

**UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE  
QUARTERLY REGULATORY AND ENFORCEMENT REPORT  
October 1, 1998 to December 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 Hazard Analysis and Critical Control Point (HACCP) Systems have a 92 percent compliance rate for this reporting period.

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. Small plants (those employing ten or more, but fewer than 500 employees) began HACCP implementation in January 1999. 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. Data on small plant implementation will be available in the next quarterly report.

This is the fourth quarterly report on regulatory and enforcement actions taken by the FSIS. The first report was published in May 1998. 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 nearly 3 million pounds of product and issued 555 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 3,000 additional plants will begin implementing HACCP in January 1999. By the year 2000, HACCP implementation will be complete, even in the smallest plants. The new prevention-oriented meat and poultry inspection system is helping to further protect American families from food borne pathogens. For example, data indicates that the system has been highly effective in reducing the frequency of salmonella in broiler chickens and pork.

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.

## **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 December 31, 1998, approximately 300 large plants (plants with 500 or more employees) operated under HACCP-based inspection, and approximately 6,000 small and 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 PDRs referenced in **Table 1a** were issued between October 1 and December 31, 1998. The NRs referenced in the table were issued between October 1 and December 31, 1998. During this period, FSIS inspectors performed over 1,962,390 million inspection tasks at non-HACCP plants and approximately 207,684 inspection procedures 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 October 1 to December 31, 1998.

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

PDR/NR Totals

PDRs Issued (10/1/98-12/31/98)	24,503
NRs Issued (10/1/98-12/31/98)	18,944

**Table 1b. Appeals of PDRs and NRs (10/1/98 – 12/31/98)**

Number of Non-HACCP Plants Filing Appeals 72

Appeal of PDR Granted	Appeal of PDR Denied	Appeal of PDR Pending	Total PDRs Appealed
39	82	9	130

(Total exceeds 72 because some plants filed multiple appeals.)

Number of HACCP Plants Filing Appeals 89

Appeal of NR Granted	Appeal of NR Denied	Appeal of NR Pending	Total NRs Appealed
70	253	45	368

(Total exceeds 89 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 31,216,631 livestock carcasses, of which 38,931 carcasses were condemned. Figures for condemnations of poultry carcasses are not available at this time; the report will be updated on the FSIS Home Page as soon as possible to include this information.

### 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  
(10/1/98 — 12/31/98)**

## Detentions

Total number of detentions by FSIS	176
Total pounds of product detained	2,730,978.72

<b>District</b>	<b>Detentions</b>	<b>Pounds Detained</b>
ALAMEDA, CA	24	377,777.00
ALBANY, NY	20	102,051.72
ATLANTA, GA	3	2,088.00
BELTSVILLE, MD	2	150.00
BOSTON, MA	3	61,940.00
BOULDER, CO	7	41,749.00
CHICAGO, IL	8	109,728.00
DALLAS, TX	22	109,124.00
DES MOINES, IA	17	1,327,301.00
JACKSON, MS	5	5,520.00
LAWRENCE, KS	11	12,574.00
MADISON, WI	13	93,328.00
MINNEAPOLIS, MN	1	1,230.00
PHILADELPHIA, PA	8	271,492.00
PICKERINGTON, OH	5	144,099.00
RALEIGH, NC	1	1,286.00
SALEM, OR	16	51,246.00
SPRINGDALE, AR	10	18,295.00
	<u>176</u>	<u>2,730,978.72</u>
Totals		

## 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 October 1 to December 31, 1998.

**Table 3. Imported Meat, Poultry and Egg Products  
(10/1/98 — 12/31/98)**

Presented, Reinspected, and Refused Entry

**Meat and Poultry**

<b>Number of Presented</b>		<b>Number of Reinspected</b>		<b>Number of Refused Entry</b>	
<b>Lots</b>	<b>Pounds</b>	<b>Lots</b>	<b>Pounds</b>	<b>Lots</b>	<b>Pounds</b>
35,389	749,436,409	6,595	148,442,911	2,234	2,649,730

**Egg Products**

<b>Number of Presented</b>		<b>Number of Refused Entry</b>	
<b>Lots</b>	<b>Pounds</b>	<b>Lots</b>	<b>Pounds</b>
88	1,407,604	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  
(10/1/98 — 12/31/98)**

