

**UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
QUARTERLY REGULATORY AND ENFORCEMENT REPORT
July 1, 1999 to September 30, 1999**

EXECUTIVE SUMMARY

This is the Food Safety and Inspection Service's (FSIS) Quarterly Regulatory and Enforcement Report. The report provides a summary of the regulatory and enforcement actions, including those under the Pathogen Reduction/HACCP regulations, FSIS has taken to ensure that products that reach consumers are safe, wholesome, and properly labeled. Although this report focuses on regulatory and enforcement actions taken, it is important to recognize that this is only one aspect of the Agency's work. The Agency's main purpose is to protect public health by achieving compliance with laws and regulations.

The report provides a summary of the regulatory and enforcement actions, including those under the Pathogen Reduction/HACCP regulations, FSIS has taken to ensure that products that reach consumers are safe, wholesome, and properly labeled. FSIS inspects products produced in over 6,000 meat, poultry, and egg product plants. Since January 1998, approximately 300 large plants (those employing 500 or more employees) have been operating HACCP Systems with FSIS regulatory oversight. On January 25, 1999, approximately 2,300 small plants (those employing 10 or more, but fewer than 500 employees) began HACCP implementation. Very small plants (those employing fewer than 10 employees or with annual sales of less than \$2.5 million) will phase in HACCP in January 2000.

Publication of this information is another step in the Agency's commitment to openness and transparency in its work to protect the public from adulterated or misbranded meat, poultry, and egg products.

The report is presented in sections that correspond with the category of action. Activities reported within the categories are either pending or experienced new activity during the reporting period. For example, during this quarter, FSIS detained over 2 million pounds of product and issued 757 warning letters for violations of law. FSIS also coordinated administrative actions, where regulatory or other authorities were applied in inspected plants, and managed USDA participation in criminal cases pending in Federal courts. These actions, along with the thousands of inspections made each day in plants throughout the country, form strong underpinnings for promoting compliance with food safety laws. Each section of this report is described and reported in more detail as follows:

FSIS ENFORCEMENT PROCESSES
NONCOMPLIANCE REPORTS AND APPEALS
PRODUCT CONTROL ACTIONS
LETTERS OF WARNING
ADMINISTRATIVE ACTIONS
CRIMINAL ACTIONS
CIVIL ACTIONS

FSIS ENFORCEMENT PROCESSES

USDA's Food Safety and Inspection Service (FSIS) is charged with ensuring that meat, poultry, and egg products are safe, wholesome, and properly labeled. FSIS, in cooperation with state counterparts, inspects, monitors, and verifies the proper processing, handling, and labeling of meat and poultry products from the delivery of animals to the slaughterhouse to when the products reach consumers. FSIS, in cooperation with FDA and the states, provides similar coverage for egg products – the processed whole egg ingredients used in manufacturing other foods. (More information concerning egg products inspection and enforcement is provided in the FSIS publication "[Focus on Egg Products](#)" which can be accessed at:

<http://www.fsis.usda.gov/OA/pubs/eggprod.htm>). This regulatory oversight generally reflects compliance by the large majority of businesses. However, if FSIS detects problems at any step along the way, it can use a number of product control and enforcement measures to protect consumers.

USDA has traditionally focused much of its effort on the plants that slaughter food animals and process products. USDA ensures that products at these establishments are produced in a sanitary environment in which inspectors or plant employees identify and eliminate potential food safety hazards. These establishments must apply for a grant of inspection from FSIS and demonstrate the ability to meet certain requirements for producing safe, wholesome, and accurately labeled food products. Requirements include meeting sanitation, facility, and operational standards and,

through new requirements now being implemented, having preventive systems in place to ensure the production of safe and unadulterated food. Products from official establishments are labeled with the mark of inspection, indicating that they have been inspected and passed by USDA and can be sold in interstate commerce.

FSIS uses Compliance Officers throughout the chain of distribution to detect and detain potentially hazardous foods in commerce to prevent their consumption and to investigate violations of law. Even if products are produced under conditions that are safe and sanitary, abuse on the way to the consumer, for example, if transported in trucks that are too warm or if exposed to contamination, can result in product that can cause illness or injury. FSIS has recognized a need to spend increasing amounts of its energy on activities to promote safe transporting, warehousing, and retailing of meat, poultry, and egg products, and is moving forward on these efforts.

FSIS also works closely with USDA's Office of Inspector General, which assists FSIS in pursuing complex criminal cases. In addition, many state and local jurisdictions have enforcement authorities that apply to USDA regulated products. FSIS cooperates with these other jurisdictions in investigations and case presentations. FSIS also participates with OIG and the U.S. Department of Justice in monitoring conditions of probation orders and pretrial diversion agreements developed to resolve cases.

In January 1997, FSIS began implementing new requirements in plants that produce meat and poultry. New regulations, entitled “Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems,” require that federally inspected meat and poultry plants: (1) develop and implement a preventive HACCP plan; (2) develop and implement Sanitation Standard Operating Procedures (SSOP’s); (3) collect and analyze samples for the presence of generic *E. coli*, and record results; and (4) meet *Salmonella* performance standard requirements. These new requirements are designed to help target and reduce foodborne pathogens. All plants have already implemented SSOP’s and, as appropriate, are phasing in the other requirements. All large plants—accounting for most federally inspected meat and poultry sold—must now meet the requirements for HACCP Systems. Approximately 2,300 additional plants began implementing HACCP in January 1999. By the year 2000, HACCP implementation will be complete, even in the smallest plants.

