

SUBCHAPTER III—IMPROVING THE SAFETY
OF IMPORTED FOOD

§ 2241. Inspection by the Secretary of Commerce

(1) In general

The Secretary of Commerce, in coordination with the Secretary of Health and Human Services, may send 1 or more inspectors to a country or facility of an exporter from which seafood imported into the United States originates. The inspectors shall assess practices and processes used in connection with the farming, cultivation, harvesting, preparation for market, or transportation of such seafood and may provide technical assistance related to such activities.

(2) Inspection report

(A) In general

The Secretary of Health and Human Services, in coordination with the Secretary of Commerce, shall—

- (i) prepare an inspection report for each inspection conducted under paragraph (1);
- (ii) provide the report to the country or exporter that is the subject of the report; and
- (iii) provide a 30-day period during which the country or exporter may provide a rebuttal or other comments on the findings of the report to the Secretary of Health and Human Services.

(B) Distribution and use of report

The Secretary of Health and Human Services shall consider the inspection reports described in subparagraph (A) in distributing inspection resources under section 350j of this title.

(Pub. L. 111-353, title III, §306(b), Jan. 4, 2011, 124 Stat. 3959.)

§ 2242. Foreign offices of the Food and Drug Administration

(a) In general

The Secretary shall establish offices of the Food and Drug Administration in foreign countries selected by the Secretary, to provide assistance to the appropriate governmental entities of such countries with respect to measures to provide for the safety of articles of food and other products regulated by the Food and Drug Administration exported by such country to the United States, including by directly conducting risk-based inspections of such articles and supporting such inspections by such governmental entity.

(b) Consultation

In establishing the foreign offices described in subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Homeland Security, and the United States Trade Representative.

(c) Report

Not later than October 1, 2011, the Secretary shall submit to Congress a report on the basis for the selection by the Secretary of the foreign countries in which the Secretary established offices, the progress which such offices have made with respect to assisting the governments of

such countries in providing for the safety of articles of food and other products regulated by the Food and Drug Administration exported to the United States, and the plans of the Secretary for establishing additional foreign offices of the Food and Drug Administration, as appropriate.

(Pub. L. 111-353, title III, §308, Jan. 4, 2011, 124 Stat. 3966.)

REFERENCES IN TEXT

The Secretary, referred to in text, probably means the Secretary of Health and Human Services.

§ 2243. Smuggled food

(a) In general

Not later than 180 days after January 4, 2011, the Secretary shall, in coordination with the Secretary of Homeland Security, develop and implement a strategy to better identify smuggled food and prevent entry of such food into the United States.

(b) Notification to Homeland Security

Not later than 10 days after the Secretary identifies a smuggled food that the Secretary believes would cause serious adverse health consequences or death to humans or animals, the Secretary shall provide to the Secretary of Homeland Security a notification under section 350f(n) of this title describing the smuggled food and, if available, the names of the individuals or entities that attempted to import such food into the United States.

(c) Public notification

If the Secretary—

- (1) identifies a smuggled food;
- (2) reasonably believes exposure to the food would cause serious adverse health consequences or death to humans or animals; and
- (3) reasonably believes that the food has entered domestic commerce and is likely to be consumed,

the Secretary shall promptly issue a press release describing that food and shall use other emergency communication or recall networks, as appropriate, to warn consumers and vendors about the potential threat.

(d) Effect of section

Nothing in this section shall affect the authority of the Secretary to issue public notifications under other circumstances.

(e) Definition

In this subsection, the term “smuggled food” means any food that a person introduces into the United States through fraudulent means or with the intent to defraud or mislead.

(Pub. L. 111-353, title III, §309, Jan. 4, 2011, 124 Stat. 3966.)

REFERENCES IN TEXT

The Secretary, referred to in text, probably means the Secretary of Health and Human Services.

SUBCHAPTER IV—MISCELLANEOUS
PROVISIONS

§ 2251. Jurisdiction; authorities

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes, regulations, or agreements regarding voluntary inspection of non-amenable species under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(2) alter the jurisdiction between the Alcohol and Tobacco Tax and Trade Bureau and the Secretary of Health and Human Services, under applicable statutes and regulations;

(3) limit the authority of the Secretary of Health and Human Services under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before January 4, 2011; or

(B) the Public Health Service Act [42 U.S.C. 201 et seq.] as in effect on the day before January 4, 2011;

(4) alter or limit the authority of the Secretary of Agriculture under the laws administered by such Secretary, including—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(D) the United States Grain Standards Act (7 U.S.C. 71 et seq.);

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(F) the United States Warehouse Act (7 U.S.C. 241 et seq.);

(G) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

(H) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with the amendments made by the Agricultural Marketing Agreement Act of 1937; or

(5) alter, impede, or affect the authority of the Secretary of Homeland Security under the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) or any other statute, including any authority related to securing the borders of the United States, managing ports of entry, or agricultural import and entry inspection activities.

(Pub. L. 111-353, title IV, §403, Jan. 4, 2011, 124 Stat. 3972.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 111-353, Jan. 4, 2011, 124 Stat. 3885, known as the FDA Food Safety Modernization Act, which enacted this chapter and sections 350g to 350l-1, 379j-31, 384a to 384d, 399c, and 399d of this title, section 7625 of Title 7, Agriculture, and section 280g-16 of Title 42, The Public Health and Welfare, amended sections 331, 333, 334, 350b to 350d, 350f, 374, 381, 393, and 399 of this title and section 247b-20 of Title 42, and enacted provisions set out as notes under sections 331, 334, 342, 350b, 350d, 350e, 350g to 350j, 350l, and 381 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

The Agricultural Marketing Act of 1946, referred to in pars. (1) and (4)(G), is title II of act Aug. 14, 1946, ch. 966, 60 Stat. 1087, which is classified generally to chapter 38 (§1621 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of Title 7 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in par. (3)(A), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

The Public Health Service Act, referred to in par. (3)(B), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Federal Meat Inspection Act, referred to in par. (4)(A), is titles I to IV of act Mar. 4, 1907, ch. 2907, as added Pub. L. 90-201, Dec. 15, 1967, 81 Stat. 584, which are classified generally to subchapters I to IV (§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 par. (4)(B), 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 par. (4)(C), 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.

The United States Grain Standards Act, referred to in par. (4)(D), is part B of act Aug. 11, 1916, ch. 313, 39 Stat. 482, which is classified generally to chapter 3 (§71 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 71 of Title 7 and Tables.

The Packers and Stockyards Act, 1921, referred to in par. (4)(E), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, which is classified generally to chapter 9 (§181 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

The United States Warehouse Act, referred to in par. (4)(F), is part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, which is classified generally to chapter 10 (§241 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 241 of Title 7 and Tables.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with the amendments made by the Agricultural Marketing Agreement Act of 1937, referred to in par. (4)(H), is title I of act May 12, 1933, ch. 25, 48 Stat. 31, which is classified generally to chapter 26 (§601 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 7 and Tables.

The Homeland Security Act of 2002, referred to in par. (5), is Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135, which is classified principally to chapter 1 (§101 et seq.) of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

§ 2252. Compliance with international agreements

Nothing in this Act (or an amendment made by this Act) shall be construed in a manner inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

(Pub. L. 111-353, title IV, §404, Jan. 4, 2011, 124 Stat. 3972.)

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