### Letters of Warning for Criminal Violations

<b>Total number of LOWs issued for violations</b>	555
<b>Number issued by Headquarters</b>	14
<b>District</b>	<b>Number of LOWs Issued by Districts</b>
ALAMEDA, CA	60
ALBANY, NY	66
ATLANTA, GA	24
BELTSVILLE, MD	44
BOSTON, MA	93
BOULDER, CO	28
CHICAGO, IL	12
DALLAS, TX	10
DES MOINES, IA	10
JACKSON, MS	10
LAWRENCE, KS	28
MADISON, WI	33
MINNEAPOLIS, MN	0
PHILADELPHIA, PA	32
PICKERINGTON, OH	7
RALEIGH, NC	3
SALEM, OR	58
SPRINGDALE, AR	<u>23</u>
<b>Total number issued by Districts</b>	541

### **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

In April 1998, FSIS established a procedure for notifying establishments of intended enforcement actions related to certain HACCP System inadequacies that have not resulted in actual shipment of adulterated products. Under this procedure, a notice will be issued to an establishment when the Inspector-in-Charge determines that a HACCP System inadequacy has occurred because the establishment has experienced multiple, recurring noncompliances and has failed to implement corrective and preventive measures to prevent a HACCP System

inadequacy. The “Notice” informs the establishment that the nature and scope of the noncompliances indicate 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 HACCP 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 and 6** 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 *E. coli* testing inadequacy, 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 5** lists these actions taken at plants now operating under HACCP. **Table 6** lists actions at plants still operating under traditional inspection. During this period activity is reported concerning 61 plants. Seventeen of the actions in these plants were initiated during this reporting period. Seventeen actions were also closed by letter of warning or other means during this period.

**Tables 5 and 6** 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 (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, a decision was reached concerning one appeal and one appeal decision remained pending.



**Table 5. Administrative Actions: HACCP Plants  
(10/1/98 - 12/31/98)**

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
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
An International Home Foods Inc. 794/P-770 Milton, PA						X		On 12/1/98 a notice of intended enforcement was issued. On 12/7/98 after receiving corrective and preventive actions from plant officials a notice of information was issued which closed the case.
Carolina Golden/ Gold Kist Inc. P-17980 Sumter, SC	2/12/98		2/13/98			X		Remains in abeyance.
ConAgra Broiler Co. P-7016 El Dorado, AR						X		On 11/13/98 a notice of intended enforcement was issued. On 11/17/98 the notice was rescinded after corrective and preventive measures were received from plant officials.
Dixie Packers 1415M/P6655 Madison, FL	11/3/98	11/4/98	11/12/98		X			Remains in abeyance.
Federal Beef Processors, Inc. 364 West Fargo, ND		10/22/98	10/6/98 10/28/98			X X		On 10/6/98 suspension held in abeyance following notice of intended enforcement issued to the plant. On 10/22/98 suspension reinstated following continued system failures. Remains in abeyance.
Foster Food Products P-6137 Livingston, CA		12/8/98	12/9/98			X		On 11/24/98 a notice of intended enforcement was issued. On 12/9/98 a suspension was held in abeyance after corrective and preventive measures were received from plant officials.
Goldkist Poultry P-1277 Athens, GA						X		On 12/22/98 notice of intended enforcement issued. Decision regarding enforcement pending.
Longmont Foods Co. 1176/P-552 Longmont, CO	6/11/98		6/12/98			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
				<u>E.Coli</u>	<u>SSOP</u>	<u>HACCP</u>	<u>Other</u>	
Louis Rich Co. P-9070/9070 Newberry, SC	7/24/98 8/13/98	7/24/98 7/27/98	7/25/98 8/1/98 8/16/98		X X X			Remains in abeyance.
Perdue Farms, Inc. P-18285 Dillion, SC	2/12/98 3/6/98	2/13/98 4/30/98	2/18/98 3/7/98 5/4/98		X X	X X		Remains in abeyance.
Tyson Foods, Inc. P-325 Center, TX	2/25/98 3/9/98		2/27/98 3/11/98			X		On 12/4/98 suspension case closed with a letter of warning.
Tyson Foods, Inc. P-768 Waldron, AR	1/14/98	4/9/98	1/16/98 4/14/98		X X	X		On 11/12/98 suspension case closed with a letter of warning.
Tyson Foods, Inc. Est. 622 Monroe, NC			12/28/98			X		On 12/18/98 notice of intended enforcement issued. On 12/28/98 a suspension was held in abeyance after corrective and preventive measures were received from plant officials.
Tyson Foods, Inc. P-477 Buena Vista, GA						X		On 12/14/98 notice of intended enforcement issued. Decision regarding enforcement pending.
Valley Pride Pack, Inc. 1361 Norwalk, WI	6/25/98		6/26/98		X			On 12/14/98 suspension case closed with a letter of warning. On 12/10/98, a second appeal concerning the suspension was received. Appeal decision is pending.
Zacky Farms P-7362 Fresno, CA			12/10/98			X		On 11/25/98 a notice of intended enforcement was issued. On 12/10/98, a suspension was held in abeyance after corrective and preventive measures were received from plant officials. Remains in abeyance.

