

**USDA FOOD SAFETY AND INSPECTION SERVICE  
QUARTERLY REGULATORY AND ENFORCEMENT REPORT  
JANUARY 1, 1998 TO MARCH 31, 1998**

**EXECUTIVE SUMMARY**

This is the Food Safety and Inspection Service's (FSIS) Quarterly Regulatory and Enforcement Report. 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. For example, the data indicate that plants operating under HACCP Systems, since its beginning in January 1998, have a 92 percent compliance rate with the regulations.

The report provides a summary of the regulatory and enforcement actions, including those under the new Pathogen Reduction/Hazard Analysis and Critical Control Point (HACCP) regulations. FSIS has taken the actions 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, over 300 of these plants (those employing 500 or more employees) have been operating HACCP Systems with FSIS regulatory oversight. The others will phase in this new program in January 1999 (those employing more than ten employees) and January 2000 (those employing fewer than ten employees, or with annual sales of less than \$2.5 million).

This is the first in what will be a series of quarterly reports on regulatory and enforcement actions taken by the Food Safety and Inspection Service. 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 and poultry 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. During this quarter, FSIS detained over 1,000,000 pounds of product, issued 265 warning letters for violations of law, coordinated 53 administrative actions to use regulatory authorities in inspected plants, and managed USDA participation in 11 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  
PRODUCT CONTROL ACTIONS  
LETTERS OF WARNING  
ADMINISTRATIVE ACTIONS  
CRIMINAL ACTIONS  
CIVIL ACTIONS

## **FSIS ENFORCEMENT PROCESSES**

USDA's Food Safety and Inspection Service is charged with ensuring that meat, poultry, and egg products are safe, wholesome, and properly labeled. FSIS inspects, monitors, and verifies the proper processing, handling, and labeling of these products from the delivery of animals to the slaughterhouse to when the product reaches the consumer. 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.

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 also apply to USDA regulated products. FSIS cooperates with these other jurisdictions in investigations and case presentations. FSIS also participates with the 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 all 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. 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, because the appeal process moves quickly, 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.

This report does not contain information on enforcement activities under the Egg Products Inspection Act. These actions are generally handled in cooperation with other Federal or state agencies. The FSIS publication "[Focus on Egg Products](#)" provides more information on egg products inspection. It can be accessed at: <http://www.usda.gov/agency/fsis/eggprod.htm>.

## **NONCOMPLIANCE REPORTS**

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. Most tasks demonstrate compliance and are not separately reported. However, each time performance of a task or procedure results in a finding of noncompliance with regulatory requirements, inspection program personnel document their findings.

USDA Inspectors-in-Charge 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). NR's and PDR's are used to document deficiencies that occur in the plant's sanitation and other controls and to 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 NR's and PDR's may vary from minor labeling discrepancies to serious breakdowns in food safety controls. IT IS IMPORTANT TO NOTE THAT MANY NR'S AND PDR'S DO NOT INVOLVE FOOD SAFETY DEFICIENCIES. RATHER, THEY REPRESENT OTHER REGULATORY NONCOMPLIANCE DEFICIENCIES. 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.

Currently, approximately 300 large plants (over 500 employees) operate under HACCP-based inspection, and approximately 6,000 small and very small plants operate under traditional inspection. Because monitoring and documentation requirements in the two systems differ, the

number and type of NR's and related appeals for HACCP plants cannot be accurately compared to the number of PDR's and related appeals for traditional plants.

Plants can appeal NR's, PDR's, and other inspection decisions at various levels in the Office of Field Operations. FSIS has emphasized to Agency employees 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 appeals has been developed, and data on appeals will be reported in the next quarterly report.

Table 1 provides numbers of NR's and PDR's issued by FSIS inspection personnel. PDR data is reported to FSIS District Offices on a monthly basis, and NR data on a weekly basis. The PDR's referenced in Table 1 were issued between January 1 and March 31, 1998. The NR's referenced in the table were issued between January 26 (the implementation date of HACCP in large plants) and April 4, 1998. **During this period, FSIS Inspectors performed over 3 million inspection tasks at non-HACCP plants and approximately 188,000 inspection procedures at HACCP plants.**

**Table 1. Process Deficiency Record and Noncompliance Report Totals**

PDR/NR Totals	
PDR's Issued (1/1/98 - 3/31/98)	43,765
NR's Issued (1/26/98 - 4/4/98)	16,102

## **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 are reported annually. In FY 1997, FSIS inspected 120,160,126 pounds of livestock, of which 523,316 pounds were condemned. In FY 1997 FSIS inspected 8,129,842,848 pounds of poultry, of which 87,573,177 pounds 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. 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.