This report provides a summary of the regulatory and enforcement actions, including actions that address the Pathogen Reduction/HACCP regulatory requirements, FSIS has taken to ensure that products that reach consumers are safe, wholesome, and properly labeled. The Agency recognizes that this report is a snapshot in time of a dynamic process. Some information will be out-of-date by the time this report is published (approximately one month after close of reporting period), and more current information will not be included. For example, many matters shown as under appeal will have been resolved by the time this report is published. Other actions could be appealed or closed after this reporting period. This information will be updated on a quarterly basis and made available to the public through future reports.

NONCOMPLIANCE REPORTS AND APPEALS

FSIS inspection program personnel perform thousands of inspection tasks and procedures each day to determine whether or not inspected plants are in compliance with regulatory requirements. Each time inspection program personnel make a non-compliance determination they complete a report explaining the nature of the regulatory action. They notify plant managers of problems by a written Noncompliance Report (NR) or, in plants that have not yet implemented HACCP, a Process Deficiency Record (PDR). NRs and PDRs document noncompliance determinations that occur in the plant's sanitation and other controls and notify the plant that it must take action to remedy a problem and prevent its recurrence. If this is done, the plant will continue to operate without interruption. Problems reported on NRs and PDRs vary from minor labeling discrepancies to serious breakdowns in food safety controls. When deficiencies occur repeatedly or when the plant fails to prevent adulterated product from being shipped, FSIS takes action to control products and may take an action to withhold or suspend inspection.

As of September 30, 1999, approximately 300 large plants (plants with 500 or more employees) and approximately 2,300 small plants (plants employing 10 or more, but fewer than 500 employees) operated under HACCP-based inspection. Approximately 3,400 very small plants operated under traditional inspection. Because monitoring and documentation requirements in the two systems differ, the number and type of NRs and related appeals for HACCP plants cannot be accurately compared to the number and type of PDRs and related appeals for traditional plants. Plants can appeal NRs, PDRs, and other inspection decisions at various levels in the Office of Field Operations, within FSIS. FSIS has emphasized that appeals are both expected and appropriate to resolve legitimate disagreements. FSIS encourages plants to make

their appeals in a timely manner. A tracking system for monitoring industry appeals became operational on May 11, 1998.

Table 1a provides numbers of NRs and PDRs issued by FSIS inspection personnel. The PDR's referenced in **Table 1a** were issued between July 1, 1999 and September 30, 1999. The NR's referenced in the table were issued between July 1, 1999 and September 30, 1999. During this period, FSIS performed 1,162,872 inspection tasks at non-HACCP plants and 553,400 at HACCP plants. **Table 1b** shows the number of appeals and the dispositions of the appeals filed at traditional (non-HACCP) plants and at HACCP plants, from July 1 to September 30, 1999.

Table 1a. Process Deficiency Record and Noncompliance Report Totals

PDR/NR Totals

PDRs Issued (7/1/99-9/30/99)	10,759
NRs Issued (7/1/99-9/30/99)	43,331

Table 1b. Appeals of PDRs and NRs (7/1/99 – 9/30/99)

Number of Non-HACCP Plants Filing Appeals 8

Appeal of PDR Granted	Appeal of PDR Denied	Appeal of PDR Pending	Total PDRs Appealed
3	4	1	8

Number of HACCP Plants Filing Appeals 82

Appeal of NR Granted	Appeal of NR Denied	Appeal of NR Pending	Total NRs Appealed
39	137	62	238

(Total exceeds 82 because some plants filed multiple appeals.)

PRODUCT CONTROL ACTIONS

FSIS takes product control actions to gain physical control over products when there is reason to believe they are adulterated or misbranded. The actions ensure that those products do not enter commerce or, if they are already in commerce, that they do not reach consumers.

In official establishments, FSIS inspectors may retain products whenever there is evidence of unwholesomeness, or if products are adulterated or mislabeled. FSIS inspectors condemn animals for disease, contamination, or adulteration to prevent their use as human food. Figures for condemnations for livestock for the reporting period are as follows: FSIS inspected 29,978,792 livestock carcasses, of which 70,064 carcasses were condemned. FSIS inspected 1,931,227,280 poultry carcasses of which 18,118,771 carcasses were condemned.

Detentions

After products are distributed from plants, FSIS Compliance Officers detain any that may be adulterated or misbranded. FSIS then has 20 days to request a Federal court to seize the product (see Civil Actions). **Table 2** provides the number of detentions and the pounds of product involved in these actions for meat and poultry, reported in total and by FSIS District Office, for this quarterly reporting period. Most detentions result in voluntary disposal of the product and do not require court seizures.

