a). Pub. L. 90-492 substituted provisions requiring shipping containers and immediate containers, as the Secretary may order, to bear the information required under section 453(h) of this title, and provisions, whenever the Secretary determines such action to be practicable and necessary, requiring nonconsumer packaged carcasses at the time they leave the official

establishment to bear the information required under the aforementioned section, for provisions requiring shipping containers to bear the official mark and the approved plant number of the official establishment in which the contents were processed, provisions requiring immediate containers to bear the official inspection mark, the name of the product, a statement of ingredients, the net weight or other appropriate measure of the contents, the name and address of the processor, and the approved plant number of the official establishment in which the contents were processed, and provisions authorizing the Secretary to make reasonable variations and grant exemptions from the foregoing labeling requirements.

Par. (b). Pub. L. 90-492 added par. (b). Provisions of former par. (b) were redesignated as pars. (c) and (d).

Par. (c). Pub. L. 90-492 redesignated part of provisions of former par. (b) as (c) and made changes in phraseology.

Par. (d). Pub. L. 90-492 redesignated part of provisions of former par. (b) as (d) and extended the authority of the Secretary to withhold from use products which have false or misleading markings or containers.

CHANGE OF NAME

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

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.

**§ 458. Prohibited acts**

(a) No person shall—

(1) slaughter any poultry or process any poultry products which are capable of use as human food at any establishment processing any such articles for commerce, except in compliance with the requirements of this chapter;

(2) sell, transport, offer for sale or transportation, or receive for transportation, in commerce, (A) any poultry products which are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (B) any poultry products required to be inspected under this chapter unless they have been so inspected and passed;

(3) do, with respect to any poultry products which are capable of use as human food, any act while they are being transported in commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such products to be adulterated or misbranded;

(4) sell, transport, offer for sale or transportation, or receive for transportation, in commerce or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Secretary, except as may be authorized by regulations of the Secretary;

(5) use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in any judicial proceed-