

**§ 1265. Seizures****(a) Grounds and jurisdiction**

Any misbranded hazardous substance or banned hazardous substance when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 1263(f) of this title, be introduced into interstate commerce, or which has been manufactured in violation of section 1263(g) of this title, shall be liable to be proceeded against while in interstate commerce or at any time thereafter, on libel of information and condemned in any district court in the United States within the jurisdiction of which the hazardous substance is found: *Provided*, That this section shall not apply to a hazardous substance intended for export to any foreign country if it (1) is in a package branded in accordance with the specifications of the foreign purchaser, (2) is labeled in accordance with the laws of the foreign country, and (3) is labeled on the outside of the shipping package to show that it is intended for export, and (4) is so exported.

**(b) Procedure; multiplicity of pending proceedings**

Such hazardous substance shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury. When libel for condemnation proceedings under this section, involving the same claimant and the same issues of misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the United States or the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the applicant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the United States or the claimant may apply to the court of one such jurisdiction, and such court (after giving the other party, the claimant, or the United States attorney for such district, reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

**(c) Disposition of goods after decree of condemnation**

Any hazardous substance condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct and the proceeds thereof, if sold, less the legal costs and charges, shall be paid

into the Treasury of the United States; but such hazardous substance shall not be sold under such decree contrary to the provisions of this chapter or the laws of the jurisdiction in which sold: *Provided*, That, after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such hazardous substance shall not be sold or disposed of contrary to the provisions of this chapter or the laws of any State or territory in which sold, the court may by order direct that such hazardous substance be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this chapter under the supervision of an officer or employee duly designated by the Commission, and the expense of such supervision shall be paid by the person obtaining release of the hazardous substance under bond.

**(d) Costs and fees**

When a decree of condemnation is entered against the hazardous substance, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the hazardous substance.

**(e) Removal of case for trial**

In the case of removal for trial of any case as provided by subsection (b)—

(1) the clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction;

(2) the court to which such case is removed shall have the powers and be subject to the duties, for purposes of such case, which the court from which removal was made would have had, or to which such court would have been subject, if such case had not been removed.

(Pub. L. 86-613, §6, July 12, 1960, 74 Stat. 376; Pub. L. 89-756, §§2(h), 3(d), Nov. 3, 1966, 80 Stat. 1304, 1305; Pub. L. 110-314, title II, §204(b)(4)(B), Aug. 14, 2008, 122 Stat. 3041.)

**Editorial Notes****AMENDMENTS**

2008—Subsec. (c). Pub. L. 110-314 substituted “Commission” for “Secretary”.

1966—Subsec. (a). Pub. L. 89-756 substituted “Any misbranded hazardous substance or banned hazardous substance” for “Any hazardous substance that is in a misbranded package”.

**§ 1266. Hearing before report of criminal violation**

Before any violation of this chapter is reported by the Commission to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

(Pub. L. 86-613, §7, July 12, 1960, 74 Stat. 377; Pub. L. 110-314, title II, §204(b)(4)(B), Aug. 14, 2008, 122 Stat. 3041.)