

the Secretary may cooperate, provisions authorizing the Secretary to designate states as subject to the regulatory provisions of this chapter when the requirements of the specified section have not been complied with or when the specified intrastate activities are present, provisions exempting from the requirements of this chapter operations of the types traditionally and usually conducted at retail stores and restaurants, provisions authorizing the Secretary to terminate the aforementioned designation of states as subject to the regulatory provisions of this chapter, and provisions authorizing the Secretary to review the operations in nondesignated states and make an annual report thereon, for provisions authorizing the Secretary, upon application by any appropriate state or local official or agency or by any appropriate local poultry industry group and after public hearing, to designate major consuming areas as subject to the regulatory provisions of this chapter where the Secretary finds that poultry or poultry products are handled or consumed in such volume as to affect, burden or obstruct the movement of inspected poultry products in interstate commerce.

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.

**§ 455. Inspection in official establishments**

**(a) Ante mortem inspection**

For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any poultry product which is capable of use as human food and is adulterated, the Secretary shall, where and to the extent considered by him necessary, cause to be made by inspectors ante mortem inspection of poultry in each official establishment processing poultry or poultry products for commerce or otherwise subject to inspection under this chapter.

**(b) Post mortem inspection; quarantine, segregation, and reinspection**

The Secretary, whenever processing operations are being conducted, shall cause to be made by inspectors post mortem inspection of the carcass of each bird processed, and at any time such quarantine, segregation, and reinspection as he deems necessary of poultry and poultry products capable of use as human food in each official establishment processing such poultry or poultry products for commerce or otherwise subject to inspection under this chapter.

**(c) Condemnation; appeal; reprocessing**

All poultry carcasses and parts thereof and other poultry products found to be adulterated shall be condemned and shall, if no appeal be taken from such determination of condemnation, be destroyed for human food purposes 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 deter-

mination 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 regulations 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 marking 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 effective 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 marking, 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).