**Table 6. Administrative Actions: Non-HACCP Plants  
(10/1/98 - 12/31/98)**

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 Abeance	Basis for Action			Appeals and Actions
				<u>E.Coli</u>	<u>SSOP</u>	<u>Other</u>	
Bo-Bo Poultry Market Inc. P-20138 Brooklyn, NY	5/20/98		5/21/98	X			Remains in abeyance.
Border City Foods, Inc. P-13513 Fort Smith, AR	1/23/98		1/26/98		X		On 12/16/98 suspension case closed with a letter of warning.
Bottisti's Pizzeria 4362/P-4362 Amsterdam, NY	12/4/97	12/5/97	12/31/97		X		Remains in abeyance.
Broken Bow Pack 5634 Broken Bow, NE	6/23/98		6/24/98	X			Remains in abeyance.
Case Farms of Ohio P-15724 1818 County Rd.160 Winesburg, OH	10/15/98		10/18/98		X		Remains in abeyance.
Center State Beef & Veal, Inc. 4021 Cortland, NY	2/25/98		2/25/98	X			Remains in abeyance.
Champlain Beef Co. Inc. 8547 Whitehall, NY	2/4/98		2/4/98	X			Remains in abeyance.
Columbia Farms P-1309 Greenville, SC		10/15/98	10/29/98			X	On 10/29/98 suspension effected because air quality of the plant interfered with FSIS inspectors in the performance of their duties. On 12/15/98, FSIS entered into a Consent Decision and Order with the plant which lifted and held in abeyance the temporary suspension.

### 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>	
Cornbelt Beef Corp. 10173 Detroit, MI	8/26/98		8/28/98		X		Remains in abeyance.
Day Top Trading Corp. 18343/P-18343 Long Island City, NY	9/23/98	9/24/98	9/30/98		X		Remains in abeyance.
Dos Banderas 9269/P9269 Maywood, CA	8/24/98	8/28/98	9/17/98		X		Remains in abeyance.
Farmer's Livestock Coop. 6208 Ewa Beach, HI	9/15/98		9/28/98		X		On 12/23/98 suspension case closed with letter of warning.
FBA Food Production Inc. 18832/P-18832 Brooklyn, NY	3/4/98	3/6/98	7/8/98		X		Remains in abeyance.
Feldman Veal Corp. 4419 Watertown, NY	1/20/98		1/20/98	X			Remains in abeyance.
Foremost Packing 824 East Moline, IL	12/11/97 9/15/98		12/12/97	X	X X	X	On 10/12/98 plant voluntarily withdrew inspection, after being notified of agency's intent to file complaint to summarily withdraw inspection under existing Consent.
Grand Champion Foods Inc. 466/P-8884 Norwich, CT	7/21/98		7/29/98			X	Remains in abeyance. Suspension based on adulterated and misbranded meat food products found in plant.
Gold Medal Packing 17965 Rome, NY	2/19/98		2/29/98	X			Remains in abeyance.
Greenville Packing Co. Inc. 9956/P-9956 Greenville, NY	3/17/98		3/19/98	X		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>	
G & T Meat Co. Inc. 10273/P-10273 Grand Rapids, MI	8/12/98		8/12/98		X		Remains in abeyance.
H & R Meat Co. 301 Merced, CA	9/24/98					X	Suspension taken for inhumane slaughter. On 10/1/98 operations resumed after plant submitted acceptable corrective measures. On 10/21/98 case closed with a letter of warning.
IBP Inc. 9268 Wallula, WA					X		On 11/9/98 a notice of intended enforcement action issued. On 11/6/98 withholding held in abeyance after corrective and preventive measures were received from plant officials.
James J. Derba Co. Inc. 5324 Chelsea, MA	12/15/98		12/16/98		X		Remains in abeyance.
Jones Butchering & Meat Proc. 10176/P-10176 Saranac, MI	5/12/98		5/15/98		X		Remains in abeyance.
Kent Quality Foods, Inc. 5694/P5694 Grand Rapids, MI	8/6/98		8/11/98		X		Remains in abeyance.
Kull Packing Co. 1951 Yorkville, OH	10/22/98		10/26/98		X		On 12/31/98 suspension case closed with a notice of warning.
K. T. Kitchen Inc. 17237/P-17237 Carson, CA	12/18/98		12/18/98 12/23/98		X		Remains in abeyance.
Longmont Packing Co. 128 Longmont, CO	3/10/98	3/10/98	3/11/98		X		On 12/14/98 suspension case closed with a letter of warning.
Montclair Meat Co. 6116/P6116 Montclair, CA	9/1/98		9/3/98		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>	
Northern Beef Products 981 Greeley, CO.	3/26/98		3/27/98		X		On 12/22/98 appeal decision issued. Appeal of withholding denied. Appeal of suspension granted. Suspension case closed.
Oriskany Falls Packing, Inc. 4481 Oriskany Falls, NY	3/5/98		3/5/98	X			Remains in abeyance.
Orvis Bros. & Co. 2875 Modesto, CA	2/2/98	2/5/98	2/7/98		X		On 11/12/98 suspension case closed with letter of warning.
Plainville Turkey Farm Inc. P-9905 Plainville, NY	2/2/98		2/2/98	X			Remains in abeyance.
Quality Meats Inc. 19916/P-19916 Midvale, UT	3/6/98		3/6/98		X		On 12/10/98 suspension case closed with a letter of warning.
Saad Wholesale, Inc. P-10153/10153 Detroit, MI	9/14/98		9/22/98		X		Remains in abeyance.
Salem Packing Co. Inc. 5425 Salem, NJ	2/5/98		2/6/98	X			Remains in abeyance.
Salett's Inc. 4064 Newton, MA	6/11/98		6/11/98		X		On 12/3/98 suspension case closed with a letter of warning.
Shelton's Poultry Inc. P-4153/4153 Pomona, CA	1/28/98		1/30/98	X			On 12/7/98 suspension case closed with letter of warning.
Southside Pork Packers 18920 Hazleton, PA	8/25/98	8/26/98	8/28/98		X		Effective 11/23/98 plant voluntarily withdrew inspection.

