

Editorial Notes

AMENDMENTS

1968—Par. (a). Pub. L. 90-492 substituted provisions authorizing the Secretary to refuse or withdraw inspection services subsequent to a hearing determining that the applicant or recipient is unfit to engage in any business requiring inspection under this chapter based upon the specified considerations, for provisions granting the Secretary exclusive jurisdiction within the scope of this chapter and exempting poultry and poultry products from the provisions of the Federal Food, Drug, and Cosmetic Act, as amended, to the extent of the application or the extension thereof of the provisions of this chapter.

Par. (b). Pub. L. 90-492 substituted provisions granting a hearing, upon request by the applicant or recipient, to determine the merits and validity of the withdrawal or refusal of inspection services and continuing such withdrawal or refusal in effect, unless otherwise ordered by the Secretary, for provisions authorizing the Secretary to cooperate with other branches of government and with State agencies and to conduct examinations, investigations, and inspections through any officer or employee of a State commissioned by the Secretary for such purpose.

Par. (c). Pub. L. 90-492 added par. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

§ 467a. Administrative detention; duration; pending judicial proceedings; notification of government authorities; release; removal of official marks

Whenever any poultry product, or any product exempted from the definition of a poultry product, or any dead, dying, disabled, or diseased poultry is found by any authorized representative of the Secretary upon any premises where it is held for purposes of, or during or after distribution in, commerce or otherwise subject to this chapter, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this chapter or of any other Federal law or the laws of any State or Territory, or the District of Columbia, or that it has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action under section 467b of this title or notification of any Federal, State, or other governmental authorities having jurisdiction over such article or poultry, and shall not be moved by any person, from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or poultry before it is released unless it appears to the satisfaction of the Secretary that the article or poultry is eligible to retain such marks.

(Pub. L. 85-172, § 19, as added Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 805.)

§ 467b. Seizure and condemnation

(a) Proceedings in rem; libel of information; jurisdiction; disposal by destruction or sale; proceeds into the Treasury; sales restrictions; bonds; court costs and fees, storage, and other expenses against claimants; jury trial; United States as plaintiff

(1) Any poultry product, or any dead, dying, disabled, or diseased poultry, that is being transported in commerce or otherwise subject to this chapter, or is held for sale in the United States after such transportation, and that (A) is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (B) is capable of use as human food and is adulterated or misbranded, or (C) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any United States district court or other proper court as provided in section 467c of this title within the jurisdiction of which the article or poultry is found.

(2) If the article or poultry is condemned it shall, after entry of the decree, (A) be distributed in accordance with paragraph (5), or (B) 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 article or poultry shall not be sold contrary to the provisions of this chapter, or the laws of the jurisdiction in which it is sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the article or poultry shall not be sold or otherwise disposed of contrary to the provisions of this chapter, or the laws of the jurisdiction in which disposal is made, the court may direct that such article or poultry be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws.

(3) When a decree of condemnation is entered against the article or poultry and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or poultry.

(4) The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(5)(A) An article that is condemned under paragraph (1) may as the court may direct, after entry of the decree, be distributed without charge to nonprofit, private entities or to Federal, State, or local government entities engaged in the distribution of food without charge to individuals, if such article—

(i) is capable of use as a human food;

(ii) has been inspected under this chapter and found to be wholesome and not to be adulterated within the meaning of paragraphs (1) through (7) of section 453(g) of this title and a determination is made at the time of the