

**§ 381.77**

**9 CFR Ch. III (1-1-00 Edition)**

carry out his responsibilities under the Act.

(3) The approval of the partial quality control program under the NELS Inspection System or the NTI System may be terminated at any time by the owner or operator of the official establishment upon written notice to the Administrator. Establishments which operated under the NELS Inspection System will be provided inspection under either Traditional Inspection or Streamlined Inspection System, as appropriate. Establishments which operated under the NTI System will be provided inspection under the Traditional Inspection procedure.

(4) The approval of the partial quality control programs under the NELS Inspection System or the NTI System will terminate upon receipt by the establishment of written notice from the Administrator (or his designee). Such notice will specify the deficiency and will be issued:

(i) If unwholesome or otherwise adulterated poultry products are found by the Administrator to have been prepared for or distributed in commerce by the subject establishment, or

(ii) If the establishment fails to comply with the partial quality control program to which it has agreed.

(5) The establishment owner or operator receiving notice that approval has terminated may respond to the notice, in writing, to the Administrator within 30 days or receipt of such notice. In those instances where there are issues of fact, a hearing under applicable Rules of Practice will be provided to the establishment owner or operator to resolve the conflict. The Administrator's termination of approval shall remain in effect pending the final determination of the proceeding.

(6) If approval of the partial quality control program under the NELS Inspection System or the NTI System has been terminated in accordance with the provisions of this section, an application and request for approval of the same or modified quality control program will not be evaluated by the Administrator for at least 2 months from the termination date. In order for the Department to provide the Federal inspection required under the Act, an establishment whose partial quality

control program has been terminated will be allowed to continue operating under (i) Traditional Inspection or Streamlined Inspection System if previously operating under the NELS Inspection System, or (ii) Traditional Inspection if previously operating under the NTI System, provided all requirements of the Act and regulations thereunder are met.

(Recordkeeping requirements approved by the Office of Management and Budget under control number 0583-0008)

[47 FR 23435, May 28, 1982, as amended at 49 FR 42555, Oct. 23, 1984; 50 FR 37513, Sept. 16, 1985; 50 FR 38097, Sept. 20, 1985; 51 FR 3574, Jan. 29, 1986; 53 FR 46861, Nov. 21, 1988; 62 FR 5143, Feb. 4, 1997]

**§ 381.77 Carcasses held for further examination.**

Each carcass, including all parts thereof, in which there is any lesion of disease, or other condition which might render such carcass or any part thereof adulterated and with respect to which a final decision cannot be made on first examination by the inspector, shall be held for further examination. The identity of each such carcass, including all parts thereof, shall be maintained until a final examination has been completed.

**§ 381.78 Condemnation of carcasses and parts: separation of poultry suspected of containing biological residues.**

(a) At the time of any inspection under this subpart each carcass, or any part thereof, which is found to be adulterated shall be condemned, except that any such articles which may be made not adulterated by reprocessing, need not be so condemned if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated.

(b) When a lot of poultry suspected of containing biological residues is inspected in an official establishment, all carcasses and any parts of carcasses in such lot which are condemned shall be kept separate from all other condemned carcasses or parts.

[37 FR 9706, May 16, 1972, as amended at 48 FR 22899, May 23, 1983; 48 FR 23807, May 27, 1983]