**Table 2. Detention Summary
(7/1/99 — 9/30/99)**

Detentions

Total number of detentions by FSIS 274
 Total pounds of product detained 2,481,279

District	Detentions	Pounds Detained
ALAMEDA, CA	29	489,091
ALBANY, NY	21	76,977
ATLANTA, GA	24	145,997
BELTSVILLE, MD	5	419
BOULDER, CO	5	42,414
CHICAGO, IL	10	68,368
DALLAS, TX	22	116,755
DES MOINES, IA	34	709,686
JACKSON, MS	14	248,451
LAWRENCE, KS	7	42,683
MADISON, WI	3	45,761
MINNEAPOLIS, MN	5	46,917
PHILADELPHIA, PA	8	95,946
PICKERINGTON, OH	10	108,071
RALEIGH, NC	10	157,042
SALEM, OR	12	7,709
SPRINGDALE, AR	<u>55</u>	<u>78,992</u>
Totals	274	2,481,279

Recalls

A recall is a voluntary action by a firm to remove adulterated, misbranded, or suspect products from distribution. FSIS cannot require recalls but can recommend and monitor those that occur.

Class I recalls involve a health hazard when there is a reasonable possibility that the use of the product will cause serious adverse health consequences or death. Class II recalls involve a health hazard when there is a remote probability of adverse health consequences from use of the

product. Class III recalls involve a situation in which use of the product is not likely to cause

adverse health consequences. For current information on recalls, go to the FSIS [recalls](http://www.fsis.usda.gov/OA/news/xrecalls.htm) web page

at: <http://www.fsis.usda.gov/OA/news/xrecalls.htm>

Import Inspections

FSIS maintains a comprehensive system of import controls to carry out the requirements of the Federal meat, poultry, and egg products inspection laws to ensure the wholesomeness of imported products. The system of import controls involves two major components: oversight and reinspection. FSIS conducts a rigorous review of an exporting country's controls to ensure they are equivalent to those of the United States, prior to the country's eligibility to export to the United States. Reinspection of meat, poultry and egg products that enter the U.S. is based on statistical sampling and verifies the country's inspection system is working. A product that fails to meet U.S. requirements is refused entry into this country. The product must be re-exported, destroyed or, in some cases, converted to animal food. **Table 3** provides the total number of presented lots and pounds of imported meat and poultry products presented, reinspected, and refused entry during the period from July 1 to September 30, 1999.

**Table 3. Imported Meat, Poultry and Egg Products
(7/1/99 — 9/30/99)**

Presented, Reinspected, and Refused Entry

Meat and Poultry

Number of Presented		Number of Reinspected		Number of Refused Entry	
Lots	Pounds	Lots	Pounds	Lots	Pounds
39,858	871,253,872	8,035	185,451,828	3,177	4,010,865

Egg Products

Number of Presented		Number of Refused Entry	
Lots	Pounds	Lots	Pounds
116	1,671,123	0	0,000

LETTERS OF WARNING

FSIS issues letters of warning (LOW) for minor violations of law that are not referred to United States Attorneys for prosecution. FSIS may also issue these warnings when a United States Attorney declines to prosecute a case or bring action against a specific business or person. These letters warn that FSIS may seek criminal action based on continued violations. Letters of warning may be issued to any individual or business, including Federal plants, wholesalers, distributors, restaurants, retail stores and other entities that process, store, or distribute meat and poultry products. **Table 4** shows letters of warning issued by headquarters and by each of the eighteen FSIS District Offices during the reporting period.

**Table 4. Letters of Warning for Criminal Actions
(7/1/99 — 9/30/99)**

Letters of Warning for Criminal Violations

Total number of LOWs issued for violations	757
Number issued by Headquarters	10
District	Number of LOWs Issued by Districts
ALAMEDA, CA	69
ALBANY, NY	152
ATLANTA, GA	58
BELTSVILLE, MD	43
BOULDER, CO	11
CHICAGO, IL	63
DALLAS, TX	32
DES MOINES, IA	31
JACKSON, MS	21
LAWRENCE, KS	18
MADISON, WI	43
MINNEAPOLIS, MN	20
PHILADELPHIA, PA	53
PICKERINGTON, OH	20
RALEIGH, NC	2
SALEM, OR	32
SPRINGDALE, AR	<u>79</u>
Total number issued by Districts	747

ADMINISTRATIVE ACTIONS

FSIS inspects meat and poultry products and applies the marks of inspection when inspectors are able to determine that products are not adulterated. FSIS may temporarily withhold the marks of inspection from specific products, suspend inspection, or withdraw a grant of inspection if a plant is not meeting crucial requirements.

Withholding the Marks of Inspection

If a plant fails to prevent preparation and shipment of adulterated products or develops a pattern of noncompliance showing the plant's sanitation or process control systems have failed, the Inspector-in-Charge notifies plant managers that the USDA mark of inspection is being withheld from some or all of the products in the plant. This action effectively shuts down affected

operations, because it is illegal to sell products in interstate commerce that do not bear the USDA mark of inspection. Other non-affected parts of the plant, if any, may still operate.

Suspension of Inspection

FSIS may temporarily suspend inspection if a plant fails to present a corrective action plan to bring the plant sanitation or process control systems into compliance. As with withholding actions, a suspension shuts down all or part of the plant's operations. USDA may hold in abeyance the suspension action if corrections are presented, put into effect, and effectively prevent additional problems. FSIS District Offices have established procedures to monitor and verify activities in plants where the suspension is being held in abeyance.

