

retary determines, after consultation with an appropriate advisory committee provided for in section 661 of this title, that the State or territory does not have at least equal authority under its laws or such authority is not exercised in a manner to effectuate the purposes of this chapter including the State providing for the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof, and the taking of reasonable samples, where he determines necessary in carrying out his responsibilities under this chapter; and in such case the provisions of section 642, 643, or 644 of this title, respectively, shall apply to such persons, firms, and corporations to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

(Mar. 4, 1907, ch. 2907, title II, § 205, as added Pub. L. 90-201, § 14, Dec. 15, 1967, 81 Stat. 594.)

SUBCHAPTER III—FEDERAL AND STATE COOPERATION

§ 661. Federal and State cooperation

(a) Congressional statement of policy

It is the policy of the Congress to protect the consuming public from meat and meat food products that are adulterated or misbranded and to assist in efforts by State and other Government agencies to accomplish this objective. In furtherance of this policy—

(1) Development and administration of State meat inspection program equal to subchapter I ante and post mortem inspection, reinspection, and sanitation requirements

The Secretary is authorized, whenever he determines that it would effectuate the purposes of this chapter, to cooperate with the appropriate State agency in developing and administering a State meat inspection program in any State which has enacted a State meat inspection law that imposes mandatory ante mortem and post mortem inspection, reinspection and sanitation requirements that are at least equal to those under subchapter I of this chapter, with respect to all or certain classes of persons engaged in the State in slaughtering cattle, sheep, swine, goats, or equines, or preparing the carcasses, parts thereof, meat or meat food products, of any such animals for use as human food solely for distribution within such State.

(2) Development and administration of State program with authorities equal to subchapter II authorities; cooperation with Federal agencies

The Secretary is further authorized, whenever he determines that it would effectuate the purposes of this chapter, to cooperate with appropriate State agencies in developing and administering State programs under State laws containing authorities at least equal to those provided in subchapter II of this chapter; and to cooperate with other agencies of the United States in carrying out any provisions of this chapter.

(3) Scope of cooperation: advisory assistance, technical and laboratory assistance and training, and financial and other aid; limitation on amount; equitable allocation of Federal funds; adequacy of State program to obtain Federal cooperation and payments

Cooperation with State agencies under this section may include furnishing to the appropriate State agency (i) advisory assistance in planning and otherwise developing an adequate State program under the State law; and (ii) technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The amount to be contributed to any State by the Secretary under this section from Federal funds for any year shall not exceed 50 per centum of the estimated total cost of the cooperative program; and the Federal funds shall be allocated among the States desiring to cooperate on an equitable basis. Such cooperation and payment shall be contingent at all times upon the administration of the State program in a manner which the Secretary, in consultation with the appropriate advisory committee appointed under paragraph (4), deems adequate to effectuate the purposes of this section.

(4) Advisory committees

The Secretary may appoint advisory committees consisting of such representatives of appropriate State agencies as the Secretary and the State agencies may designate to consult with him concerning State and Federal programs with respect to meat inspection and other matters within the scope of this chapter, including evaluating State programs for purposes of this chapter and obtaining better coordination and more uniformity among the State programs and between the Federal and State programs and adequate protection of consumers.

(b) Single State agency; subordinate governmental unit as part of State agency

The appropriate State agency with which the Secretary may cooperate under this chapter shall be a single agency in the State which is primarily responsible for the coordination of the State programs having objectives similar to those under this chapter. When the State program includes performance of certain functions by a municipality or other subordinate governmental unit, such unit shall be deemed to be a part of the State agency for purposes of this section.

