

§ 1047. Refusal or withdrawal of inspection services; hearing; grounds; person deemed to have responsible connection with business; finality of order of Secretary; judicial review; other provisions for refusal of services unaffected

The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter) may refuse to provide or may withdraw inspection service under this chapter with respect to any plant 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 under 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, extortion, 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 section, a person shall be deemed to be responsibly connected with the business if he is 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.

The determination and order of the Secretary with respect thereto under this section 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 for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. 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.

This section shall not affect in any way other provisions of this chapter for refusal of inspection services.

(Pub. L. 91-597, §18, Dec. 29, 1970, 84 Stat. 1630.)

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.

EFFECTIVE DATE

For effective date of this section, see section 29 of Pub. L. 91-597, set out as a note under section 1031 of this title.

§ 1048. Administrative detention of violative articles; duration; release; removal of official marks

Whenever any eggs or egg products subject to this chapter, are found by any authorized rep-

resentative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of this chapter or that they are in any other way in violation of this chapter, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 1049 of this title or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

(Pub. L. 91-597, §19, Dec. 29, 1970, 84 Stat. 1631.)

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.

EFFECTIVE DATE

For effective date of this section, see section 29 of Pub. L. 91-597, set out as a note under section 1031 of this title.

§ 1049. Seizure and condemnation proceedings

(a) Jurisdiction; disposal of condemned articles; court costs and fees; conformity to supplemental rules for admiralty and maritime claims; jury trial; United States as plaintiff

Any eggs or egg products that are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation, in violation of this chapter, or in any other way are in violation of this chapter; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 1050 of this title within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this chapter, the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] or the Fair Packaging and Labeling Act [15 U.S.C. 1451 et seq.], or the laws of the jurisdiction in which they are sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the articles