Notification to Establishments of Intended Enforcement Actions

FSIS has an established procedure to notify establishments of intended enforcement actions related to certain types of noncompliance that have not resulted in actual shipment of adulterated products. Under this procedure, a notice is issued to an establishment when the Inspector-in-Charge determines that the establishment has experienced multiple, recurring noncompliances and has failed to implement corrective and preventive measures to prevent a system inadequacy. The "Notice" informs the establishment that the nature and scope of the noncompliance indicates that their HACCP System is inadequate and, because of the trend of noncompliances, FSIS intends to withhold the marks of inspection and suspend inspection. The "Notice" explains the basis and references documentation for the intended enforcement action, and provides the establishment an opportunity to demonstrate why a system inadequacy determination should not be made or that the plant has achieved regulatory compliance.

Withdrawal of Inspection

In some situations, FSIS may decide that it is necessary to withdraw inspection from a plant. In these cases, FSIS withdraws inspection from a Federal plant by filing a complaint with the USDA Hearing Clerk. The plant may request a hearing before an Administrative Law Judge. If the action is based on insanitation, the plant will remain closed while proceedings go forward. In other cases that do not involve a threat to public health, operations may continue. These actions are often resolved by FSIS and the plant entering into a consent decision, which allows the plant to operate under certain specified conditions. Once inspection is withdrawn, a closed plant must reapply to receive Federal inspection.

USDA may initiate withholding, suspension, or withdrawal actions to limit a plant's slaughtering or processing, or prevent the plant from operating altogether, based on any of the following reasons related to the PR/HACCP regulations:

- failure to collect and analyze samples for the presence of generic *E. coli* and record test results,
- failure to develop or implement Sanitation Standard Operating Procedures,
- failure to develop or implement a required HACCP plan, or
- failure to meet applicable *Salmonella* performance standard requirements.

In addition, USDA may initiate a withholding, suspension, or withdrawal action for any of these other reasons:

- insanitary conditions,
- inhumane slaughtering of livestock,
- failure to destroy condemned product, or
- interference with inspection personnel.

Tables 5, 6, and 7 list administrative actions (other than actions based on convictions) by

establishment, initiated, pending, or closed, for the quarter, along with whether the action is

based on an SSOP or HACCP Systems failure, or for some other reason, such as inhumane slaughter. In some plants, FSIS may find more than one basis for taking enforcement action or may take more than one action. For example, the plant has sanitation problems and is not conducting *E. coli* testing, or a sanitation problem occurs more than once. **Tables 5 and 6** list these actions taken at large and small plants now operating under HACCP. **Table 7** lists actions at plants still operating under traditional inspection. A plant is placed in a table dependent upon its size and whether HACCP is implemented. The enforcement action can be for any of the identified reasons. During this period, activity is reported concerning 71 plants. Thirty of the actions in these plants were initiated during this reporting period. Twelve actions were closed by letters of warning or other means during this period.

Tables 5, 6, and 7 also identify those cases in which an appeal of the withholding or suspension action may have been made, along with whether the appeal was granted or the administrative action was sustained (appeal denied). When decisions on appeals have not been made during the period of this report, the appeal is shown as pending and will be reported in the next quarterly report. During this period, no appeals were filed or acted on.

**Table 5. Administrative Actions: Large HACCP Plants
(7/1/99 - 9/30/99)**

Administrative Actions Pending or Taken at Large HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action				Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
Con Agra Frozen Foods 5287/P-5787 Natchitoches, LA	5/19/99		5/20/99			X		Remains in abeyance.
Culinary Foods 1639/P-880 Chicago, IL			6/28/99			X		Remains in abeyance. Plant previously received a notice of intended enforcement.
Excel Corporation 86R Fort Morgan, CO	9/22/99		9/25/99			X		Remains in abeyance.
House of Raeford Farms P-510 Rose Hill, NC			4/23/99			X		On 8/26/99 suspension case closed with a letter of warning. Plant previously received a notice of intended enforcement.
IBP Inc. 9268 Wallula, WA					X			On 11/9/98 a notice of intended enforcement issued. On 11/16/98 withholding held in abeyance after corrective and preventive measures were received from plant officials. On 1/8/99 the District Manager informed the plant in writing that no action would be taken at this time, but that FSIS would continue to monitor. Remains open.
IBP, Inc. 244W Waterloo, IA						X		On 9/2/99 a notice of intended enforcement was issued. Decision regarding enforcement pending.
Murco Foods 562M Plainwell, MI	8/13/99	8/16/99	8/20/99		X			Suspension remains in abeyance.

Administrative Actions Pending or Taken at Large HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action				Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
Perdue Farms P-19112 Beaver Dam, KY			2/18/99			X		On 8/3/99 suspension case closed with a letter of warning. Plant previously received a notice of intended enforcement.
Bil Mar Foods Div. of Sarah Lee 6911/P-261 Zeeland, MI			6/16/99			X		Remains in abeyance. Plant previously received a notice of intended enforcement.
Tyson Foods, Inc. P-477 Buena Vista, GA		5/13/99	5/17/99			X		Remains in abeyance.