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>	
Superior Provisions 10184 Detroit, MI	5/28/98	5/28/98			X		Effective 10/31/98 plant voluntarily withdrew inspection
Thayer Food Products d/b/a Cal Foods 1613 Oakland, CA		7/14/98	7/15/98			X	Plant produces egg products. Suspension remains in abeyance. Suspension based on insanitary conditions in the plant.
Thornapple Valley 13529 Forest City, AR	12/30/98	12/31/98			X	X	Suspension remains in effect because of SSOP and positive <u>Listeria</u> findings.
United Meat & Deli 10012/P-10012 Detroit, MI	8/12/98		8/20/98		X		Remains in abeyance.
V. H. Paris Co. 698P Santa Fe Springs, CA	7/29/98	8/4/98	8/14/98		X		On 11/12/98 suspension case closed with a letter of warning.
West Best Foods 6080/P-6080 Las Vegas, NV	4/10/98	4/16/98	4/22/98		X		Remains in abeyance.
West Lake Food Corp. 1627A/P-1627A Santa Ana, CA	7/23/98	7/27/98	8/6/98		X		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 7** identifies actions pending or taken (other than outstanding consent decisions) on this basis for this reporting period.



**Table 7. Withdrawal for Unfitness**

**10/1/98-12/31/98**

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

Establishment	Location	Complaint to Deny/Withdraw Inspection	Consent Decision	Actions
Brestensky Meat Market Inc. 9407	Freeport, PA	1/27/98		Complaint to withdraw inspection based on firm's felony conviction for selling, with intent to defraud, adulterated meat products within the State of Pennsylvania. On 11/3/98, FSIS filed a motion for a hearing.
Thomas Beaver and T&D Meats Lockers, Inc. 15759	Sioux Center, IA	6/1/98		Complaint to withdraw inspection based on multiple misdemeanor convictions of plant president for selling, transporting, offering for sale or transportation, or receiving for transportation an article produced from livestock which was both capable of human consumption as human food and adulterated or misbranded at the time. Administrative hearing scheduled for April 7, 1999.
Center Meat Co. No.7, Inc. & Ricky Johnston	Brea City, CA	10/13/98		Complaint to withdraw inspection based on the general manager's felony conviction of grand theft by embezzlement.

