

that was not marketed in the United States before October 15, 1994 and does not include any dietary ingredient which was marketed in the United States before October 15, 1994.

(June 25, 1938, ch. 675, §413, as added Pub. L. 103-417, §8, Oct. 25, 1994, 108 Stat. 4331; amended Pub. L. 111-353, title I, §113(a), Jan. 4, 2011, 124 Stat. 3920.)

### Editorial Notes

#### AMENDMENTS

2011—Subsecs. (c), (d). Pub. L. 111-353 added subsec. (c) and redesignated former subsec. (c) as (d).

### Statutory Notes and Related Subsidiaries

#### GUIDANCE

Pub. L. 111-353, title I, §113(b), Jan. 4, 2011, 124 Stat. 3921, provided that: “Not later than 180 days after the date of enactment of this Act [Jan. 4, 2011], the Secretary shall publish guidance that clarifies when a dietary supplement ingredient is a new dietary ingredient, when the manufacturer or distributor of a dietary ingredient or dietary supplement should provide the Secretary with information as described in section 413(a)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 350b(a)(2)], the evidence needed to document the safety of new dietary ingredients, and appropriate methods for establishing the identify [sic] of a new dietary ingredient.”

#### CONSTRUCTION OF 2011 AMENDMENT

Nothing in amendment by Pub. L. 111-353 to be construed to apply to certain alcohol-related facilities, to alter jurisdiction and authorities established under certain other Acts, or in a manner inconsistent with international agreements to which the United States is a party, see sections 2206, 2251, and 2252 of this title.

### § 350c. Maintenance and inspection of records

#### (a) Records inspection

##### (1) Adulterated food

If the Secretary has a reasonable belief that an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, is adulterated and presents a threat of serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article, and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, that are needed to assist the Secretary in determining whether the food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals.

##### (2) Use of or exposure to food of concern

If the Secretary believes that there is a reasonable probability that the use of or exposure to an article of food, and any other article of food that the Secretary reasonably believes is

likely to be affected in a similar manner, will cause serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, that are needed to assist the Secretary in determining whether there is a reasonable probability that the use of or exposure to the food will cause serious adverse health consequences or death to humans or animals.

#### (3) Application

The requirement under paragraphs (1) and (2) applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.

#### (b) Regulations concerning recordkeeping

The Secretary, in consultation and coordination, as appropriate, with other Federal departments and agencies with responsibilities for regulating food safety, may by regulation establish requirements regarding the establishment and maintenance, for not longer than two years, of records by persons (excluding farms and restaurants) who manufacture, process, pack, transport, distribute, receive, hold, or import food, which records are needed by the Secretary for inspection to allow the Secretary to identify the immediate previous sources and the immediate subsequent recipients of food, including its packaging, in order to address credible threats of serious adverse health consequences or death to humans or animals. The Secretary shall take into account the size of a business in promulgating regulations under this section.

#### (c) Protection of sensitive information

The Secretary shall take appropriate measures to ensure that there are in effect effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section.

#### (d) Limitations

This section shall not be construed—

(1) to limit the authority of the Secretary to inspect records or to require establishment and maintenance of records under any other provision of this chapter;

(2) to authorize the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(3) to have any legal effect on section 552 of title 5 or section 1905 of title 18; or

(4) to extend to recipes for food, financial data, pricing data, personnel data, research data, or sales data (other than shipment data regarding sales).

(June 25, 1938, ch. 675, §414, as added Pub. L. 107-188, title III, §306(a), June 12, 2002, 116 Stat. 669; amended Pub. L. 111-353, title I, §101(a), Jan. 4, 2011, 124 Stat. 3886.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Federal Meat Inspection Act, referred to in subsec. (d)(2), is titles I to V of act Mar. 4, 1907, ch. 2907, as added Pub. L. 90-201, Dec. 15, 1967, 81 Stat. 584, and Pub. L. 110-246, title XI, §11015(a), June 18, 2008, 122 Stat. 2124, which are classified generally to subchapters I to IV-A (§601 et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

The Poultry Products Inspection Act, referred to in subsec. (d)(2), is Pub. L. 85-172, Aug. 28, 1957, 71 Stat. 441, which is classified generally to chapter 10 (§451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 451 of this title and Tables.

The Egg Products Inspection Act, referred to in subsec. (d)(2), is Pub. L. 91-597, Dec. 29, 1970, 84 Stat. 1620, which is classified principally to chapter 15 (§1031 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1031 of this title and Tables.

##### AMENDMENTS

2011—Subsec. (a). Pub. L. 111-353 reenacted heading without change, designated existing provisions as par. (1) and inserted heading, substituted “If the Secretary has a reasonable belief that an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, is” for “If the Secretary has a reasonable belief that an article of food is”, inserted “, and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner,” after “relating to such article”, struck out at end “The requirement under the preceding sentence applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.”, and added pars. (2) and (3).

#### Statutory Notes and Related Subsidiaries

##### EXPEDITED RULEMAKING

Pub. L. 107-188, title III, §306(d), June 12, 2002, 116 Stat. 670, provided that: “Not later than 18 months after the date of the enactment of this Act [June 12, 2002], the Secretary shall promulgate proposed and final regulations establishing recordkeeping requirements under subsection 414(b) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 350c(b)] (as added by subsection (a)).”

##### CONSTRUCTION OF 2011 AMENDMENT

Nothing in amendment by Pub. L. 111-353 to be construed to apply to certain alcohol-related facilities, to alter jurisdiction and authorities established under certain other Acts, or in a manner inconsistent with international agreements to which the United States is a party, see sections 2206, 2251, and 2252 of this title.

#### § 350d. Registration of food facilities

##### (a) Registration

###### (1) In general

The Secretary shall by regulation require that any facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States be registered with the Secretary. To be registered—

(A) for a domestic facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary; and

(B) for a foreign facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary and shall include with the registration the name of the United States agent for the facility.

###### (2) Registration

An entity (referred to in this section as the “registrant”) shall submit a registration under paragraph (1) to the Secretary containing information necessary to notify the Secretary of the name and address of each facility at which, and all trade names under which, the registrant conducts business, the e-mail address for the contact person of the facility or, in the case of a foreign facility, the United States agent for the facility, and, when determined necessary by the Secretary through guidance, the general food category (as identified under section 170.3 of title 21, Code of Federal Regulations, or any other food categories as determined appropriate by the Secretary, including by guidance) of any food manufactured, processed, packed, or held at such facility. The registration shall contain an assurance that the Secretary will be permitted to inspect such facility at the times and in the manner permitted by this chapter. The registrant shall notify the Secretary in a timely manner of changes to such information.

###### (3) Biennial registration renewal

During the period beginning on October 1 and ending on December 31 of each even-numbered year, a registrant that has submitted a registration under paragraph (1) shall submit to the Secretary a renewal registration containing the information described in paragraph (2). The Secretary shall provide for an abbreviated registration renewal process for any registrant that has not had any changes to such information since the registrant submitted the preceding registration or registration renewal for the facility involved.

###### (4) Procedure

Upon receipt of a completed registration described in paragraph (1), the Secretary shall notify the registrant of the receipt of such registration and assign a registration number to each registered facility.

###### (5) List

The Secretary shall compile and maintain an up-to-date list of facilities that are registered under this section. Such list and any registration documents submitted pursuant to this subsection shall not be subject to disclo-