

§ 381.21 Refusal of inspection.

(a) The Administrator may refuse to grant inspection at any establishment if he determines that it does not meet any requirements as to premises, facilities, and equipment, and the operation thereof, prescribed in the regulations under section 7 of the Act to prevent the distribution under the Act of adulterated poultry products, or that the applicant has not received approval of labeling and containers to be used at the establishment as required by the regulations. When inspection is refused for any such reason, the applicant shall be informed of the action and the reasons therefor and afforded an opportunity to present his views informally.

(b) If the refusal is based on a failure to comply with any requirements prescribed under section 7 of the Act, the applicant shall, upon his request, be afforded opportunity for a hearing in accordance with applicable rules of practice, with respect to the merits or validity of the action taken, but such refusal shall continue in effect unless otherwise ordered by the Secretary.

(c) Inspection may also be refused in accordance with section 18(a) of the Act and the applicable rules of practice.

(d)(1) Any applicant for inspection at an establishment where the operations thereof may result in any discharge into the navigable waters of the United States is required by subsection 21(b) of the Federal Water Pollution Control Act, as amended, to provide the Administrator with a certification as prescribed in said subsection that there is reasonable assurance that such activity will be conducted in a manner which will not violate the applicable water quality standards. No grant of inspection can be issued after April 3, 1970 (the date of enactment of the Water Quality Improvement Act), unless such certification has been obtained, or is waived because of failure or refusal of the State, interstate agency, or the Administrator of the Environmental Protection Agency to act on a request for certification within 1 year after receipt of such request. Further, upon receipt of an application for inspection and a certification as required by subsection 21(b) of the Federal Water Pollution Control Act, the Ad-

ministrator (as defined in § 381.1) is required by paragraph (2) of said subsection to notify the Administrator of the Environmental Protection Agency for proceedings in accordance with that paragraph. No grant of inspection can be made until the requirements of said paragraph (2) have been met.

(2) However, certification under subsection 21(b) of the Federal Water Pollution Control Act is not initially required in connection with an application for inspection granted after April 3, 1970, for facilities existing or under construction on April 3, 1970, although certification for such facilities is required to be obtained within the 3-year period immediately following April 3, 1970. Failure to obtain such certification or to meet the other requirements of subsection 21(b) prior to April 3, 1973, will result in the termination of inspection at such facilities on that date.

(3) Further, any application for inspection pending on April 3, 1970, and granted within 1 year thereafter shall not require certification for 1 year following the grant of inspection but such grant of inspection shall terminate at the end of 1 year after its issuance unless prior thereto such certification has been obtained and the other requirements of subsection 21(b) are met.

(4) In the case of any activity which will affect water quality but for which there are no applicable water quality standards, no certification is required prior to the grant of inspection but such grant will be conditioned upon a requirement of compliance with the purpose of the Federal Water Pollution Control Act as provided in paragraph 21(b)(9) of said Act.

§ 381.22 Conditions for receiving inspection.

(a) Before being granted Federal inspection, an establishment shall have developed written sanitation Standard Operating Procedures, in accordance with Part 416 of this chapter.

(b) Before being granted Federal inspection, an establishment shall have conducted a hazard analysis and developed and validated a HACCP plan, in accordance with §§ 417.2 and 417.4 of this chapter. A conditional grant of inspection shall be issued for a period not to