

*** DRAFT - NOT YET FILED ***

901:2-1-01

Uniform state meat inspection service - intrastate production.

The federal meat inspection regulations housed in Title 9 of the Code of Federal Regulations parts 300 to 442 (~~2018~~[2022](#)) adopted pursuant to the Federal Meat Inspection Act (34 Stat. 1260) as amended by the Wholesome Meat Act (81 Stat. 584, 21 U.S.C. Supp., Section 601 et seq.) are adopted in their entirety with the exception of those provisions amended or deleted by this chapter.

The purpose of this chapter is to regulate the production of meat food products as ~~they are~~ defined in 9 C.F.R. 301.2.

All violations of this chapter are governed pursuant to Chapter 901:2-2 of the Administrative Code.

901:2-1-05

Exemptions based on religious dietary laws.

- (A) Any person who slaughters, processes, or otherwise handles cattle, sheep, swine, or goats which have been or are to be processed as required by recognized religious dietary laws may apply for exemption from specific provisions of the act or regulations which are in conflict with such religious dietary laws. Any person desiring such an exemption shall:
- (1) Apply in writing to the Ohio department of agriculture, meat and poultry inspection division, Reynoldsburg, Ohio 43068 setting forth the specific provisions of the act and the regulations from which exemption is sought;
 - (2) Set forth the provisions of the religious dietary laws in support of the requested exemption; and
 - (3) Submit a statement from the clerical official having jurisdiction over the enforcement of the religious dietary laws with respect to the cattle, sheep, swine or goats involved, which identifies the requirements of such laws pertaining to the slaughter of the livestock and the processing or other handling of the meat and meat food products involved, and certifies that such requirements are in conflict with specific provisions of the act and regulations from which the exemption is sought.
- (B) The department, upon a determination that an exemption should be granted, will grant such exemption to the extent necessary to avoid conflict with the religious requirements while still effectuating the purposes of the act. The department may impose such conditions as to sanitary standards, practices, and procedures in granting such an exemption as ~~he~~[the department](#) deems necessary to effectuate the purposes of the act.
- (C) The department may in accordance with applicable rules of practice suspend or terminate any exemption under this rule whenever he finds that such action will aid in effectuating the purposes of the act.
- (D) Failure to comply with the conditions of the exemption, including, but not limited to, failure to process livestock and/or meat and meat food products under clean and sanitary conditions may result in termination of an exemption, in addition to any other penalties provided by law.
- (E) Inspectors of the inspection service are authorized to make inspections in accordance with law to ascertain whether any of the provisions of the act or regulations applying to producers, retailers, or other persons purporting to be exempt from any requirements under this subpart have been violated.

901:2-2-01

Scope and purpose.

The purpose of Chapter 901:2-2 of the Administrative Code is to implement the progressive enforcement actions provided for in division (D) of section 918.08 and division (C) of section 918.28 of the Revised Code.

Title 9 of the Code of Federal Regulations parts 500.1 ~~to~~ 500.8 (~~2015~~2022) are hereby adopted in their entirety with the exception of those provisions amended or deleted by this chapter.

901:2-2-02

Definitions.

Pursuant to rule 901:2-2-01 of the Administrative Code, 9 C.F.R. 500.1 shall read as follows:

- (A) "C.F.R." means the Code of Federal Regulations ~~as revised January 1, 2015~~.
- (B) "Department" means the Ohio department of agriculture.
- (C) "HACCP" means hazard analysis and critical control point.
- (D) "Program employee" means any employee of the department.
- (E) "Progressive enforcement action" means regulatory control action, withholding action, and suspension as defined in this rule.
- (F) "Regulatory control action" means the retention of product, rejection of equipment or facilities, slowing or stopping of lines, or refusal to allow the processing of specifically identified product.
- (G) "SSOP" means sanitation standard operating procedures.
- (H) "Suspension" means an interruption in the assignment of program employees to either all or part of an establishment.
- (I) "Withholding action" means the refusal to allow the marks of inspection to be applied to either all product in an establishment or product produced by a particular process.

901:2-2-03

Regulatory control action.

Pursuant to 901:2-2-01 of the Administrative Code, 9 C.F.R. 500.2 shall be read as follows:

- (A) The department may take regulatory control action without prior notification if any of the following are present or occur in an establishment:
- (1) Insanitary conditions or practices;
 - (2) Product adulteration or misbranding;
 - (3) Conditions that preclude the department from determining that product is not either adulterated or misbranded; or
 - (4) Inhumane handling or slaughtering of livestock.
- (B) If regulatory control action is taken, the department shall immediately notify the establishment orally of the action and the basis for the action. The department will follow the oral notice with a written notice of the action and the underlying basis of the action.
- (C) An establishment may appeal a regulatory control action in accordance with division (D) of section 918.08 and division (C) section 918.28 of the Revised Code.
- (D) Any appeal from a decision of any program employee shall be made to ~~his or her~~the immediate supervisor having jurisdiction over the subject matter of the appeal except as otherwise provide in the applicable rules of practice in this chapter.

