

901:2-1-04

Modifications.

The following sections of 9 C.F.R. part 300 to 9 C.F.R. part 500 are amended to read as follows:

(A) 9 C.F.R. part 300.3(a) delete existing language and insert:

"The organization of the division of meat inspection reflects the agency's primary regulatory responsibilities: implementation of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) as adopted by reference, amended and modified. The division of meat inspection implements the inspection provisions of the FMIA and PPIA through its field structure."

(B) 9 C.F.R. part 300.3(b) delete existing language and insert:

"The central office is composed of a division chief, assistant chief, two agriculture managers, an administrative assistant and a secretary. The assistant chief supervises the regional veterinarians. There are program offices located in eight districts. Supervised at the direction of agriculture managers are meat inspection supervisors. Each district has a team of meat inspectors that perform inspection activities in licensed establishments to which they are assigned. These meat and poultry inspectors report to both the regional veterinarians and the meat inspection supervisors."

(A)(C) 9 C.F.R. Part 300.4(a) —Organizational terminology; personnel delete existing language and insert the following:

"Unless otherwise specifically provide or required in the context of a particular part of the regulations:

"Administrator means the administrator of the Division of Meat Inspection or any officer or employee of the Department to whom authority has been or may in the future be delegated to act in his or her stead."

"District Supervisor means the official of the inspection service who is assigned responsibility for supervising the conduct of inspection at a specific group of official establishments located in what is known as a district."

"Where FSIS is used means the Division of Meat Inspection (DMI) of the Ohio Department of Agriculture."

"Inspection program, inspection service, or program means the organizational unit within the Department with responsibility for carrying out the FMIA and the PPIA ADD ORC."

"Inspector means an inspector of the inspection program. ("Inspector" includes an employee or official of the Ohio state government who is authorized by the director

to inspect meat and meat products or poultry and poultry products under the FMIA or the PPIA, respectively, under an agreement entered into between United States department of agriculture and the appropriate state or other agency."

~~"Inspector in Charge or IIC means an inspection program employee who has primary responsibility for inspection program functions at a particular official establishment."~~

~~"Secretary means the director of the Ohio department of agriculture or his or her designee."~~

~~(B) 9 C.F.R. Part 301.2 - Definitions:~~

~~(1) Section 301.2 - "Inspected and passed" or "U.S. Inspected and Passed" or "U.S. Inspected and Passed by Department of Agriculture". Delete existing language and insert:~~

~~"Inspected and Passed" or "Ohio Inspected and Passed" or "Ohio Inspected and Passed by Department of Agriculture" (or any authorized abbreviation thereof). This term means that the product so identified has been inspected and passed under the regulations in this subchapter, and at the time it was inspected, passed, and identified, it was found to be not adulterated.~~

~~(2) Section 301.2 - U.S. condemned. Delete existing language and insert:~~

~~"Ohio Condemned. This term means that the livestock so identified has been inspected and found to be in a dying condition, or to be affected with any other condition or disease that would require condemnation of its carcass."~~

~~(3) Section 301.2 - U.S. inspected and condemned. Delete existing language and insert"~~

~~"Ohio Inspected and Condemned (or any authorized abbreviation thereof). This term means that the carcass, viscera, other part of carcass, or other product so identified has been inspected, found to be adulterated, and condemned under the regulations in this subchapter."~~

~~(4) Section 301.2 - U.S. passed for cooking. Delete existing language and insert:~~

~~"Ohio Passed for Cooking. This term means that the meat or meat by product so identified has been inspected and pass on condition that it be cooked or rendered as prescribed by the regulations in part 315 of this chapter."~~

~~(5) Section 301.2 - U.S. passed for refrigeration. Delete existing language and insert:~~

~~"Ohio Passed for Refrigeration. This term means that the meat or meat~~

~~by product so identified has been inspected and passed on condition that it be refrigerated or otherwise handled as prescribed by the regulations in part 311 of this subchapter."~~

(6) ~~Section 301.2 – U.S. retained. Delete existing language and insert:~~

~~"Ohio Retained. This term means that the carcass, viscera, or other part of carcass, or other product, or article so identified is held for further examination by an inspector to determine its disposal."~~

(7) ~~Section 301.2 – U.S. suspect. Delete existing language and insert:~~

~~"Ohio Suspect. This term means that the livestock so identified is suspected of being affected with a disease or condition which may require its condemnation, in whole or in part, when slaughtered, and is subject to further examination by an inspector to determine its disposal."~~