**Table 6. Administrative Actions: Small HACCP Plants
(7/1/99 - 9/30/99)**

Administrative Actions Pending or Taken at Small HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action				Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
Allen Family Foods P-7927 Hurlock, MD			9/29/99			X		On 9/24/99 a notice of intended enforcement issued. On 9/29/99 suspension held in abeyance after corrective and preventive measures received from plant officials. Remains in abeyance.
A & O Provisions Co. 4085 Brooklyn, NY	6/15/99	6/15/99	6/18/99			X		Remains in abeyance.
Belmont Packing Co. 10238/P-10238 Detroit, MI	6/11/99		6/15/99		X			Remains in abeyance.
Birchwood Meats 6662 Norcross, GA						X		On 7/20/99 a notice of intended enforcement issued. On 7/23/99 plant officials notified that decision regarding enforcement would be deferred pending verification of corrective and planned actions provided by the plant.
Carmelita Provisions Co. Inc. 6053 Monterey Park, CA	5/7/99		5/10/99			X		Remains in abeyance.
Carolina Culinary Foods 19676/P-19676 West Columbia, SC	7/21/99		7/22/99			X		Remains in abeyance.
Case Farms of Ohio P-15724 Winesburg, OH	10/15/98		10/18/98		X			On 7/21/99 suspension case closed with a letter of warning.
Caviness Packing Co., Inc. 675 Hereford, TX	6/25/99		6/25/99			X		On 8/9/99 suspension case closed with a letter of warning.

Administrative Actions Pending or Taken at Small HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action				Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
City Foods, Inc. 1896/P-19689 Chicago, IL			4/29/99			X		Remains in abeyance. Plant previously received a notice of intended enforcement.
Cloverdale Foods 1980/P-6869 Lorain, OH	8/24/99		8/25/99			X		Remains in abeyance.
Cornucopia Inc. 4125/P-4125 Irvine, CA			3/15/99			X		On 7/20/99, suspension case closed with a letter of warning. Plant previously received a notice of intended enforcement.
Draper Valley Farms, Inc. P-6058 Mount Vernon, WA	6/4/99		6/5/99			X		On 7/16/99 suspension case closed with a letter of warning.
Durango USA Foods 20106/P-20106 Dallas, TX	8/12/99	8/13/99	9/2/99		X			Remains in abeyance.
Equity Group 7361/P-7361 Reidsville, NC						X		On 7/2/99 a notice of intended enforcement issued. On 7/14/99 plant officials notified that decision regarding enforcement would be deferred pending verification of corrective and planned actions provided by the plant.
Evershine Food Corp. 13509 Garland, TX	8/9/99	8/10/99	8/25/99		X			Remains in abeyance.
Fair Oaks Farms 17479 Pleasant Prairie, WI	3/10/99		3/16/99			X		Remains in abeyance.
Frisch's Restaurant 1483 Cincinnati, OH			8/25/99			X		On 8/19/99 a notice of intended enforcement was issued. On 8/25/99 suspension was placed in abeyance after corrective and preventive measures were received from plant officials. Remains in abeyance.

Administrative Actions Pending or Taken at Small HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action				Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
G & T Meat Co. Inc. 10273/P-10273 Grand Rapids, MI		5/13/99 5/25/99 6/14/99 7/29/99	6/30/99 6/30/99 6/17/99			X X X X	X X X	On 7/29/99 suspension of the assignment of inspectors effected based on inadequacies in the plant's SSOP, HACCP, and other process control systems. On 9/21/99 plant officials notified that the decision to forward a recommendation to withdraw inspection would be deferred based on their written assurances to correct SSOP and HACCP failures.
Gaisers European Style 5385/P-5385 Union, NJ	8/16/99		8/25/99		X			Remains in abeyance.
Golden State 9167 Conyers, GA						X		On 7/9/99 a notice of intended enforcement issued. On 7/27/99 plant officials notified that decision regarding enforcement would be deferred pending verification of corrective and planned actions provided by the plant.
Gorges Quik-to-fix Foods 7261A/P-7261A Harlington, TX		7/17/99	7/18/99			X		Remains in abeyance.
Imperial Meat Co. 4847/P-4847 Monterey Park, CA	5/12/99		5/19/99			X		Remains in abeyance.
Kayem Foods 7839/P-7839 Chelsea, MA	2/25/99 3/21/99		3/1/99 3/23/99			X X		Both suspensions remain in abeyance.
Koch Foods P-7487 Chattanooga, TN	3/1/99		3/2/99			X		Remains in abeyance.

