

Food Safety and Inspection Service, USDA

§ 354.46

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.