901:2-2-04

Withholding action or suspension.

Pursuant to rule 901:2-2-01 of the Administrative Code, 9 C.F.R. 500.3 and 9 C.F.R. 500.4 shall be read as follows:

(A) The department may take a withholding action or impose a suspension without providing the establishment prior written notification when any of the following occur:

- (1) The establishment produced or shipped adulterated or misbranded product as defined in section 918.01 of the Revised Code;
- (2) The establishment does not have a HACCP plan that complies with the requirements of 9 C.F.R. 417.2;
- (3) The establishment does not have an SSOP as required in 9 C.F.R. 416.11 to 9 C.F.R. 416.12;
- (4) Sanitary conditions are such that products in the establishment are or may be rendered adulterated;
- (5) The establishment violated the terms of a regulatory control action;
- (6) An establishment operator, officer, employee, or agent assaulted, threatened to assault, intimidated, or interfered with a department employee;
- (7) The establishment did not destroy a condemned meat or poultry carcass, or part or product thereof, [that has been found to be adulterated](#) in accordance with either 9 C.F.R. 314 or 9 C.F.R. 381, subpart L, within three days of notification; or
- (8) The establishment handled or slaughtered animals in an inhumane manner as defined in 9 C.F.R. 301.2.

(B) The department may take a withholding action or impose a suspension after an establishment is provided prior written notification and the opportunity to demonstrate or achieve compliance when any of the following occur:

- (1) The HACCP system is inadequate, as specified in 9 C.F.R. 417.6, due to multiple or recurring noncompliances;
- (2) The SSOP has not been properly implemented or maintained as specified in 9

C.F.R. 416.13 to 9 C.F.R. 416.16;

- (3) The establishment has not maintained sanitary conditions as prescribed in 9 C.F.R. 416.2 to 9 C.F.R. 416.6 due to multiple or recurring noncompliances;
 - (4) The establishment failed to pay for service or its license renewal;
 - (5) The establishment did not collect and analyze samples for ~~eseherichia~~Escherichia coli biotype 1 and record results in accordance with 9 C.F.R. 310.25(a) or 9 C.F.R. 381.94(a); or,
 - (6) The establishment did not meet the salmonella performance standard requirements prescribed in 9 C.F.R. 310.25(b).
- (C) An establishment may request a voluntary suspension of their inspection license. This request must be made to the department during any time the facility is not in operation. The department shall provide the establishment with a copy of a completed voluntary suspension form.

The establishment shall not resume operation until the department has inspected the facility and the establishment's license has been reinstated. The establishment shall make a request for inspection to the department not less than fourteen days from the date the establishment is to resume operation.

901:2-2-05

Notification, appeals, and actions held in abeyance.

Pursuant to rule 901:2-2-01 of the Administrative Code, 9 C.F.R. 500.5 shall be read as follows:

(A) Whenever the department takes a withholding action or imposes a suspension without prior notification as provided for in paragraph (A) of rule 901:2-2-04 of the Administrative Code, the establishment shall promptly receive a written notice:

- (1) Stating the effective date of the action;
- (2) Describing the reasons for the action;
- (3) Identifying the products or processes affected by the action;
- (4) Provide the establishment an opportunity to present immediate and corrective action and further planned preventive action; and
- (5) Advising the establishment that it may appeal the action in accordance with division (D) of section 918.08 or division (C) of section 918.28 of the Revised Code.

(B) Whenever the department takes a withholding action or imposes a suspension with prior notification as provided for in paragraph (B) of rule 901:2-2-04 of the Administrative Code, the written notice shall:

- (1) State the type of enforcement action the program employee proposes to take;
- (2) Describe the reason for the proposed enforcement action;
- (3) Identify the products or processes affected by the proposed enforcement action;
- (4) Advise the establishment of its right to contact the department to contest the basis for the proposed action or to explain how compliance has been or will be achieved through corrective actions; and
- (5) Advise the establishment that it has ten business days from the receipt of the written notification to respond to the department, unless otherwise indicated by the department.

(C) The department may defer the proposed withholding action or suspension in accordance with paragraph (B) of this rule, when the establishment has submitted to

the department proposed corrective actions which the department believes that the establishment's proposed corrective actions would cure the underlying violation.

(D) The department will initiate the withholding action or impose the suspension in accordance with paragraph (B) of this rule, when any of the following situations occur:

(1) The establishment has failed to respond to the department with their corrective actions within the time ~~alloted~~allotted in the notice;

(2) The department finds that the establishment's proposed corrective actions would fail to cure the underlying violation; or

(3) The department finds that the establishment's proposed corrective actions, which were accepted by the department pursuant to paragraph (C) of this rule, have either:

(a) Failed to cure the underlying violation; or

(b) Not been properly implemented by the establishment.

