

retary of Health and Human Services to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this chapter shall be construed as requiring the Secretary of Agriculture or Secretary of Health and Human Services to report for criminal prosecution violations of this chapter whenever he believes that the public interest will be adequately served and compliance with this chapter obtained by a suitable written notice of warning or an action to assess civil penalties.

(Pub. L. 91-597, §13, Dec. 29, 1970, 84 Stat. 1628; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 102-237, title X, §1012(e), Dec. 13, 1991, 105 Stat. 1900.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91-597, Dec. 29, 1970, 84 Stat. 1620, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1031 of this title and Tables.

#### AMENDMENTS

1991—Pub. L. 102-237 inserted "or an action to assess civil penalties" before period at end.

#### CHANGE OF NAME

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

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-237 effective 12 months after promulgation of final implementing regulations, see section 1012(h) of Pub. L. 102-237, set out as a note under section 1034 of this title.

### § 1043. Rules and regulations; administration and enforcement

The Secretary shall promulgate such rules and regulations as he deems necessary to carry out the purposes or provisions of this chapter, and shall be responsible for the administration and enforcement of this chapter except as otherwise provided in section 1034(d) of this title.

(Pub. L. 91-597, §14, Dec. 29, 1970, 84 Stat. 1629.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91-597, Dec. 29, 1970, 84 Stat. 1620, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1031 of this title and Tables.

### § 1044. Exemption of certain activities

#### (a) Regulation for exemptions

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

(1) the sale, transportation, possession, or use of eggs which contain no more restricted

eggs than are allowed by the tolerance in the official standards of United States consumer grades for shell eggs;

(2) the processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the Secretary, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of United States consumer grades for shell eggs, and the egg products processed at such plant;

(3) the sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(4) the processing of egg products by any poultry producer from eggs of his own flocks' production for sale of such products directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the egg products so processed when handled in accordance with this paragraph;

(5) the sale of eggs by shell egg packers on his own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(6) for such period of time (not to exceed two years) during the initiation of operations under this chapter as the Secretary determines that it is impracticable to provide inspection, the processing of egg products at any class of plants and the egg products processed at such plants; and

(7) the sale of eggs by any egg producer with an annual egg production from a flock of three thousand or less hens.

#### (b) Plants located in noncontiguous areas of United States

The Secretary shall, by regulation and under such procedures as he may prescribe, exempt any plant located within noncontiguous areas of the United States from specific provisions of this chapter, where, despite good faith efforts by the owner of such plant, such owner has not been able to bring his plant into full compliance with this chapter: *Provided*, That in order to provide at least minimum standards for the protection of the public health, whenever processing operations are being conducted at any such plant, continuous inspection shall be maintained to assure that it is operated in a sanitary manner. No exemption under this subsection shall be granted for a period extending beyond December 31, 1971.

#### (c) Suspension or termination of exemptions

The Secretary may immediately suspend or terminate any exemption under subsection (a)(2) or (6) of this section at any time with respect to any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting ex-