**Table 2. Detention Summary  
(1/1/98 — 3/31/98)**

## Detentions

Total number of detentions by FSIS 127  
 Total pounds of product detained 1,003,381

<b>District</b>	<b>Detentions</b>	<b>Pounds Detained</b>
ALAMEDA, CA	19	142,924
ALBANY, NY	14	56,072
ATLANTA, GA	20	333,585
BELTSVILLE, MD	1	70
BOSTON, MA	9	16,702
BOULDER, CO	3	18,268
CHICAGO, IL	7	170,467
DALLAS, TX	5	7,857
DES MOINES, IA	9	48,091
JACKSON, MS	1	8,773
LAWRENCE, KS	22	34,751
MADISON, WI	5	119,890
MINNEAPOLIS, MN	1	4,320
PHILADELPHIA, PA	4	18,916
PICKERINGTON, OH	0	0
RALEIGH, NC	0	0
SALEM, OR	5	22,669
SPRINGDALE, AR	<u>2</u>	<u>26</u>
Totals	127	1,003,381

## 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.usda.gov/fsis/ops/recalls/rec1998.htm) web page at: <http://www.usda.gov/fsis/ops/recalls/rec1998.htm>.

**LETTERS OF WARNING**

FSIS issues letters of warning (LOW) for minor violations of law that are not referred to the 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. Table 3 shows letters of warning issued by headquarters and by each of the 18 FSIS District Offices during the reporting period.

**Table 3. Letters of Warning for Criminal Actions  
(1/1/98 — 3/31/98)**

Letters of Warning for Criminal Violations

<b>Total number of LOW's issued for violations</b>	<u>271</u>
<b>Number issued by Headquarters</b>	<u>6</u>
<b>District</b>	<b>Number of LOW's Issued by Districts</b>
ALAMEDA, CA	39
ALBANY, NY	26
ATLANTA, GA	13
BELTSVILLE, MD	39
BOSTON, MA	15
BOULDER, CO	8
CHICAGO, IL	11
DALLAS, TX	0
DES MOINES, IA	10
JACKSON, MS	11
LAWRENCE, KS	15
MADISON, WI	5
MINNEAPOLIS, MN	2
PHILADELPHIA, PA	23
PICKERINGTON, OH	7
RALEIGH, NC	4
SALEM, OR	23
SPRINGDALE, AR	<u>14</u>
<b>Total number issued by Districts</b>	265

## **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.

### 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 can be resolved if FSIS and the plant enter 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,

In addition, USDA also 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,
- interference with inspection personnel, or
- failure to meet applicable *Salmonella* performance standard requirements (in the near future).

USDA may also take action to withdraw inspection based on convictions of plant officials of any felony or more than one violation involving food. Actions based on convictions are shown in Table 6.

Tables 4 and 5 list 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 *E. coli* testing inadequacy, or 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. Table 4 lists these actions taken at plants now operating under HACCP. Table 5 lists actions at plants still operating under traditional inspection.

Tables 4 and 5 also identify those cases in which an appeal of the withholding or suspension action has been made, along with whether the appeal was granted or the administrative action was sustained. 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. Other actions could be appealed after the period of this report.

