

establishment, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this chapter.

(Pub. L. 85-172, §16, Aug. 28, 1957, 71 Stat. 448; Pub. L. 90-492, §15, Aug. 18, 1968, 82 Stat. 805.)

#### AMENDMENTS

1968—Pub. L. 90-492 substituted provisions authorizing the Secretary to limit the entry of poultry products and other materials into any official establishment for provisions that any person distributing unwholesome or adulterated exempted poultry or poultry products intended for human consumption shall be guilty of a misdemeanor and subject to penalties upon conviction thereof.

#### 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.

### § 466. Imports

#### (a) Compliance with standards and regulations; status after importation

No slaughtered poultry, or parts or products thereof, of any kind shall be imported into the United States unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient which renders them unhealthful, unwholesome, adulterated, or unfit for human food and unless they also comply with the rules and regulations made by the Secretary of Agriculture to assure that imported poultry or poultry products comply with the standards provided for in this chapter. All imported, slaughtered poultry, or parts or products thereof, shall after entry into the United States in compliance with such rules and regulations be deemed and treated as domestic slaughtered poultry, or parts or products thereof, within the meaning and subject to the provisions of this chapter and the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], and Acts amendatory of, supplemental to, or in substitution for such chapter and Act.

#### (b) Rules and regulations; destruction and exportation of refused imports

The Secretary of Agriculture is authorized to make rules and regulations to carry out the purposes of this section and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all slaughtered poultry, or parts or products thereof, offered for entry and refused admission into the United States unless such slaughtered poultry, or parts or products thereof, be exported by the consignee within the time fixed therefor in such rules and regulations.

#### (c) Storage, cartage and labor charges for imports refused admission

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

#### (d) Domestic standards and processing facilities applicable; enforcement

(1) Notwithstanding any other provision of law, all poultry, or parts or products of poultry, capable of use as human food offered for importation into the United States shall—

(A) be subject to inspection, sanitary, quality, species verification, and residue standards that achieve a level of sanitary protection equivalent to that achieved under United States standards; and

(B) have been processed in facilities and under conditions that achieve a level of sanitary protection equivalent to that achieved under United States standards.

(2)(A) The Secretary may treat as equivalent to a United States standard a standard of an exporting country described in paragraph (1) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies determined appropriate by the Secretary, to demonstrate that the standard of the exporting country achieves the level of sanitary protection achieved under the United States standard. For the purposes of this subsection, the term “sanitary protection” means protection to safeguard public health.

(B) The Secretary may—

(i) determine, on a scientific basis, that the standard of the exporting country does not achieve the level of protection that the Secretary considers appropriate; and

(ii) provide the basis for the determination in writing to the exporting country on request.

(3) Any such imported poultry article that does not meet such standards shall not be permitted entry into the United States.

(4) The Secretary shall enforce this subsection through—

(A) random inspections for such species verification and for residues; and

(B) random sampling and testing of internal organs and fat of carcasses for residues at the point of slaughter by the exporting country, in accordance with methods approved by the Secretary.

(Pub. L. 85-172, §17, Aug. 28, 1957, 71 Stat. 448; Pub. L. 99-198, title XVII, §1701(a), Dec. 23, 1985, 99 Stat. 1633; Pub. L. 103-182, title III, §361(e), Dec. 8, 1993, 107 Stat. 2123; Pub. L. 103-465, title IV, §431(k), Dec. 8, 1994, 108 Stat. 4969.)

#### 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.

#### AMENDMENTS

1994—Subsec. (d)(1). Pub. L. 103-465, §431(k)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Notwithstanding any other provision of law, except as provided in paragraph (2), all poultry, or parts or products thereof, capable of use as human food offered for importation into the United States shall—

“(A) be subject to the same inspection, sanitary, quality, species verification, and residue standards

applied to products produced in the United States; and

“(B) have been processed in facilities and under conditions that are the same as those under which similar products are processed in the United States.”

