

animal fats for certification and identify the approximate days and hours when operations will begin and end.

§ 351.13 Inspectors to have access to certified plants at all times.

For the purpose of administering the regulations in this part, inspectors shall have access at all times by day or night to every part of a certified plant.

§ 351.14 Processes to be supervised; extent of examinations.

(a) All processes used in the preparation of certified technical animal fats at any certified plant shall be subject to supervision by an inspector. Certified plants shall not prepare any technical animal fat for certification under the regulations in this part, except in accordance with such regulations.

(b) Supervision, ranging from full-time coverage of an entire process to one or more reviews per month, to determine a plant's compliance with the regulations in this part will be maintained. A circuit supervisor may increase the frequency of reviews whenever he deems necessary to assure the validity of certifications under the regulations in this part. Usual coverage of individual rendering plants will be as follows:

(1) Coverage shall be at least once a month if the plant consistently handles only raw materials acceptable under § 351.3 for the preparation of certified technical animal fat and the plant operator, in writing, certifies that he is maintaining this procedure.

(2) Coverage shall be at least once a week if the plant consistently handles some raw materials that are acceptable, and some that are unacceptable, under § 351.3, for the preparation of certified technical animal fat, uses separate equipment for processing, and uses separate rooms, compartments, and equipment for receiving and storing the respective types of raw materials and technical animal fats, and the plant operator, in writing, certifies that he is maintaining this complete physical separation procedure.

(3) Coverage shall be fulltime during receiving of raw materials and their preparation into certified technical animal fat, if the plant handles some

raw materials that are acceptable, and some that are unacceptable, under § 351.3, for the preparation of certified technical animal fat, and uses the same rooms, compartments, and equipment, with only time separation between receiving, processing, and storing the respective types of raw materials and technical animal fats.

§ 351.15 Reports of violations.

Inspectors shall report to the circuit supervisor any apparent violations of the regulations in this part or the Federal Meat Inspection Act or regulations thereunder (subchapter A of this chapter) which occur at certified plants, or elsewhere, within their knowledge. The circuit supervisor shall report such actions to the Administrator through appropriate channels.

TRANSPORTATION AND EXPORTATION OF
CERTIFIED TECHNICAL ANIMAL FAT

§ 351.16 Certificate required for shipments of technical animal fat.

No certified plant shall export any certified technical animal fat unless the shipment is accompanied by a certificate issued under § 351.3.

§ 351.17 Identification required.

Certified technical animal fats being exported directly from a certified plant or transferred between certified plants for storage for export are subject to the requirements of § 325.11 of this chapter. In addition, such shipments between certified plants shall be accompanied by MP Form 85 (Declaration to Accompany Technical Animal Fats Between Certified Technical Animal Fat Plants)² prepared by the operator of the certified plant from which shipment is made, certifying that the product has been obtained by rendering raw materials derived from federally or State inspected and passed carcasses, or parts of carcasses. Technical animal fat described on MP Form 85 as tallow must meet the definition of "Tallow" in § 351.2.

²Copy filed as part of the original document.

§ 351.18

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PROHIBITIONS

§ 351.18 Official identifications; unauthorized use.

(a) The form of certification set forth in § 351.3 and the term "Certified Technical Animal Fat" are official identifications for purposes of the Agricultural Marketing Act of 1946, as amended, and shall not be falsely made, issued, altered, forged, or counterfeited, or used for purpose of misrepresentation or deception.

(b) No container which bears or is to bear any designation as certified technical animal fat shall be filled in whole or in part, except with technical animal fats which have been certified and identified in compliance with this part.

REMEDIES; PENALTIES

§ 351.19 Refusal of certification for specific lots.

If an inspector has reason to believe that a lot of technical animal fat is ineligible for certification under § 351.3, or any materials to be used in a lot of technical animal fat would make the technical animal fat ineligible for such certification, certification of the lot shall be withheld pending final determination by the circuit supervisor. The operator of the plant shall be afforded an opportunity to demonstrate the eligibility of the lot for certification before the final determination is made.

§ 351.20 Withdrawal of service from certified plants.

(a) After opportunity for hearing has been accorded the operator of a certified plant, the certification service, provided for in this part, may be withdrawn from such plant in accordance with the applicable rules of practice, if it is determined that:

(1) The operator, or his employee or agent:

(i) Has made any willful misrepresentation or engaged in any fraudulent or deceptive practice in connection with the service;

(ii) Has interfered with or obstructed any Program employee or other inspector in the performance of his duties, under the regulations in this part, by intimidation, threats, or other improper means; or

(iii) Has violated section 203(h) of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622(h)), or any regulation in this part; or

(2) Facilities or procedures at the certified plant do not conform to the arrangements approved by the Administrator under § 351.5.

(b) Pending final determination of the matter, the Administrator may summarily suspend the certification service at any certified plant when he has reason to believe that there is cause for withdrawal of the service under paragraph (a). The operator of the certified plant shall be notified of the Administrator's decision to suspend summarily the certification service at such plant and the reasons therefor, in writing, in the manner prescribed in § 1.147(b) of the rules of practice (7 CFR 1.147(b)), or orally. The Administrator's decision to suspend summarily the certification service shall be effective upon such oral or written notification, whichever is earlier, to the operator of the certified plant. If such notification is oral, the Administrator shall confirm such decision, and the reasons therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the operator of the certified plant, in the manner prescribed in § 1.147(b) of the rules of practice (7 CFR 1.147(b)).

(c) The rules of practice of the Department of Agriculture in subpart H of part I, subtitle A, title 7 of the Code of Federal Regulations, are the rules of practice applicable to adjudicatory, administrative proceedings under the regulations in this part (9 CFR part 351).

[40 FR 58627, Dec. 18, 1975, as amended at 43 FR 11148, Mar. 17, 1978]

APPEALS

§ 351.21 Appeals.

Any decision by an employee of the Program may be appealed by any adversely affected person to the immediate supervisor of such employee. Decisions of other inspectors may be appealed to the circuit supervisor.