**Table 4. Administrative Actions: HACCP Plants  
(1/1/98 — 3/31/98)**

Administrative Actions Pending or Taken at 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
					<i>E. coli</i>	SSOP	HACCP	Other	
Barber Foods, Inc. 276/P276	Portland, ME	2/25/98	2/27/98	2/27/98			X		Remains in abeyance.
Beef America Operating Co., Inc. 53	Norfolk, NE	10/31/97		11/3/97	X	X		X	Remains in abeyance; suspension issued prior to HACCP implementation.
Bil Mar Foods 6911/P261	Zeeland, MI	11/17/97	11/19/97	11/24/97		X			Remains in abeyance; suspension issued prior to HACCP implementation.
Bryan Foods/ Smokey Hollow 18/P-212	Little Rock, AR	2/25/98		2/27/98				X	On 3/6/98, plant appealed withholding/suspension action. Appeal pending.
Cagle Foods P-2686	Camilla, GA	10/31/97		11/3/97		X			Remains in abeyance; suspension issued prior to HACCP implementation.
Carolina Golden 19750/P-17980	Sumter, SC	2/12/98		2/13/98				X	Remains in abeyance.
Excel Corp 86 H	Plainview, TX	2/6/98		2/9/98				X	On 2/9/98, plant appealed withholding/suspension action. Appeal pending.
Jerome Foods 190/P-190	Barron, WI	3/23/98		3/24/98				X	Remains in abeyance.

Administrative Actions Pending or Taken at 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
					E. coli	SSOP	HACCP	Other	
Murco Inc. 421	Plainwell, MI	2/23/98	2/24/98	2/25/98			X		On 2/24/98, plant appealed withholding/suspension action. Appeal pending.
Perdue Farms, Inc. P-18285	Dillon, SC	2/12/98 3/6/98	2/13/98	2/17/98 3/7/98		X	X		Both actions remain in abeyance.
Perdue Farms, Inc. P-9197	Lewiston, NC	2/12/98		2/13/98			X		Remains in abeyance.
Thorn Apple Smoked Meat & Deli 1031/P-2486	Detroit, MI	2/18/98		2/20/98			X		Remains in abeyance.
Tyson Foods, Inc. P-1325/9977	New Holland, PA	1/21/98		1/23/98				X	Remains in abeyance; suspension issued prior to HACCP implementation.
Tyson Foods, Inc. P-243/243	Cumming, GA	2/5/98		2/6/98			X		On 2/23/98, plant appealed withholding/suspension action. Appeal pending.
Tyson Foods, Inc. P-325	Center, TX	2/25/98 3/9/98		2/27/98 3/11/98			X X		On 3/26/98, plant appealed withholding/suspension action. Appeal pending.
Tyson Foods, Inc. P-7044	Carthage, TX	3/17/98		3/18/98			X		On 3/25/98, plant appealed withholding/suspension action. Appeal pending.



Administrative Actions Pending or Taken at 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
					<i>E. coli</i>	SSOP	HACCP	Other	
Tyson Foods, Inc. P-768	Waldron, AR	1/14/98		1/16/98		X			Remains in abeyance; suspension issued prior to HACCP implementation.

**Table 5. Administrative Actions: Non-HACCP Plants  
(1/1/98 — 3/31/98)**

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
					<i>E. coli</i>	SSOP	Other	
Ace Union Foods, Inc. 19274	Easterville, IA	3/3/98	3/3/98	3/5/98		X		Remains in abeyance.
Better Baked Foods, Inc. 8848	North East, PA	9/11/97	9/11/97	9/11/97		X		On 2/23/98, suspension case was closed with a Letter of Warning.
Border City Foods, Inc. P-13513	Fort Smith, AR	1/23/98		1/26/98		X		Remains in abeyance.
Bottisti's Pizzeria 4362	Amsterdam, NY	12/4/97	12/5/97	12/31/97		X		Remains in abeyance.
Bunker Hill Foods, Inc. 859	Bedford, VA	10/15/97		10/15/97		X		On 3/20/98, suspension case was closed with a Letter of Warning.
Center State Beef/Veal, Inc. 4021	Cortland, NY	2/25/98		2/25/98	X			Remains in abeyance.
Champlain Beef 8547	Whitehall, NY	2/3/98		2/4/98	X			Remains in abeyance.
D-Bar Distributing, Inc. 9252	Springfield, OR	9/4/97	9/8/97	9/15/97		X		Remains in abeyance.
Fancher's Meats, Inc. 17510	Shinnston, WV	12/15/97		12/18/97	X			Remains in abeyance.
FBA Food Prod. 18832	Brooklyn, NY	3/4/98	3/6/98			X		Remains in effect.
Feldman Veal Corp. 4419	Watertown, NY	1/7/98		1/20/98	X			Remains in abeyance.
Foremost Packing Co. 824	East Moline, IL	12/11/97	12/12/97		X	X	X	On 1/8/98, complaint withdrawing inspection filed by FSIS; on 3/27/98, consent decision and order reached, under which inspection resumed.