Subsec. (d)(2)(A), Pub. L. 103-465, §431(k)(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Notwithstanding any other provision of law, all poultry, or parts or products of poultry, capable of use as human food offered for importation into the United States from Canada and Mexico shall—

“(i) comply with paragraph (1); or

“(ii)(I) be subject to inspection, sanitary, quality, species verification, and residue standards that are equivalent to United States standards; and

“(II) have been processed in facilities and under conditions that meet standards that are equivalent to United States standards.”

Subsec. (d)(2)(B), (C), Pub. L. 103-465, §431(k)(2)(B), (C), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “The Secretary may treat as equivalent to a United States standard a standard of Canada or Mexico described in subparagraph (A)(ii) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies agreed to by the Secretary and the exporting country, to demonstrate that the standard of the exporting country achieves the level of protection that the Secretary considers appropriate.”

1993—Subsec. (d), Pub. L. 103-182, in par. (1), inserted “except as provided in paragraph (2),” before “all poultry” in introductory provisions, added par. (2), and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1985—Par. (d), Pub. L. 99-198 added par. (d).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective, except as otherwise provided, on the date of entry into force of the World Trade Organization Agreement with respect to the United States [Jan. 1, 1995], see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 1701(b) of Pub. L. 99-198 proved that: “The amendment made by this section [amending this section] shall become effective 6 months after the date of enactment of this Act [Dec. 23, 1985].”

### § 467. Inspection services

#### (a) Refusal or withdrawal; hearing; business unfitness based upon certain convictions; persons responsibly connected with the business

The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter) refuse to provide, or withdraw, inspection service under this chapter with respect to any establishment 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 upon 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, extor-

tion, 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 paragraph a person shall be deemed to be responsibly connected with the business if he was 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.

#### (b) Hearing to determine validity of withdrawal or refusal of inspection services; continuation of withdrawal or refusal

Upon the withdrawal of inspection service from any official establishment for failure to destroy condemned poultry products as required under section 455 of this title, or other failure of an official establishment to comply with the requirements as to premises, facilities, or equipment, or the operation thereof, as provided in section 456 of this title, or the refusal of inspection service to any applicant therefor because of failure to comply with any requirements under section 456 of this title, the applicant for, or recipient of, the service shall, upon request, be afforded opportunity for a hearing with respect to the merits or validity of such action; but such withdrawal or refusal shall continue in effect unless otherwise ordered by the Secretary.

#### (c) Finality and conclusiveness of determination; judicial review; record

The determination and order of the Secretary when made after opportunity for hearing, with respect to withdrawal or refusal of inspection service under this chapter shall be final and conclusive unless the affected applicant 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 as provided in section 457 of this title. 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.

(Pub. L. 85-172, §18, Aug. 28, 1957, 71 Stat. 448; Pub. L. 90-492, §16, Aug. 18, 1968, 82 Stat. 805.)

#### AMENDMENTS

1968—Par. (a), Pub. L. 90-492 substituted provisions authorizing the Secretary to refuse or withdraw inspection services subsequent to a hearing determining that the applicant or recipient is unfit to engage in any business requiring inspection under this chapter based upon the specified considerations, for provisions granting the Secretary exclusive jurisdiction within the scope of this chapter and exempting poultry and poultry products from the provisions of the Federal Food, Drug, and Cosmetic Act, as amended, to the extent of the application or the extension thereof of the provisions of this chapter.

Par. (b), Pub. L. 90-492 substituted provisions granting a hearing, upon request by the applicant or recipient, to determine the merits and validity of the withdrawal or refusal of inspection services and continuing such withdrawal or refusal in effect, unless otherwise ordered by the Secretary, for provisions authorizing the Secretary to cooperate with other branches of government and with State agencies and to conduct examinations, investigations, and inspections through any officer or employee of a State commissioned by the Secretary for such purpose.

Par. (c), Pub. L. 90-492 added par. (c).