~~(C)(D) 9 C.F.R. Part 303 – Exemptions~~ is hereby modified as follows:

(1) ~~Section In 9 C.F.R. 303.1(a)(1), –Delete delete~~ existing language and insert:

~~"(a)(1)~~ The slaughtering by the owner of livestock of their own raising on their own premise, or the slaughter by an individual operating a mobile facility to prepare products for the owner of the livestock on the owner's premise and the preparation by them and transportation in commerce of the carcasses, parts thereof, meat and meat food products of such livestock exclusively for use by them and members of their household and their nonpaying guests and employees;"

(2) ~~Section In 9 C.F.R. 303.1(a)(2)(ii), –Delete delete~~ existing language and insert:

~~"(a)(2)(ii)~~ If the custom operator prepares or handles any products for sale, they are kept separate and apart from custom prepared inspected products at all times while the latter are in his custody: 'farm dressed custom products' (uninspected) from amenable species are not permitted in a facility operating under a retail exemption. Products originating from 'custom' operations (operator compensated only for service and not product) cannot be sold unless prepared under full inspection. Facilities preparing products for the owner's use in a retail operation would be required licensing under a custom exemption."

(3) ~~Section In 9 C.F.R. 303.1(b)(3), –Delete delete~~ existing language and insert:

~~"(b)(3)~~ The custom operators claiming exemptions under paragraph (a)(2) of

this section shall keep records, in addition to records otherwise required by part 320 of this subchapter, showing the numbers and kinds of livestock slaughtered on a custom basis, and the names and addresses of the owners of the livestock and products. An animal delivered for slaughter may be listed with up to four owners with indication of the part of the animal each owner is to receive (e.g., four owners could each receive a quarter carcass of an animal delivered for custom slaughter.)"

(4) Section 303.1(b). Insert the following:

~~"(b)(5)(i) Exemptions based on religious dietary laws. 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 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 and setting forth the provisions of the religious dietary laws in support of the requested exemption. In addition, the applicant for such an exemption shall 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)(5)(ii) The director, 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 director may impose such conditions as to sanitary standards, practices, and procedures in granting such an exemption as he deems necessary to effectuate the purposes of the act. Any person who processes livestock which are prepared under an exemption authorizing the sale of the meat or meat food product in commerce shall identify such product with a label approved by the administrator which identifies the clerical official under whose supervision the meat or meat food product was prepared;"~~

~~"(b)(5)(iii) The director may, by order, in accordance with applicable rules of practice suspend or terminate any exemption under section 303.1(b)(5) with respect to any person whenever he finds that such action will aid in effectuating the purposes of the act. 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;"

~~"(b)(5)(iv) Whenever a slaughterer or processor is granted an exemption under section 303.1(b)(5) with respect to the slaughter or processing of livestock and/or meat and meat food products under this part, under specified conditions, the sale, offer for sale, transportation and other handling in commerce by any person of such livestock and/or meat and meat food products in accordance with such conditions is hereby authorized, except as restricted by the act; and,"~~

~~"(b)(5)(v) 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."~~

~~(5)(4) In 9 C.F.R. Section 303.1(d)(2)(iv)(b),~~ amend delete existing language to read and insert:

~~"(d)(2)(iv)(b) For purposes of this paragraph..."the definition of a restaurant includes a caterer whose employees or designated volunteers delivers or serves product in meals, or as entree', only to individual consumers and otherwise meets the requirements of this paragraph."~~

"The definition of a restaurant includes a caterer whose employees or designated volunteers delivers or serves product in meals, or as entrees, only to individual consumers and otherwise meets the requirements of this paragraph."

~~(6)(5) In 9 C.F.R. Section 303:1(d)(2)(iv)(c),~~ Amend delete existing language and insert to read:

~~"(d)(2)(iv)(c) For purposes of this paragraph...by its own employees, or a volunteer desingated by the restaurant, without intervening transfer or storage..."~~

"For purposes of this paragraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares meat or meat food products that are ready to eat when they leave such facility (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to a receiving restaurant by its own employees, or a volunteer desingated by the restaurant, without intervening transfer or storage, maintained in a safe, unadulterated condition during transportation, and served in meals or as entrees only to customers at

restaurants, or through vending machines, owned or operated by the same person that owns or operates such facility, and which otherwise meets the requirements of this paragraph: Provided, That the requirements of §§320.1 through 320.4 of this subchapter apply to such facility. Provided further, That the exempted facility may be subject to inspection requirements under the Act for as long as the Administrator deems necessary, if the Administrator determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its meat or meat food products are rendered adulterated. When the Administrator has made such determination and subjected a restaurant central kitchen facility to such inspection requirements, the operator of such facility shall be afforded an opportunity to dispute the Administrator's determination in a hearing pursuant to rules of practice which will be adopted for this proceeding."

