

Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

§ 227. Powers of Federal Trade Commission and Secretary of Agriculture

(a) Omitted

(b) Jurisdiction of Federal Trade Commission

The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this chapter is made subject to the power or jurisdiction of the Secretary, as follows:

(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, or livestock products in unmanufactured form, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this chapter involving the same subject matter.

(3) Over all transactions in commerce in margarine, oleomargarine, or poultry products and over retail sales of meat, meat food products and livestock products in unmanufactured form.

(c) Limitation of Federal Trade Commission jurisdiction

The Federal Trade Commission shall have no power or jurisdiction over any matter which by this chapter is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section.

(d) Jurisdiction of Secretary of Agriculture except for poultry products

The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged

violation of this chapter, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, or poultry other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form, if the Commission within 10 days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

(e) Jurisdiction of Secretary of Agriculture regarding poultry products

The Secretary of Agriculture shall exercise jurisdiction over poultry products only in a proceeding brought under section 197 of this title or section 228b-1 of this title when such action is necessary to avoid impairment of his jurisdiction.

(f) Information to be included in annual reports

The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (b), (d), and (e) of this section.

(Aug. 15, 1921, ch. 64, title IV, §406, 42 Stat. 169; Pub. L. 85-909, §1(2), Sept. 2, 1958, 72 Stat. 1749; Pub. L. 100-173, §7, Nov. 23, 1987, 101 Stat. 919; Pub. L. 102-237, title X, §1008(2), Dec. 13, 1991, 105 Stat. 1898.)

CODIFICATION

Subsection (a) of section 406 is classified to section 226 of this title.

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102-237 struck out comma after “unmanufactured form.”

1987—Subsec. (b)(2). Pub. L. 100-173, §7(1)(A)(ii), which directed insertion of “or” before “livestock products in unmanufactured form.” was executed by making insertion before “livestock products in unmanufactured form.” as the probable intent of Congress.

Pub. L. 100-173, §7(1)(A)(i), struck out “or poultry products” after “in unmanufactured form.”

Subsec. (b)(3). Pub. L. 100-173, §7(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.”

Subsec. (d). Pub. L. 100-173, §7(2), amended subsec. (d) generally, striking out reference to poultry products in two places and substituting “10 days” for “ten days”.

Subsec. (e). Pub. L. 100-173, §7(3), (4), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 100-173, §7(3), (5), redesignated former subsec. (e) as (f) and substituted “subsections (b), (d), and (e)” for “subsections (b) and (d)”.

1958—Pub. L. 85-909 substituted subsections (b) to (e) for former provisions providing that Federal Trade Com-

mission shall have no power or jurisdiction over matters within jurisdiction of Secretary of Agriculture except when Secretary requests Commission to make investigations and reports in any case, which were incorporated in subsecs. (b)(1) and (c).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as a note under section 182 of this title.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of such Commission by 1950 Reorg. Plan No. 8, §1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

CONSTRUCTION OF 1987 AMENDMENTS

Pub. L. 100-173, §11, Nov. 23, 1987, 101 Stat. 922, provided that:

“(a) **GENERAL RULE.**—The amendments made by this Act [see Short Title of 1987 Amendment note set out under section 181 of this title] to the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.], shall not be construed to limit or otherwise affect the power or jurisdiction of the Federal Trade Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] to prevent the use of—

“(1) unfair methods of competition in or affecting commerce, and

“(2) unfair and deceptive acts or practices in or affecting commerce, involving poultry products.

“(b) **SECRETARY'S AUTHORITY.**—Subsection (a) shall not be construed to limit or otherwise affect the authority of the Secretary of Agriculture under section 406(e), as amended, of the Packers and Stockyards Act, 1921 [7 U.S.C. 227(e)].”

§ 228. Authority of Secretary

(a) Rules, regulations, and expenditures; appropriations

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(b) Deductions from proceeds for financing promotional, educational, and research activities

Notwithstanding any other provision of law, the authority of the Secretary under this chapter shall not apply to deductions made from sales proceeds for the purpose of financing promotion and research activities, including edu-

cational activities relating to livestock, meat, and other products covered by the chapter.

(c) Budget estimate; testimony of Secretary before Congressional committees

On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in this chapter.

(d) Development and promulgation of rules governing hearings

The Secretary shall, not later than sixty days after September 13, 1976, prescribe and implement rules to assure that any hearing from which any order may issue under this chapter or any hearing the expenses of which are paid from funds authorized to be appropriated under this chapter shall—

(1) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

(2) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

(3) if such hearing concerns a single State or the residents thereof, be held within such State.

(e) Definitions

For the purposes of subsection (d)—

(1) the term “unit of local government” means a county, municipality, town, township, village, or other unit of general government below the State level; and

(2) the term “geographic area within a State” means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(Aug. 15, 1921, ch. 64, title IV, §407, 42 Stat. 169; Pub. L. 85-909, §4, Sept. 2, 1958, 72 Stat. 1750; Pub. L. 88-61, July 8, 1963, 77 Stat. 79; Pub. L. 94-410, §11, Sept. 13, 1976, 90 Stat. 1252; Pub. L. 103-354, title II, §293(b), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 103-437, §4(a)(2), Nov. 2, 1994, 108 Stat. 4581.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-354, §293(b)(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce subchapter II of this chapter.”

Subsec. (c). Pub. L. 103-437, which directed the amendment of subsec. (d) by substituting “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”, was executed by making the amendment to subsec. (c) to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (c) by Pub. L. 103-354. See below.

Pub. L. 103-354, §293(b)(2), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsecs. (d) to (f). Pub. L. 103-354, §293(b)(2), (3), redesignated subsecs. (d) to (f) as (c) to (e), respectively,