Administrative Actions Pending or Taken at Small HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action				Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
Kyotaru Oregon Inc. 17830/P-17830 Salem, OR	4/29/99	5/1/99	5/15/99			X		On 9/27/99 suspension case closed with a letter of warning.
LaMarca Foods, LLC 1132/P-5605 Chicago, IL	9/30/99					X		Remains in effect.
Mann's International Meat Specialties, Inc. Est. 4219/P-4219 Omaha, NE	9/30/99					X		Remains in effect.
Marburger Foods 6863 Peru, IN	8/4/99		8/10/99			X		Remains in abeyance.
Marathon Enterprises 8854 Bronx, NY			3/4/99			X		Remains in abeyance. Plant previously received a notice of intended enforcement.
MBA Poultry, LLC 20251 Tecumseh, NE	4/27/99		4/29/99			X		Remains in abeyance.
Meredith Farms Corp. 20730/P-137 Vineland, NJ	8/4/99	8/9/99			X	X		Suspension remains in effect.
New Braunfels Smokehouse 2209/P-975 New Braunfels, TX			5/27/99			X		Remains in abeyance. Plant previously received a notice of intended enforcement.

Administrative Actions Pending or Taken at Small HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action				Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
NPC Processing 4027/P-4027 So. Burlington, VT	8/30/99		9/2/99			X		Remains in abeyance.
Philadelphia Foods, Inc., 17561/P-17561 Westville, NJ	3/18/99	3/22/99	4/13/99		X	X		Remains in abeyance.
Purity Group, Inc. d/b/a Purity Farms 8890/P-8890 Denison, IA	5/26/99		5/28/99			X		Remains in abeyance.
Ranchers' Lamb of Texas 19651 San Angelo, TX			8/31/99			X		On 8/27/99 a notice of intended enforcement was issued. On 8/31/99 suspension was placed in abeyance after corrective and preventive measures were received from plant officials. Remains in abeyance.
Redi-Serv Foods, Ltd. 1300A/P-2402 Fort Atkinson, WI	6/14/99		6/16/99		X			Remains in abeyance.
Smithfield Packing Co. Inc. 382F Kinston, NC			5/26/99			X		Remains in abeyance. Plant previously received a notice of intended enforcement.
Supreme Beef Packers, Inc 2228 Ladonia, TX	5/6/99		5/7/99			X		On 7/14/99 suspension case closed with a letter of warning.

Administrative Actions Pending or Taken at Small HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action				Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
Thorn Apple Valley 13529 Forest City, AR	12/30/98	12/31/98			X		X	90-day extension of voluntary suspension granted to plant on 8/4/99. FSIS suspension continues to remain in effect.
United Poultry Co. 4887/P-4887 Los Angeles, CA	6/28/99		6/30/99		X			Remains in abeyance.
White Packing Co. 1246/P-1246 Williamston, NC	6/10/99	6/11/99 6/16/99 7/19/99	6/13/99 6/18/99 7/31/99		X X X		X	On 7/19/99 suspension reinstated due to failure of plant's corrective measures to prevent continued SSOP and HACCP noncompliance. Suspension held in abeyance after revised corrective and preventive measures were received from plant officials.

**Table 7. Administrative Actions: Non-HACCP Plants
(7/1/99 - 9/30/99)**

Administrative Actions Pending or Taken at Non-HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action			Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>Other</u>	
B. T. Packing Co. 7230/P-7230 Chickasha, OK	8/5/99	8/5/99	8/17/99		X		Remains in abeyance.
Bristol Beef 5998 Bristol, CT	6/15/99		6/16/99	X			Remains in abeyance.
Dos Banderas 9269/P-9269 Maywood, CA	8/24/98	8/28/98	9/17/98		X		Remains in abeyance.
Fil-Am Specialty Foods, Inc. 4828/P-4828 Los Angeles, CA	6/8/99	6/9/99	6/19/99		X		On 9/15/99 plant voluntarily withdrew from inspection. Case closed.
Global Food Management Group 19913/P-19913 Colton, CA	1/15/99	1/15/99	1/22/99		X		Remains in abeyance.
Heid Meat Service 18218 Kaukana, WI	4/22/99	4/23/99	4/27/99		X		Remains in abeyance.
Jones Meat & Food Service 7722/P-7722 Rigby, ID	8/30/99		9/1/99		X		Remains in abeyance.
La Spaiga D' Oro Co. Inc. 17514/P-17514 San Rafael, CA	7/15/99	7/15/99	7/20/99		X		Remains in abeyance.

Administrative Actions Pending or Taken at Non-HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeance	Basis for Action			Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>Other</u>	
Leader Steak & Provision Co. 1140 Los Angeles, CA	9/17/99	9/20/99	9/23/99		X		Remains in abeyance.
Montclair Meat Co. 6116/P-6116 Montclair, CA	9/1/98		9/3/98		X		Remains in abeyance.
New On Sang Poultry P-9885 San Francisco, CA	4/15/99		4/16/99		X		Remains in abeyance.
Pampanga Foods Co. 405A Anaheim, CA	1/7/99		1/15/99		X		On 8/30/99 suspension case closed with a letter of warning.
Pride of the South 19641 Lufkin, TX		9/14/99				X	Suspension taken due to intimidation of FSIS Veterinary Medical Officer by plant employee. On 9/17/99 operations allowed to resume after corrective measures were received from plant. On 9/21/99 case closed with a letter of warning.
R & M Meat Co. 20808 Lubbock, TX	8/31/99		9/2/99		X		Remains in abeyance.
Real Sausage Co. 6844 Chicago, Ill	6/30/99	7/13/99	7/21/99			X	Suspension taken due to positive findings of listeria monocytogenes. Remains in abeyance.
Rio-Tex Wholesome Meat Processors 13545 Mercedes, TX	9/10/99		9/17/99		X		Remains in abeyance.