(c) State meat inspection requirements

(1) Notice to Governor of nondevelopment or nonenforcement; designation of State as subject to subchapters I and IV; delay and revocation of designation; publication in Federal Register; notice of production of adulterated meat or meat food products; designation of State

If the Secretary has reason to believe, by thirty days prior to the expiration of two years after December 15, 1967, that a State has failed to de-

velop or is not enforcing, with respect to all establishments within its jurisdiction (except those that would be exempted from Federal inspection under subparagraph (2)) at which cattle, sheep, swine, goats, or equines are slaughtered, or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and the products of such establishments, requirements at least equal to those imposed under subchapter I and IV of this chapter, he shall promptly notify the Governor of the State of this fact. If the Secretary determines, after consultation with the Governor of the State, or representative selected by him, that such requirements have not been developed and activated, he shall promptly after the expiration of such two-year period designate such State as one in which the provisions of subchapters I and IV of this chapter shall apply to operations and transactions wholly within such State: *Provided*, That if the Secretary has reason to believe that the State will activate such requirements within one additional year, he may delay such designation for said period, and not designate the State, if he determines at the end of the year that the State then has such requirements in effective operation. The Secretary shall publish any such designation in the Federal Register and, upon the expiration of thirty days after such publication, the provisions of subchapters I and IV shall apply to operations and transactions and to persons, firms, and corporations engaged therein in the State to the same extent and in the same manner as if such operations and transactions were conducted in or for commerce. Thereafter, upon request of the Governor, the Secretary shall revoke such designation if the Secretary determines that such State has developed and will enforce requirements at least equal to those imposed under subchapter I and subchapter IV of this chapter: *And provided further*, That, notwithstanding any other provision of this section, if the Secretary determines that any establishment within a State is producing adulterated meat or meat food products for distribution within such State which would clearly endanger the public health he shall notify the Governor of the State and the appropriate Advisory Committee provided by section 661 of this title of such fact for effective action under State or local law. If the State does not take action to prevent such endangering of the public health within a reasonable time after such notice, as determined by the Secretary, in light of the risk to public health, the Secretary may forthwith designate any such establishment as subject to the provisions of subchapters I and IV of this chapter, and thereupon the establishment and operator thereof shall be subject to such provisions as though engaged in commerce until such time as the Secretary determines that such State has developed and will enforce requirements at least equal to those imposed under subchapter I and subchapter IV of this chapter.

(2) Exemptions of retail stores, restaurants, and similar retail-type establishments; operations conducted at a restaurant central kitchen facility

The provisions of this chapter requiring inspection of the slaughter of animals and the

preparation of carcasses, parts thereof, meat and meat food products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments if such establishments are subject to such inspection provisions only under this paragraph (c). For the purposes of this subparagraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares meat or meat food products that are ready to eat when they leave such facility and are served in meals or as entrees only to customers at restaurants owned or operated by the same person, firm, or corporation owning or operating such facility: *Provided*, That such facility shall be subject to the provisions of section 642 of this title: *Provided further*, That the facility may be subject to the inspection requirements under subchapter I of this chapter for as long as the Secretary deems necessary, if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its meat or meat food products are rendered adulterated.

(3) Termination of designation of State upon development and enforcement of minimum requirements; redesignation; designation for nonenforcement of minimum requirements; notice and publication in Federal Register

Whenever the Secretary determines that any State designated under this paragraph (c) has developed and will enforce State meat inspection requirements at least equal to those imposed under subchapters I and IV, with respect to the operations and transactions within such State which are regulated under paragraph (1), he shall terminate the designation of such State under this paragraph (c), but this shall not preclude the subsequent redesignation of the State at any time upon thirty days notice to the Governor and publication in the Federal Register in accordance with this paragraph, and any State may be designated upon such notice and publication at any time after the period specified in this paragraph whether or not the State has theretofore been designated upon the Secretary determining that it is not effectively enforcing requirements at least equal to those imposed under subchapters I and IV.

(4) Periodic review; report to Congressional committees

The Secretary shall promptly upon December 15, 1967, and periodically thereafter, but at least annually, review the requirements, including the enforcement thereof, of the several States not designated under this paragraph (c), with respect to the slaughter, and the preparation, storage, handling and distribution of carcasses, parts thereof, meat and meat food products, of such animals, and inspection of such operations and annually report thereon to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition,

and Forestry of the Senate in the report required under section 691¹ of this title.