## 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
					<i>E. coli</i>	SSOP	Other	
Four Star Products, Inc. 4602	Bridgeton, NJ	5/7/97	5/7/97	5/9/97		X		Remains in abeyance.
Gold Medal 17965	Rome, NY	2/19/98		2/19/98	X			Remains in abeyance.
Greenville Packing 9956	Greenville, NY	3/17/98		3/19/98	X			Remains in abeyance.
Harrison Poultry, Inc. P-910	Bethlehem, GA	3/19/98		3/20/98		X		Remains in abeyance.
J.F. O'Neil Packing Co. 889 A	Omaha, NE	12/11/97		12/18/97	X			Remains in abeyance.
Longmont Packing Co. 128	Longmont, CO	3/10/98	3/10/98	3/11/98		X		Remains in abeyance.
Maple Leaf P-67	Franksville, WI	10/17/97		10/21/97		X		Remains in abeyance.
Morasch's Meats 4102	Portland, OR	8/12/97		8/12/97		X		On 2/25/98, suspension case was closed with a Letter of Warning.
Morris Meat 18229	Morris, IL	1/27/98		1/29/98	X			Remains in abeyance.
Northern Beef Products 981	Greeley, CO	3/26/98		3/27/98		X		Remains in abeyance.
Oriskany Falls Packing, Inc. 4481	Oriskany, NY	3/5/98		3/5/98	X			Remains in abeyance.
Orvis Bros. & Co. 2875	Modesto, CA	2/2/98	2/5/98	2/17/98		X		Remains in abeyance.
Plainville Turkey P-9905	Plainville, NY	2/2/98		2/3/98	X			Remains in abeyance.
Potok Packing 10059	Detroit, MI	10/9/97	10/10/97	10/23/97		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
					<i>E. coli</i>	SSOP	Other	
Quality Meats, Inc. 19916	Midvale, UT	3/6/98		3/6/98		X		Remains in abeyance.
Salem Packing Co., Inc. 5425	Salem, NJ	2/5/98		2/6/98	X			Remains in abeyance.
Sheldon's Poultry, Inc. P-4153	Pomona, CA	1/28/98		1/29/98		X		Remains in abeyance.
Spectrum Preferred Meats 19185	Mt. Morris, IL	2/11/98		2/12/98	X			Remains in abeyance.
Thorn Apple Valley Walker West 6876	Grand Rapids, MI	11/6/97	11/6/97	11/8/97		X		Remains in abeyance.
Townsend's, Inc. P-396	Pittsboro, NC	3/5/98		3/6/98		X		Remains in abeyance.
Tyson Distribution Center ID-19424	Rogers, AR	10/23/97		10/24/97		X		On 3/17/98, suspension case was closed with a Letter of Warning.

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 a recipient of inspection because of a felony conviction or more than one violation involving food. Table 6 identifies actions pending or taken (other than outstanding consent decisions) on this basis for this reporting period.

**Table 6. Withdrawal for Unfitness  
(1/1/98 — 3/31/98)**

**Administrative Actions Pending or Taken for Unfitness (includes actions initiated in prior quarters)**

Establishment	Location	Complaint to Withdraw Inspection	Consent Decision	Appeals and Actions
Brestensky Meat Market, Inc.  9407	Freeport, PA	1/27/98		Complaint to withdraw inspection based on firm's 1996 felony conviction for selling, with intent to defraud, adulterated meat products within the State of Pennsylvania.
Thorn Apple Valley/ Walker West and Gary L. Hosteter  6876	Grand Rapids, MI	4/17/97		Complaint to withdraw inspection based on felony conviction of plant manager. Amended complaint filed 10/20/97.

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. Table 7 lists these actions for this period (other than outstanding consent decisions).

**Table 7. Custom Exempt Actions  
(1/1/98 — 3/31/98)**

**Administrative Actions Taken at Custom Exempt Facilities**

Name	Location	Complaint	Consent Agreement	Appeals and Actions
Primo Live Poultry	Bronx, NY		2/2/98	Stipulation and Consent Agreement reached in lieu of removing custom exempt privileges because of insanitary conditions.

