

TITLE 21 - FOOD AND DRUGS

CHAPTER 10 - POULTRY AND POULTRY PRODUCTS INSPECTION

§ 467. Inspection services

(a) Refusal or withdrawal; hearing; business unfitness based upon certain convictions; persons responsibly connected with the business

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 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 upon 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 paragraph 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.

(b) Hearing to determine validity of withdrawal or refusal of inspection services; continuation of withdrawal or refusal

Upon the withdrawal of inspection service from any official establishment for failure to destroy condemned poultry products as required under section 455 of this title, or other failure of an official establishment to comply with the requirements as to premises, facilities, or equipment, or the operation thereof, as provided in section 456 of this title, or the refusal of inspection service to any applicant therefor because of failure to comply with any requirements under section 456 of this title, the applicant for, or recipient of, the service shall, upon request, be afforded opportunity for a hearing with respect to the merits or validity of such action; but such withdrawal or refusal shall continue in effect unless otherwise ordered by the Secretary.

(c) Finality and conclusiveness of determination; judicial review; record

The determination and order of the Secretary when made after opportunity for hearing, with respect to withdrawal or refusal of inspection service under this chapter 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 as provided in section 457 of this title. 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.

(Pub. L. 85-172, § 18, Aug. 28, 1957, 71 Stat. 448; Pub. L. 90-492, § 16, Aug. 18, 1968, 82 Stat. 805.)

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.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2007 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

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).

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.