Food Safety and Inspection Service, USDA

§ 590.160

Refusal, suspension, or withdrawal of service.

(a) The Administrator (for such period, or indefinitely, as he deems necessary to effectuate the purposes of the Act) may refuse to provide or may withdraw inspection service under this part with respect to any plant if he determines after opportunity for a hearing (following the procedures of 7 CFR, part 1, subpart H) is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under the Act or this part, because the applicant or recipient or anyone responsibly connected with such person has been convicted in any Federal or State court, within the previous 10 years, of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food or (2) any felony, involving, fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

(b) For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 percentum or more of its voting stock, or employee in a managerial or executive capacity.

(c) The determination and order of the Administrator with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within 30 days after the effective date of such order in the U.S. Court of Appeals for the circuit in which such applicant or recipient has its principal place of business or in the U.S. Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section. This section shall not affect in any way other provisions of the Act or these regulations for refusal of inspection services.

(d) Any applicant for inspection at a plant where the operations thereof may result in any discharge into the navigable waters in the United States is required by subsection 401(a)(1) (33 U.S.C. 1341) of the Clean Water Act as amended (86 Stat. 816, 91 Stat. 1566; 33 U.S.C. 1251 et seq.), to provide the Administrator with a certification, as prescribed in said subsection, that any such discharge will comply with the