~~(D)~~(E) 9 C.F.R. Part 306 is hereby modified as follows—Assignment and authorities of program employees:

- (1) 9 C.F.R. 306.1 "Designation of District Veterinary Supervisors and Meat Inspection Supervisors" (See 901:2-1-02, amended definitions, 9 C.F.R. part 300.3 (b)).
- (2) 9 C.F.R. Part 306.3 - Badge as identification of inspectors

Delete existing language and insert:

"Picture Identification Badge as Identification of Inspectors - Each inspector will be furnished with a picture identification badge, which he/she shall not allow to leave his/her possession, and which he/she shall wear in such manner and at such times as the Director may prescribe."

~~(E)~~(F) 9 C.F.R. Part 307 is hereby modified as follows:—Facilities for inspection:

- (1) ~~Section 9 C.F.R.~~ 307.1. Facilities for program employees. Delete existing language and insert:

"Office space, including necessary furnishings, light, heat, and janitor service, shall be provided by official establishments, rent free, for the exclusive use for official purposes of the inspector and other program employees assigned thereto. The space set aside for this purpose shall meet with approval of the circuit supervisor and shall be conveniently located, properly ventilated and provided with lockers suitable for the protection and storage of program supplies and with facilities suitable for program employees to change clothing if such clothes changing facilities are deemed necessary by the circuit

supervisor. At the discretion of the Administrator, small plants requiring the services of less than one fulltime inspector need not furnish facilities for Program employees as prescribed in this section, where adequate facilities exist at a nearby convenient location."

- (2) ~~Section 9 C.F.R.~~ 307.6 - Basis of billing for overtime and holiday services. Delete existing language and insert:

"(a) Each recipient of overtime or holiday inspection service, or both, shall be billed as provided in section 307.5(a) and at the rate established by the director, in increments of quarter hours. For billing purposes, eight or more minutes shall be considered a full quarter hour. Billing will be for each quarter hour of service rendered by each program employee;

"(b) Official establishments, importers, or exporters requesting and receiving the services of a program employee after he has completed his day's assignment and left the premises, or called back to duty during any overtime or holiday period, shall be billed for a minimum of "four" hours overtime or holiday inspection service at the rate established by the director; and,

"(c) Overtime charges are to be paid-in-full no later than thirty days from the invoice date. Payments must be made by check or money order made payable to the Ohio Department of Agriculture - Division of Meat Inspection.

"(d) The overtime and holiday rate for inspection services provided pursuant to section 307.5 is \$46.80 per hour per program employee."

~~(F)~~(G) 9 C.F.R. Part 310 - Post-mortem inspection

- (1) Section 310.12(a). Sternum to be split; abdominal and thoracic viscera to be removed. Delete existing language and insert:

"(a) The sternum to be split; abdominal and thoracic viscera shall be removed. The sternum of each carcass shall be split and the abdominal and thoracic viscera shall be removed at the time of slaughter in order in order to allow proper inspection. In some cases with roasting pigs and lambs, the following procedure as approved by the district veterinary supervisor may be allowed:

"(1) Pelvic area: The pelvic bone may remain intact after dropping the bung provided the pizzle, castration scars, and testicles are removed and no pathology or contamination is present;

"(2) Abdomen: The incision shall be complete from the anterior brim of the

pelvis to the xyphoid cartilage;

"(3) Thorax: Good dressing procedures regardless of the size of swine shall be followed and if there is no pathology and/or contamination present in the thoracic area; if the establishment demonstrates the ability to remove the thoracic viscera without severing the esophagus at the thoracic inlet; if the establishment can remove the thoracic viscera without spillage of ingesta from the esophagus into or onto the carcass; then the splitting of the sternum is optional. However if contamination occurs or pathology is present, the sternum shall be split and the carcass properly presented for inspection;

"(4) Neck area: The opening incision shall be from the first rib to the symphysis of the mandible and deep enough to allow removal of the trachea and larynx. The tongue must be dropped for examination and palpation. The tonsils must be removed and the head and sinuses flushed. Proper lighting must be supplied (50 foot candle power) by the establishment to accomplish inspection, either by permanent light fixtures or portable hand-held equipment;"

"(5) Heads: Diseased heads and gunshot heads shall be condemned and heads passed shall be treated as market heads with eyelids and eardrums removed and sinuses and mouth flushed; and,

"(6) Boars shall be handled as required by regulation regarding sexual odor."