Administrative Actions Pending or Taken at Non-HACCP Plants [includes actions initiated in prior quarters]

Establishment/ Estab. Number/ Location	Withholding	Suspension In Effect	Suspension In Abeyance	Basis for Action			Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>Other</u>	
River View Packing 19610/P-19610 Burley, ID	8/16/99	8/18/99 8/20/99	8/19/99 8/20/99		X X	X X	Suspension based on failure to maintain sanitary conditions, unacceptable carcass dressing, and incident of inhumane treatment of an animal. On 8/20/99 suspension reinstated because the plant's corrective actions were not being carried out. Remains in abeyance.
West Lake Food Corp. 1627A/P-1627A Santa Ana, CA	7/23/98	7/27/98	8/6/98		X		On 8/30/99, suspension case was closed with a letter of warning.
Woods Meat Proc. 8120 Sandpoint, ID	8/12/99	8/12/99 8/26/99	8/13/99 9/8/99			X X	Suspension taken due to positive findings of listeria monocytogenes on ready-to-eat ham products . On 8/26/99 suspension reinstated due to continued positive listeria monocytogene findings and plants failure to implement effective preventive measures. Remains in abeyance.

Withdrawal for Unfitness

Under the statutes it administers, FSIS also can move to withdraw inspection, after opportunity for a hearing, based on the unfitness of an applicant for, or a recipient of inspection, because of a felony conviction or more than one violation involving food. **Table 8** identifies actions pending or taken (other than outstanding consent decisions) on this basis for this reporting period.

Table 8. Withdrawal for Unfitness

7/1/99-9/30/99

Administrative Actions Pending or Taken for Unfitness [includes actions initiated in prior quarters]

Establishment	Location	Complaint to Deny/Withdraw Inspection	Consent Decision	Actions
Allens Mills Meat Market 9367	Reynoldsville, PA	2/16/99		Complaint to withdraw inspection based on owner's conviction of two misdemeanors for allowing uninspected cattle and swine to enter a federally inspected slaughtering facility and slaughtering and preparing cattle and swine not in compliance with FMIA. An administrative hearing date has been scheduled for July 11, 2000.
Center Meat Co. No.7, Inc. & Ricky Johnston 6028/P-4114	Brea City, CA	10/13/98		Complaint to withdraw inspection based on the general manager's felony conviction of grand theft by embezzlement. On September 13, 1999, FSIS filed a motion to set an oral hearing with USDA's Hearing Clerk.
Charles Barry Gashel, Fred Gashel and Lee Gashel and Sons, Inc. 9717/P-9717	Claysville, PA	10/13/98	9/23/99	Consent Decision reached, which, among other things, requires the appointment of a new firm President and which limits the involvement of two company officials in the firm. The Consent Decision also requires that the firm develop and implement procedures to track and control the use of restricted ingredients in the preparation of fresh sausage.
Greenville Packing Co. Inc. 9956/P9956	Greenville, NY	7/27/98		On September 29, 1999, an administrative hearing was held regarding the complaint to withdraw inspection based on the firm's felony conviction of bribery of a public official (FSIS employee). Awaiting Administrative Law Judge's decision.
LeBlanc's Cajun Boudin and Food Co. 13512	St. Amant, LA	2/25/99		On June 3, 1999 the firm filed an amended answer to the complaint with USDA's Hearing Clerk. This information was inadvertently omitted from the last report. The complaint to withdraw inspection is based on the owner's felony conviction for trafficking in cocaine.

Shannondale Country Market 20066/P20066	Mayport, PA	1/12/99	8/12/99	Consent Decision reached, which among other things, requires that the corporation and owner maintain a complete and accurate daily record of all livestock or poultry purchased for slaughter or resale. The owner is also required to be financially divested from dealings with the previous owner of the facility.
Vanguard Culinary Group, LTD d/b/a Cross Creek Foods, Inc. James G. Stancil and Robert C. Stackhouse 8334/P-8334	Fayetteville, NC	6/7/99		Complaint to withdraw inspection based on plant officials' convictions for selling and transporting adulterated meat products.

Removing Custom Exempt Privilege

The meat and poultry laws exempt certain operations from inspection. Custom exempt businesses slaughter animals or process meat for owners of the animals or products. When insanitary conditions create health hazards, FSIS may remove custom exempt privileges and require the plant to cease operations until sanitary conditions are restored. FSIS can also take action when custom facilities fail to properly label product as "Not for Sale." These businesses have the opportunity to correct violations prior to such actions. There were no new actions this reporting period.

CRIMINAL ACTIONS

If evidence is found that a person or business has engaged in violations of the Federal Meat Inspection Act, Poultry Products Inspection Act, or Egg Products Inspection Act, USDA may refer the case to the appropriate United States Attorney to pursue criminal prosecution. Conviction for a criminal offense can result in a fine, imprisonment, or both. **Table 9** lists criminal actions and criminal cases in categories according to the status of the case, which may be indictment or information issued; pleas, convictions, or acquittals, and sentences rendered during this reporting period.

