

§ 354.36

9 CFR Ch. III (1-1-01 Edition)

(d) Where the Administrator determines that the application is an attempt on the part of a person currently denied the benefits of the Act to obtain inspection service;

(e) Whenever the applicant, after an initial survey has been made in accordance with §354.34(a), fails to bring the plant, facilities, and operating procedures into compliance with the regulations within a reasonable period of time; or

(f) Notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of the service. Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

§ 354.36 Withdrawal of application.

Any application for inspection service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by the Service in connection with such application.

§ 354.38 Suspension of plant approval.

(a) Any plant approval given pursuant to the regulations in this part may be suspended by the Administrator for:

(1) Failure to maintain plant and equipment in a satisfactory state of repair;

(2) The use of operating procedures which are not in accordance with the regulations in this part; or

(3) Alterations of buildings, facilities, or equipment which cannot be approved in accordance with the regulations in this part.

(b) During such period of suspension, inspection service shall not be rendered. However, the other provisions of the regulations pertaining to providing service on a resident basis will remain in effect unless such service is terminated in accordance with the provisions of this part. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time, to be specified by the Administrator, the service shall be terminated. Upon termination of inspection service in an official plant pursuant to the regulations in this part, the plant approval shall also become terminated, and all labels, seals, tags or packaging material bearing official identification shall, under the supervision of a person designated by the Service, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Service.

VIOLATIONS

§ 354.45 Denial of service.

(a) The acts or practices set forth in §§354.46 through 354.51 or the causing thereof may be deemed sufficient cause, for the debarment, by the Secretary, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period after notice and opportunity for hearing has been afforded.

(b) Whenever the Administrator has reason to believe that any person or his employee, agent, or representative has flagrantly or repeatedly committed any of the acts or practices specified in §§354.46 to 354.51, he may, without hearing, direct that the benefits of the Act be denied such person, including any agents, officers, subsidiaries, or affiliates of such person, pending investigation and hearing, and shall give notice thereof to any such person in the manner prescribed in §1.147(b) of the rules of practice (7 CFR 1.147(b)). The Administrator's decision to deny the benefits of the Act to any such person, including any agents, officers, subsidiaries, or affiliates of such person, shall be effective upon service of such notice. A written petition for reconsideration of such interim denial may be filed with

the Administrator by any person so denied the benefits of the Act within 10 days after notice of the interim denial. Such petition shall state specifically the errors alleged to have been made by the Administrator in denying the benefits of the Act pending investigation and hearing. Within 20 days following the receipt of such petition for reconsideration, the Administrator shall reinstate the benefits of the Act or notify the petitioner of the reasons for continued interim denial.

[41 FR 23702, June 11, 1976, as amended at 43 FR 11148, Mar. 17, 1978]

§ 354.46 Misrepresentation; deceptive or fraudulent acts or practices.

Any willful misrepresentation or any deceptive or fraudulent act or practice made or committed by any person in connection with:

- (a) The making or filing of any application for any inspection service;
- (b) The making of the product accessible for inspection;
- (c) The making, issuing, or using, or attempting to issue or use any inspection certificate, symbol, stamp, label, seal or identification, authorized pursuant to the regulations in this part;
- (d) The use of the terms "U.S. Inspected" or "Government Inspected", or any term of similar import in the labeling or advertising of any product.

§ 354.47 Use of facsimile forms.

Using or attempting to use a form which simulates, in whole or in part, any certificate, symbol, stamp, label, seal or identification authorized to be issued or used under the regulations in this part.

§ 354.48 Willful violation of the regulations.

Any willful violation of the regulations in this part or the Act.

§ 354.49 Interfering with an inspector or employee of Service.

Any interference with or obstruction or any attempted interference or obstruction of or assault upon any inspector or employee of the Service in the performance of his duties. The giving or offering directly or indirectly of any money, loan, gift, or anything of value to an employee of the Service or

the making or offering of any contribution to or in any way supplementing the salary, compensation, or expenses of an employee of the Service, or the offering or entering into a private contract or agreement with an employee of the Service for any services to be rendered while employed by the Service.

§ 354.51 Miscellaneous.

The existence of any of the conditions set forth in § 354.35 constituting a basis for the rejection of an application for inspection service.

OTHER APPLICABLE REGULATIONS

§ 354.53 Other applicable regulations.

Compliance with the regulations in this part shall not excuse failure to comply with any other Federal or any State or municipal applicable laws or regulations.

IDENTIFYING AND MARKING PRODUCTS

§ 354.60 Approval of official identification.

(a) Any label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label or packaging material bearing official identification may be used unless finished copies or samples of such labels and packaging material have been approved by the Administrator. No label bearing official identification shall be printed for use until the printer's final proof has been approved by the Administrator, and no label, other than labels for shipping containers or containers for institutional packs, bearing any official identification shall be used until finished copies or samples of such labels have been approved by the Administrator. Final approval may be given to printer's final proof or photostatic copies of labels for shipping containers or containers for institutional packs, and no such labels shall be used until such proofs or copies have been approved by the Administrator. A label which bears official identification shall not bear any statement that is false or misleading, and if labels in the name of the same packer or distributor, or bearing the same brand