- (2) "Section 310.25(b)(1) table 2. contamination with micro-organisms; pathogen reduction performance standards for salmonella. Delete existing table 2 and insert: "Table 2 - salmonella performance statutes."

State-modified Salmonella Performance Standard

Product	Performance Standard (%)	Size of Sample Set (n)	Number Positives Allowed (c)	Pr (Pass) at Standard (%)
Steer/Heifer	1.0	82	1	80.2
		22	0	80.2
Cow/Bull	2.7	58	2	79.4
		31	1	79.6
Market Hog	8.7	55	6	80.0
		46	5	79.2
		36	4	80.0
		27	3	79.6
		18	2	79.8
		10	1	78.6
Ground Beef	7.5	53	5	79.5
		42	4	79.5
		31	3	80.0
		21	2	79.4
		11	1	80.3

~~(G)~~(H) 9 C.F.R. part 311 - Disposal of diseased or otherwise adulterated carcasses and parts.

(1) Section 311.20. Sexual odor of swine. Delete existing language and insert:

"(a) Carcasses of swine which give off a pronounced sexual odor shall be condemned. If the animal is owned by an individual other than the establishment when it is presented for antemortem inspection and the owner wants the carcass for his own use, the following is permitted:

"(1) The carcass will be downgraded to 'not for sale' and handled as uninspected product;

"(2) The owner shall sign a statement that he/she was informed of the condition; and,

"(3) An entry shall be made on the exempt products log to identify the custom product/processes for the animal including the owner name and address."

~~(H)~~(I) 9 C.F.R. part 312 - Official marks, devices and certificates.

- (1) Section 312.2. Official marks and devices to identify inspected and passed products of cattle, sheep, swine or goats. Delete existing language and insert:

"(a)(1) For application to sheep carcasses, the loins and ribs of pork and beef tails the official inspection legend required by part 316 of this subchapter will be:



"(2) For application to beef and hog carcasses, primal parts and cuts there-from, beef livers, beef tongues, beef hearts, burlap, muslin, cheesecloth, heavy paper or other acceptable material that encloses carcasses or parts of carcasses the official inspection legend required by part 316 of this subchapter will be:



"(b) The official inspection legend required by part 317 of this subchapter to be shown on all labels for inspected and passed products of cattle, sheep, swine, and goats shall be in the following form except that it need not be of the size illustrated, provided that it is a sufficient size and of such color as to be conspicuously displayed and readily legible, and the same proportions of letter size and boldness are maintained as illustrated:



"(1) This official mark shall be applied by mechanical means and shall not be applied by a hand stamp.

"(2) The official inspection legend described in subparagraph (b) of section 312.2 may also be used for purposes of part 316 of this subchapter on shipping containers, band labels, artificial casings, and other articles with the approval of the director.

"(c) Any brand, stamp, label, or other device approved by the director and bearing any official mark prescribed in paragraph (a) or (b) of this section shall be an official device for purposes of the act."

- (2) Section 312.5. Official seals for transportation of products. Delete existing language and insert:

"The official mark for use in sealing railroad cars or other means of conveyance as prescribed in part 325 of this subchapter shall be a serial numbered band seal approved by the director as an official device for purposes of the act."

- (3) Section 312.6. Official mark and devices in connection with post-mortem inspection and identification of adulterated products and insanitary equipment

and facilities. Delete existing language and insert:

Section 312.6(a)(1). The tag which is used to retain carcasses and parts of carcasses in the slaughter department; it is black and white and bears the legend "Ohio Retained".

Section 312.6(a)(3) The "Ohio Rejected" mark which is used to identify insanitary buildings, rooms, or equipment as prescribed in part 416, section 6 of this chapter and is applied by means of a paper tag bearing the legend "Ohio Rejected".

Section 312.6(a)(4). The "Ohio Passed for Cooking" mark is applied on products passed for cooking as prescribed in part 310 of this subchapter by means of a brand that states "Ohio Passed for Cooking".