(E) If the department takes a withholding action or suspends inspection in accordance with paragraph (A) or (D) of this rule, then all of the following may apply:

(1) The establishment may request a hearing pursuant to Chapter 119. of the Revised Code. Upon receipt of a request, the director department shall schedule an expedited hearing

(2) The establishment may submit corrective actions to the department in order to correct the underlying progressive enforcement action. The department may hold the progressive enforcement action in abeyance if it believes that the establishment's proposed corrective actions would cure the underlying violation. If those actions fail to correct the underlying reason for the progressive enforcement action, the department may immediately reinstate the progressive enforcement action.

901:2-2-06

Withdrawal of inspection.

Pursuant to 901:2-2-01 of the Administrative Code, 9 C.F.R. 500.6 shall be read as follows:

(A) The department, in accordance with Chapter 119. of the Revised Code, may revoke an inspection license from an establishment when it finds:

- (1) An establishment produced and shipped adulterated product;
- (2) An establishment did not have or maintain a HACCP plan in accordance with 9 C.F.R. 417;
- (3) An establishment did not have or maintain an SSOP in accordance with 9 C.F.R. 416;
- (4) An establishment did not maintain sanitary conditions;
- (5) An establishment did not collect and analyze samples for ~~eseherichia~~Escherichia coli biotype 1 and record results as prescribed in either 9 C.F.R. 310.25(a) or 9 C.F.R. 381.94(a);
- ~~(6) An establishment did not comply with the salmonella performance standard requirements as prescribed in sections 9 C.F.R. 310.25(b);~~
- ~~(7)~~(6) An establishment handled or slaughtered animals in an inhumane manner as defined in 9 C.F.R. 301.2;
- ~~(8)~~(7) An establishment operator, officer, employee, or agent assaulted, threatened to assault, intimidated, or interfered with a department employee; or
- ~~(9)~~(8) A recipient of inspection or anyone responsibly connected to the recipient is unfit to engage in any business requiring inspection as specified in paragraph (B) of rule 901:2-2-07 of the Administrative Code.

(B) An establishment may make a request to the department for a voluntary withdrawal of its inspection license during any time their facility is not in operation. The department shall provided the establishment with a copy of a completed exemption from meat inspection form.

901:2-2-07

Refusal to grant inspection.

Pursuant to rule 901:2-2-01 of the Administrative Code, 9 C.F.R. 500.7 shall read as follows:

(A) The department may refuse to grant inspection because an applicant which:

- (1) Does not have a HACCP plan as required by 9 C.F.R. 417;
- (2) Has not developed an SSOP as required by 9 C.F.R. 416 or a written recall procedure as required in 9 C.F.R. 418;
- (3) Has not demonstrated that adequate sanitary conditions exist in the establishment as required by 9 C.F.R. 416;
- (4) Has not demonstrated that livestock will be handled and slaughtered humanely as defined in 9 C.F.R. 301.2 or 9 C.F.R. 313; or

(B) The department may refuse to grant inspection to an applicant because an applicant or one of his supervisors, employees, contractors, volunteers, or agents has or has attempted to:

- (1) Willfully made any misrepresentation or any other fraudulent or deceptive practice in connection with any application or request for service under the regulations in this chapter;
- (2) Give a loan, money, favor, or other thing of value, for any purpose to any employee of the department authorized to perform any function under the regulations in this chapter;
- (3) Interfere or obstruct any employee of the department in the performance of his duties under the regulations in this chapter by intimidation, threats, assaults, abuse, or any other improper means;
- (4) Knowingly falsely made, issued, altered, forged, or counterfeited any official certificate, memorandum, mark, or other identification, or device for making any such mark or identification authorized or issued under this chapter;
- (5) Knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device;

- (6) Knowingly obtained or retained possession of any such falsely made, issued, altered, forged or counterfeited certificate, memorandum, mark, identification or device, or of any carcass or meat or meat food product bearing any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, or identification.
 - (7) Knowingly represented that any carcass, meat, or meat food product has been officially inspected and passed (by an authorized inspector) under this chapter when it had not in fact been so inspected;
 - (8) Within the previous ten years, been convicted of any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food, or fraud in connection with transactions in food, or any felony indicating a lack of the integrity needed for the conduct of operations affecting the public health; or
 - (9) Violated any provision of Chapter 918. of the Revised Code or any of the rules adopted under it.
- (C) If the department refuses to grant inspection, the applicant will be provided the opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

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901:2-2-08

Procedures for rescinding or refusing approval of marks, labels, and containers.

Pursuant to rule 901:2-2-01 of the Administrative Code, 9 C.F.R. 500.8 shall be read as follows:

- (A) The department may rescind or refuse approval of false or misleading marks, labels, or sizes or forms of any container for use with any meat or poultry product.
- (B) The department will provide written notification that:
 - (1) Explains the reason for rescinding or refusing the approval;
 - (2) Provides an opportunity for the establishment to modify the marking, labeling, or container so that it will no longer be false or misleading; and
 - (3) Advises the establishment of its opportunity to submit a written statement to respond to the notification and to request a hearing.
- (C) If the department rescinds or refuses approval of false or misleading marks, labels, or sizes or forms of any container for use with any meat or poultry product, a notice and opportunity for a hearing shall be provided, in accordance with Chapter 119. of the Revised Code.