Charles Barry Gashel, Fred Gashel and Lee Gashel and Sons, Inc.	Claysville, PA	10/13/98	Complaint to withdraw inspection based on plant officials' felony convictions for preparing adulterated pork sausage.
Greenville Packing Co. Inc. 9956/P9956	Greenville, NY	7/27/98	Complaint to withdraw inspection based on the firm's felony conviction of bribery of public official (FSIS employee). Administrative hearing scheduled for June 2, 1999.
Palermo Sausage Co. and William Defelice	New Castle, PA	8/13/98	Complaint to deny inspection based on William Defelice's convictions of six felony counts, including, theft by unlawful taking or disposition, receiving stolen property, and conspiracy. On 1/6/99 a Default Decision and order issued to the plant due to Respondent's failure to file an answer to the complaint.

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 activities during 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 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  
(10/1/98 – 12/31/98)**

## Criminal Actions

<b>Name</b>	<b>Location</b>	<b>Indictment</b>	<b>Information</b>	<b>Plea</b>	<b>Sentencing</b>	<b>Action Summary</b>
Earl Casey, Co-owner E & E Wholesale	Riverbank, CA			08/19/98	10/27/98	2 misdemeanor counts for causing meat and poultry products to become adulterated by rodent gnawing and feces. Fined \$5,000, \$50 special assessment fee, and placed on limited supervisor probation.
Leslie Casey, Manager E & E Wholesale	Riverbank, CA			08/19/98	10/27/98	2 misdemeanor counts for causing meat and poultry products to become adulterated by rodent gnawing and feces. Fined \$5,000, \$50 special assessment fee, and placed on limited supervisor probation
Custom Cold Storage and Services Inc., and Jacob Fleishman and Sons, Inc.	Miami, FL			10/19/98		1 felony count for each firm for causing meat products to become adulterated from rodent gnawing and feces.
Kelly's Deer Processing Colin P. Kelly, Owner and Operator	Big Rapids, MI			09/01/98	11/30/98	1 misdemeanor count for committing a simple assault upon a USDA Compliance Officer. Fined \$2,500 and required to pay a \$25 special assessment fee.
Mies Wholesale Meats, Inc.	Kansas City, KS			07/23/98	10/20/98	1 misdemeanor count for causing meat and meat food products to become adulterated by filth and rodent feces. Fined \$4,000 and ordered to pay a \$100 assessment fee.
Middlebury Packing Company, Inc.	Middlebury, VT				11/09/98	1 felony count, with intent to defraud, of selling and transporting in commerce misbranded beef, and 1 felony count each for wire fraud and mail fraud. Ordered to pay \$67,005 in restitution, \$1,200 assessment fee, and placed on probation for 2 years.
Penn Packing Co. Inc., d/b/a Butler Foods, Inc. Steven & Lawrence Lipoff, Co-owners	Philadelphia, PA			10/01/98		Firm pled guilty to a 52 count indictment that included 1 felony count for mislabeling meat.
Preferred Freezer Services, Miami, Inc. John Galther, Jr, President	Miami, FL			10/26/98		2 misdemeanor and 1 felony count for causing meat and poultry products to become rodent contaminated and for distribution of said products.
Robert Lewis Quesnel, Vice President/Owner, Middlebury Packing Company, Inc.	Middlebury, VT				11/09/98	1 felony count, with intent to defraud, for selling and transporting in commerce misbranded beef. Imprisoned for 4 months, ordered to pay \$33,500 in restitution, pay a \$100.00 assessment fee, and placed on supervised release for four months.

<b>Name</b>	<b>Location</b>	<b>Indictment</b>	<b>Information</b>	<b>Plea</b>	<b>Sentencing</b>	<b>Action Summary</b>
Rotunda Packing Company, former President Ronald T. Kuhn	Dearborn, MI	12/16/98				6 felony counts for selling and transporting spoiled, sour meat and poultry products to retail stores, restaurants, and a correctional facility.
Robert C. Stackhouse (Manager, Cross Creek Foods, Inc.)	Fayetteville, NC			05/26/98		2 misdemeanor counts for storing meat product in a manner as to be contaminated by rodents and water from an overhead refrigeration unit. Fined \$ 3,000 and ordered to pay a \$50 special assessment fee.
James G. Stancil President, Cross Creek Foods, Inc.	Fayetteville, NC			05/26/98	11/12/98	2 misdemeanor counts for causing meat products to become adulterated because of insanitary conditions and from rodent gnawing, feces, and hair. Fined \$15,000 and ordered to pay a \$50 assessment fee.
T & C Foods Thomas Nuberg President	Grandville, MI			10/19/98		1 misdemeanor count for knowingly receiving for transportation and commerce meat products that were adulterated.

## **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.

### 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.
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FSIS Web site:	<a href="http://www.usda.gov/fsis">www.usda.gov/fsis</a>
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