Section 312.6(a)(5). The "Ohio Inspected and Condemned" mark shall be applied to products condemned as prescribed in part 310 by means of a brand and states "Ohio Insp'd and Condemned".

~~(H)~~(J) 9 C.F.R. Part 352 - Exotic animals; voluntary inspection

(1) "Section 352.1(a). Delete existing language and insert:

"(a) `Act' means the applicable provisions of the agricultural marketing act of 1946, as amended (60 Stat.1087, as amended; 7 U.S.C. 1621 et seq) and the Revised Code 918.12."

(2) Section 352.1(k). Amend existing language to read:

(k) "Exotic animal" means any reindeer, elk, deer, antelope, water buffalo, bison, bear, or large cats.

(3) Section 352.1(bb). Insert the following:

(bb) "Bear" means any member of the (bear) family not protected by state, federal, or international law as an endangered species, including but not limited to black and brown bear.

(cc) "Cats" means any member of the large cat family not protected by State, Federal, or international law as an endangered species, including but not limited to puma, tiger, and lion.

(4) Section 352.3. Application by official exotic animal establishment for inspection service. Delete existing language and insert:

"(a) Any person desiring to process exotic animals, exotic animal carcasses, exotic animal meat and meat food products in an establishment under exotic animal inspection service must receive approval of such establishment and facilities as an official exotic animal establishment and the operation must meet the regulatory requirements for 416 and 417 prior to the rendition of such service.

"(b) An application for inspection service to be rendered in an official exotic animal establishment shall be approved in accordance with the provisions contained in sections 304.1 and 304.2 of subchapter a of this chapter."

(5) Section 352.5 fees and charges. Amend paragraphs (b) and (c) to read:

"(b) The fees and charges provided for in this section shall be paid by check, draft, or money order payable to the Ohio department of agriculture and shall be remitted promptly upon furnishing to the applicant a statement as to the amount due. Funds will be deposited in accordance with section 918.15 of the Revised Code.

"(c) The fees to be charged and collected for service under the regulations in this part shall be at a rate set by the director for base time and overtime;
."

"(1) Each recipient of voluntary (exotic) inspection service, shall be billed as provided in section 352, 354 and 362 at the rate established by the director, in increments of tenths of an hour. For billing purposes, one to six minutes shall be considered a tenth of an hour. Seven to 12 minutes, two tenths, 13 to 18 minutes, three tenths, 19 to 24 minutes, four tenths, 25 to 30 minutes, five tenths, 31 to 36 minutes, six tenths, 37 to 42 minutes, seven tenths, 43 to 48 minutes, eight tenths, 49 to 54 minutes, nine tenths and 55 to 60 minutes, one hour. Billing will be for each tenth of an hour of service rendered by each program employee;

(2) The base time rate is set at \$15.04 per hour. After eight hours of inspection and on holidays, the overtime and holiday rate for inspection services provided pursuant to section 307.5 is \$46.80 per hour per program employee."

(6) Section 352.7 marking inspected products. Amend existing language to read:

".... wording as follows: `Ohio inspected and passed by department of agriculture'"

(7) Section 352.7(b)(1). Delete "U.S." inside triangle and substitute "Ohio."

~~(K)~~ 9 C.F.R. part 354. General

(1) Section 354.1 Definitions. Delete existing language and insert:

"(a) The `act' means the applicable provisions of the agricultural marketing act of 1946, as amended (60 Stat. 1087, as amended; 7 U.S.C. 1621 et seq) or any other act of Congress conferring like authority and the Revised Code 918.12.

"(c) Administrator. The administrator of the food safety and inspection service of the department, the director of the ohio department of agriculture, or any other officer

"(g) Section 354.1(g) "Circuit supervisor"

"District supervisor" shall be used in place of the term "circuit supervisor."

"(k) `Department' means the United States department of agriculture and the Ohio department of agriculture.

"(dd) `Secretary' means the secretary of the department, the director of the Ohio department of agriculture,

"(ee) `Service' means the food safety and inspection service of the department or the division of meat inspection of the Ohio department of agriculture."

(2) Section 354.13 Supervision. Delete existing language and insert:

All inspection service shall be subject to supervision at all times by the district supervisor and/or the division chief or representative. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite inspectors are available.

(3) Section 354.20(a). Licensed or authorized inspectors. Delete existing language and insert:

"(a) Any person who is a state meat inspection employee and possessing the proper qualifications as determined by an evaluation of competency, and who is to perform inspection service under this part may be licensed or otherwise authorized by the Director as an inspector."