## **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 8 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 8. Criminal Actions  
(1/1/98 — 3/31/98)**

# Criminal Actions

<b>Name</b>	<b>Location</b>	<b>Indictment</b>	<b>Information</b>	<b>Plea</b>	<b>Sentencing</b>	<b>Action Summary</b>
Bronco's Inc.	Cambridge, NE			3/10/98		Pled Guilty: 1 felony count for operating a meat processing facility in an unsanitary manner.
Clem Wholesale Grocer Co. Inc.	Malvern, AR				1/6/98	Sentencing: 1 misdemeanor count, holding adulterated meat food products – fined \$5,000 plus \$125 special assessment fee and 5 years probation.
Georgia Freezers	Gainesville, GA				2/9/98	Sentencing: 1 misdemeanor count, causing poultry product to become misbranded by repacking poultry products without Federal inspection– \$200,000 fine plus \$50 special assessment fee. Required to reimburse USDA's National Finance Center for one-half the cost of the investigation, but not to exceed \$40,000. [OIG Case]
Greenville Packing Co. Inc.	Greenville, NY				3/9/98	Sentencing: 1 felony count bribery, \$10,000 fine plus \$100 special assessment fee and 5 years probation. [OIG Case]
J. D. Minton, III (former General Manager of) Select Meats Inc.	Palestine, TX				2/19/98	Sentencing: 2 felony counts: prepared and offered for transportation adulterated and misbranded ground beef. Failed to declare soy & water on label. Forcibly assaulted & interfered with a USDA inspector while engaged in official duties. Placed under house arrest for 6 months to be followed by 3 years probation plus \$50 special assessment.
Jerry De Groot Inc., Co-Owner of E & E Wholesale	Ripon, CA			2/5/98		Pled Guilty: 1 misdemeanor count for causing meat products to become rodent adulterated and misbranded.
Lee Gashel & Sons Inc. Fred M. Gashel and Charles B. Gashel	Claysville, PA			1/23/98		Pled Guilty: 1 felony count each for using a prohibited additive (sodium sulfite) in sausage product.
Michigan Cold Storage Facility Inc.	Taylor, MI				2/17/98	Sentencing: 2 misdemeanor counts; caused meat and poultry products to become adulterated by rodents--\$25,000 fine, \$50 special assessment, and 2 years probation.
Randall "Randy" Barber, Greenville Packing Co. Inc	Middleburgh, NY				3/9/98	Sentencing: 1 felony count bribery, \$17,000 fine plus \$100 special assessment fee and 5 years probation. Must serve 6 months home detention and complete 200 hours of community service. [OIG Case]



# Criminal Actions

Name	Location	Indictment	Information	Plea	Sentencing	Action Summary
Roger Lawson Owner of Central Plaza Meats & Deli	McKinleyville, CA			1/6/98		Pled Guilty: 1 misdemeanor count for preparing meat food products not in compliance with the Act, using the official marks of inspection without authorization, representing meat food product as federally inspected, and sale and transportation of nonfederally inspected and misbranded meat food products.
Select Meats Inc. (See also, J. D. Minton, III)	Palestine, TX				2/27/98	Sentencing: 2 felony counts; prepared and offered for transportation adulterated and misbranded ground beef. Failed to declare soy & water on labels. Forcibly assaulted & interfered with a USDA inspector while engaged in official duties. \$285,912 fine, \$16,941 in restitution plus \$200 special assessment.

## **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.

No seizure actions were instituted by FSIS for this reporting period. Future reports will list any pending seizure cases, with brief descriptions of the basis for the seizure.

### 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 most frequently seeks injunctions to stop uninspected retail stores from processing products without required inspection for wholesale business. There were no injunctions entered during the reporting period, however, 28 firms are currently 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. Table 9 provides this information.

**Table 9. Civil Actions  
(1/1/98 — 3/31/98)**

ACE Actions

<b>Name</b>	<b>Location</b>	<b>Complaint</b>	<b>Order</b>	<b>Action Summary</b>
Murco Inc. 421	Plainwell, MI	1/14/98		Complaint filed for falsely stating that ground beef met State government contract fat content specifications, when, in fact, it exceeded the specified fat content. Ground beef was purchased, in part, with Federal funds.

**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: <http://www.usda.gov/fsis>  
Fast Fax System: 1-800-238-8281; Washington, DC area;  
(202) 690-3754