(d) "State" defined

As used in this section, the term "State" means any State (including the Commonwealth of Puerto Rico) or organized Territory.

(Mar. 4, 1907, ch. 2907, title III §301, as added Pub. L. 90-201, §15, Dec. 15, 1967, 81 Stat. 595; amended Pub. L. 98-487, §1, Oct. 17, 1984, 98 Stat. 2264; Pub. L. 103-437, §8(2), Nov. 2, 1994, 108 Stat. 4588.)

Editorial Notes

REFERENCES IN TEXT

Section 691 of this title, referred to in subsec. (c)(4), was omitted from the Code.

CODIFICATION

In subsec. (c)(1), (4), "December 15, 1967" substituted for "enactment of the Wholesome Meat Act".

AMENDMENTS

1994—Subsec. (c)(4). Pub. L. 103-437 substituted "Agriculture, Nutrition, and Forestry" for "Agriculture and Forestry".

1984—Subsec. (c)(2). Pub. L. 98-487 inserted provisions relating to operations conducted at a restaurant central kitchen facility.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 15, 1967, see section 20 of Pub. L. 90-201, set out as a note under section 601 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, and advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER IV—AUXILIARY PROVISIONS

§ 671. Inspection services; refusal or withdrawal; hearing; business unfitness based upon certain convictions; other provisions for withdrawal of services unaffected; responsible connection with business; finality of Secretary's actions; judicial review; record

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 subchapter I of 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 under subchapter I because

the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any Federal or State court, of (1) any felony, or (2) more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way other provisions of this chapter for withdrawal of inspection services under subchapter I from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat or meat food products.

For the purpose of this section 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.

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 appropriate court as provided in section 674 of this title. Judicial review of any such order shall be upon the record upon which the determination and order are based.

(Mar. 4, 1907, ch. 2907, title IV, §401, as added Pub. L. 90-201, §16, Dec. 15, 1967, 81 Stat. 597; amended Pub. L. 99-641, title IV, §403(b), Nov. 10, 1986, 100 Stat. 3568.)

Editorial Notes

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-641, §403(b)(1), (2)(B), (C), temporarily designated provisions which related to authority to refuse or withdraw inspection service as subsec. (a), struck out "any felony, or (2)" after "of (1)", and inserted "or (2) any felony" after "transactions in food". See Effective and Termination Dates of 1986 Amendment note below.

Pub. L. 99-641, §403(b)(2)(A), which directed that subsec. (a) be amended by substituting "applicant for" for "applicant, for", could not be executed because "applicant, for" does not appear.

Subsecs. (b) to (e). Pub. L. 99-641, §403(b)(6), temporarily added subsecs. (b) to (e). See Effective and Termination Dates of 1986 Amendment note below.

Subsec. (f). Pub. L. 99-641, §403(b)(3), temporarily designated provisions which related to other provisions for withdrawal of inspection services as subsec. (f). See Effective and Termination Dates of 1986 Amendment note below.

Subsec. (g). Pub. L. 99-641, §403(b)(4), temporarily designated provisions which related to responsible connection with business as subsec. (g). See Effective and Termination Dates of 1986 Amendment note below.

Subsec. (h). Pub. L. 99-641, §403(b)(5), temporarily designated provisions which related to finality of determination by Secretary and to judicial review as subsec. (h), substituted "Except as provided in subsection (e)(2) of this section, the determination" for "The determination" and "subsection (e) of this section" for "this section". See Effective and Termination Dates of 1986 Amendment note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Pub. L. 99-641, title IV, §403(b), Nov. 10, 1986, 100 Stat. 3568, provided that the amendment made by that sec-

¹ See References in Text note below.