

OPI: CD/P&ED

REVIEW OF STATE MEAT AND POULTRY COMPLIANCE PROGRAMS

I. PURPOSE

This Directive sets forth Compliance Program (CP) procedures and minimum standards for determining the status of State meat and poultry compliance program.

II. CANCELLATION

Discontinue for FSQS use: MPI Directive 910.2, dated 6/29/76.

III. (RESERVED)

IV. AUTHORIZATION

The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), as amended:

A. Authorize the Secretary of Agriculture to cooperate with appropriate State agencies in developing and administering programs under State laws containing authorities at least equal to those of the Federal Acts. Authorized cooperation includes providing Federal advisory assistance, funding, and other aid for the development and administration of intrastate compliance programs operated by a single agency in each State to prevent and detect violations of State meat and poultry laws.

B. Require periodic reviews of the requirements of undesignated States and of their enforcement with respect to the preparation, storage, handling, and distribution of meat and poultry products.

C. Provide for the designation of individual States, under certain sections of the Acts, if they lack at least equal authorities or do not exercise them in a manner to effectuate the purposes of the Acts.

V. SCOPE

A comprehensive certification program for "equal to" status will be based on combined results of CP reviews of enforcement activities under this Directive, basic CP oversight reviews under FSQS Directive 8030.1, and supervisory reviews under MPI directive 910.1.

VI. COMPLIANCE ACTIVITIES

Compliance activities, as used in this Directive, are the performance of surveillance, evaluation, investigation, and enforcement duties which are not assigned exclusively to inplant or administrative personnel. These activities are largely, but not wholly, those related to:

A. Enforcing of these provisions of State laws equivalent to those portions of the FMIA and similar provisions of the PPIA which are essential for certification of a State "equal to" program:

1. Title I. The prohibited acts of Sections 10 and 11, and the sanctions of Section 22.

2. Title IV. The control and disposition of violative product of Sections 402 and 403, and the sanctions of Sections 401, 405, and 406.

3. Title II. The requirements of Section 202, 203, and 204, including the access provisions of Section 205.

B. Furnishing inspection program officials with reports on inplant irregularities and potential or established program weaknesses or failures detected in the field.

VII. RESPONSIBILITY

The Director, Evaluation and Enforcement Division, CP, will be responsible for:

A. Reviewing State compliance programs.

B. Determining the adequacy of State compliance programs in relationship to the standards contained in this Directive, and recommending "equal to" certification or designation of States based on the effectiveness of their enforcement authorities and actions necessary to effectuate the purposes of the Acts.

C. Developing an acceptable method of follow-up on deficiencies.

VIII. MINIMUM STANDARDS FOR STATE MEAT/POULTRY COMPLIANCE PROGRAMS

State compliance programs covering intrastate commerce in meat and poultry products intended for either human food or for other purposes will be equal to the Federal compliance program which covers interstate commerce in these products.

A. Legal Authorities. State laws and regulations must contain requirements and authorities at least equal to those contained in the FMIA and the PPIA. They will normally be set forth in the State meat and poultry laws. However, use of provisions contained in other State laws will be adequate as long as this enables effective enforcement. State laws and regulations must:

1. Authorize and provide for the conduct of all programs and activities outlined in subparagraph C.

2. Prohibit all violations in intrastate commerce comparable

to interstate violations described in the FMIA and the PPIA.

B. Resources. The State agency must have adequate resources for carrying out an effective compliance program, including:

1. Competent, reliable, and trained personnel assigned to compliance work.

a. At least one State employee to direct compliance activities outlined in this Directive, preferably on a full-time basis.

b. Such additional personnel as are necessary to carry out the program effectively and efficiently. When Federal funding is being claimed, records of the activities of employees devoting less than full time to fundable compliance work must clearly distinguish between fundable and nonfundable time as listed in paragraph IX.

2. Adequate funding, which may include Federal matching funds as appropriate.

C. Compliance Programs. The State must have a formal, identifiable, and effective program, system, and/or procedures for accomplishing the following:

1. Controlling product in intrastate distribution channels which is believed to be adulterated or misbranded. Mechanisms must include detentions, recalls, seizures, or similar actions to effectively control the product until it is brought into compliance or removed from human food channels.

2. Enforcing recordkeeping requirements and the access, examination, copying, and sampling privileges required by laws and regulations, and providing for Federal representatives being afforded these same privileges.

3. Systematically reviewing the inventories and operations of all classes of persons, firms, and corporations, in intrastate commerce dealing in poultry, cattle, sheep, swine, goats, horses, mules or other equines, or their products, intended for either human consumption or other uses. The coverage should extend to storage locations, source locations of uninspected products, and, for specific cause, source of inspected products. This should include planned reviews of the operations of those identifiable as presenting an above average risk of violating, with an assigned frequency of follow-up reviews based on the degree of risk that each is judged to present.

4. Documenting, in a manner to provide pertinent details, all violations of State meat and poultry inspection laws detected in

the course of compliance activities.

5. Determining the proper actions to be taken for disposition of reports of violations. Determinations must follow an identifiable and consistent pattern and must distinguish between minor and serious violations and between first time and repeat violators.

6. Initiating legal proceedings in cases appropriately identified as warranting criminal or civil sanctions.

7. Enforcing the denaturing requirements applicable to products of dead, dying, disabled, or diseased (4-D) animals and poultry.

8. Requiring the registration (through submission of registration forms, licensing, issuance of permits, or other appropriate means) of persons, firms, and corporations which engage in intrastate commerce as a:

a. Meat or poultry broker, renderer, or animal food manufacturer.

b. Wholesaler of any carcasses, or parts or products of the carcasses, of poultry or animals of the specified kinds, whether intended for human food or other purposes.

c. Public warehousemen storing any such articles.

d. Buyer, seller, or transporter of any 4-D poultry or animals of the specified kinds or parts of the carcasses of any such poultry or animal that died otherwise than by slaughter.

9. Documenting and reporting to proper State authorities breakdowns, weaknesses, or failures in the State inspection program if these contributed to or caused failure to prevent a violation of State law.

IX. LIMITS OF FUNDABLE COMPLIANCE ACTIVITIES

A. Sanitation and facility requirements at the retail level and the regulation of meat and poultry products prepared under retail exemption are considered traditional responsibilities of local authorities. In most instances the limits of compliance work are reached when inspected products are further processed by a retailer. Normally, further involvement would not be considered compliance work under matching fund agreements except when local authorities fail to act in isolated situations which would clearly endanger the public health.

B. Enforcement of the regulations which limit sales of meat or

poultry products by an exempt retail store to nonhousehold consumers is considered a compliance function, and is eligible for matching funds. Compliance inquiries in these matters are conducted on a complaint basis. X. ADMINISTRATIVE RECORDKEEPING

A. The State agency must develop and maintain recordkeeping systems that cover the activities in paragraph VIII. in a form that can be related to results and, if Federal funding is being claimed, to resource expenditures. The records must clearly distinguish between time spent on work that is fundable and nonfundable under cooperative matching fund agreements.

B. Federal compliance officials must be allowed access to appropriate program, administrative, and fiscal records maintained by the State.

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