**Table 9. Criminal Actions
(7/1/99 – 9/30/99)**

Criminal Actions

Name	Location	Indictment	Information	Plea	Sentencing	Action Summary
Capister, Inc.	Grand Rapids, MI				9/30/99	1 misdemeanor count for causing, selling, and transporting sour and putrid meat and poultry products. Fined \$50,000, paid \$125 special assessment fee, and donated \$10,000 to a charity.
HP Food Supply, Chi La, Co-owner, and Huong Ho, Manager	San Jose, CA			08/09/99		All three defendants each pled guilty to 5 felony counts for processing poultry products without federal inspection, sale and transportation of adulterated and misbranded poultry products, caused poultry products to become adulterated, and caused meat products to become adulterated and misbranded.
Jay and Boots, Inc.	Knoxville, TN				7/9/99	2 felony counts for preparing, selling and transporting adulterated meat food product with the intent to defraud. Fined \$20,000, ordered to pay an \$800 special assessment fee and placed on probation for 5 years.
Mapelli Food Dist., Co. Michael Z. Long, former Manager	Little Rock, AK	08/03/99				4 felony counts for selling and transporting spoiled and gassy beef products to four consignees.
Rotunda Packing Company, former President Ronald T. Kuhn	Dearborn, MI	12/16/98		05/06/99		6 felony counts for selling and transporting spoiled sour meat and poultry products to retail stores, restaurants, and a correctional facility.
Turner's Big Game Processing Randy P. Turner, Owner	Marlette, MI				9/16/99	1 misdemeanor count for not maintaining or operating a facility in a sanitary manner. Fined \$500, assessed a \$25 assessment fee, and placed on probation for 2 years.

PRE-TRIAL DIVERSION AGREEMENTS

In certain situations, United States Attorneys may enter into Pre-Trial Diversion (PTD) agreements. Under these agreements, the government agrees not to proceed with criminal prosecution if the alleged violator meets certain terms and conditions. The terms and conditions of a PTD are tailored to fit each individual case. A PTD typically lasts twelve months and may involve performing some community services. FSIS frequently monitors these agreements so that we can assist the U. S. Attorneys in determining whether prosecution should be re-instituted. If the divertee successfully completes the program, no criminal charges are filed. If, on the other hand, the divertee does not successfully complete the program, criminal charges may be reinstated. There was one pre-trial diversion agreement effected this quarter that involved a large food distributor which allegedly sold and offered for transportation adulterated and misbranded meat and poultry products that were putrid, sour, and/or contaminated with dirt. The firm agreed not to violate any laws pertaining to the handling or sale of adulterated meat or poultry products. The firm also agreed to pay \$100,000 to the United States as restitution for the cost of the investigation.

CIVIL ACTIONS

FSIS also has authority to seek a variety of civil actions in Federal Court.

Seizures

When FSIS has reason to believe distributed products are adulterated or misbranded, the Agency will, through the U.S. Attorney, institute a seizure action against the product. The product is held pending an adjudication of its status. If the court finds that the product is adulterated or misbranded, it will condemn the product. Condemned product is destroyed, sold, or, upon posting of an appropriate bond, returned to its owner to be brought into compliance with the law.

Condemned product cannot be further processed to be used for human food. There were no new actions during this reporting period.

Table 10. Seizure Action

(7/1/99-9/30/99)

SEIZURES

Name	Location	Complaint	Seizures	Action Summary
Zamorano Enterprises Inc. (custodian of product)	Miami, FL	6/3/99		On 9/17/99, a default judgement was entered in the United States District Court due to the failure of any interested party to respond to a complaint that the United States filed against the product. The complaint was filed based on USDA officials finding 30,547 pounds of tamales with chicken meat illegally exported into the United States from Honduras, a country not certified to export poultry products to this country.

Injunctions

FSIS, through the U.S. Attorney, may request a U.S. District Court to enjoin repetitive violators of the FMIA, PPIA, or EPIA. The Agency seeks injunctions to stop uninspected retail stores from processing products without required inspection for wholesale business or to prevent or restrain other violations of law. There were no injunctions entered during the reporting period. Currently 29 firms are under injunctions.

False Claims Act Violations

The Department of Justice Affirmative Civil Enforcement (ACE) program is used by U.S. Attorneys to recover damages when a violation of law involves fraud against the Federal government. Under the False Claims Act, the government may recover three times its estimated losses. FSIS typically seeks action under this program for cases involving products, not in compliance, sold to the military, to public schools engaged in the school lunch program, or to

other Federal institutions. ACE program actions are generally in lieu of criminal prosecution.

There are no new actions to report this reporting period.

FOR MORE INFORMATION:

Media Inquiries: (202) 720-9113

Freedom of Information Act Requests: (202) 720-2109

Congressional Inquiries: (202) 720-3897

Constituent Inquiries: (202) 720-8594

Consumer Inquiries: Call USDA's Meat and Poultry Hotline at
1-800-535-4555, 10 a.m. to 4 p.m., Eastern Time
In the Washington, DC area, call (202) 720-3333.

FSIS Web site: www.fsis.usda.gov