(4) Section 354.34 Application for inspection service in official plants; approval. Delete first paragraph and insert:

"Any person desiring to process and pack products in a plant under inspection service must receive approval of such plant and facilities as an official plant and the operation must meet the regulatory requirements for 416 and 417 prior to the rendition of such service. An application for inspection service to be rendered in an official plant shall be approved according to the following procedure:"

(5) Section 354.63 Marking inspected products. Amend existing language to read:

"..... Wording as follows: `Ohio inspected and passed by department of agriculture.' This wording shall be contained within a triangle in the form shown in section 352.7(b)(1) of the regulations.

(6) Section 354.65 Form of inspection mark. Delete existing language and insert:

"The inspection mark approved for use on inspected products shall be contained within a triangle and include the following wording: `Ohio inspected and passed by department of agriculture.' The form and arrangement of such wording shall be as indicated in the example below. The plant number of the official plant shall be included within the triangle on the bottom line preceded by "EST."



(7) Section 354.100 Payment of fees and charges. Delete existing language and insert:

"(a) Fees and charges for any inspection shall be paid by the applicant for the service at a rate determined by the director.

"(b) The fees and charges for any inspection service shall be paid by check, draft, or money order payable to the Ohio department of agriculture and be remitted promptly to the department upon furnishing to the applicant a

statement as to the amount due. Funds will be deposited in accordance with section 918.15 of the Revised Code."

"(c) The fees to be charged and collected for service under the regulations in this part shall be at a rate set by the director for base time;"

"(1) Each recipient of voluntary (exotic) inspection service, shall be billed as provided in section 352, 354 and 362 at the rate established by the director, in increments of tenths of an hour. For billing purposes, one to six minutes shall be considered a tenth of an hour. Seven to 12 minutes, two tenths, 13 to 18 minutes, three tenths, 19 to 24 minutes, four tenths, 25 to 30 minutes, five tenths, 31 to 36 minutes, six tenths, 37 to 42 minutes, seven tenths, 43 to 48 minutes, eight tenths, 49 to 54 minutes, nine tenths and 55 to 60 minutes, one hour. Billing will be for each tenth of an hour of service rendered by each program employee;

(2) The base time rate is set at \$15.04 per hour. After eight hours of inspection and on holidays, the overtime and holiday rate for inspection services provided pursuant to section 307.5 is \$46.80 per hour per program employee."

(8) Section 354.240 General. Delete existing language and insert:

"The premises shall be kept free from refuse, waste materials, and all other sources of objectionable odors and conditions. All provisions of regulations 416.11 through 416.17 shall be met prior to operations."

~~(K)~~(L) 9 C.F.R. part 500 - Rules of practice.

(1) Section 500.5(b)(5) Notification, appeals, and actions held in abeyance. Delete existing language and insert:

"Advise the establishment that it will have 10 days from receipt of the written notification to respond to The Division of Meat Inspection unless the time period is extended by The Division of Meat Inspection."

(2) Section 500.6. Withdrawal of inspection; statement of policy. Supplement existing language and insert:

"(a) The director is authorized to withdraw inspection from an official establishment where the sanitary conditions are such that its products are rendered adulterated, or for failure of the operator to destroy condemned products as required by the act and regulations in this subchapter. Inspection may be withdrawn in accordance with Chapter 119. of the Revised Code and

the establishment ordered to cease those operations subject to this chapter:"

- (3) "(a)(1) The assignment of inspectors may be temporarily suspended, in whole or in part, by the director to the extent it is determined necessary to avoid impairment of the effective conduct of the program when the operator of any official establishment or any subsidiary therein, or any officer, employee, or agent of any such operator or any subsidiary therein, acting within the scope of his office, employment, or agency, threatens to forcibly assault or forcibly assaults, generally displays an uncooperative attitude, intimidates, or interferes with any program employee, including disregard for retain/reject tags, in or on account of the performance of his official duties under the act, unless promptly upon the incident being documented and brought by an authorized supervisor of the program employee to the attention of the operator of the establishment the operator (1) satisfactorily justifies the incident, (2) takes effective steps to prevent a recurrence, or (3) provides acceptable assurances in writing that there will not be any recurrences. If the efforts of district supervision are fruitless, the situation will be forwarded to central office for possible assignment to the enforcement section of the department. In all cases written documentation of each incident shall be included in the plant permanent record. Any such suspension shall remain in effect until one of such actions is taken by the operator: Provided, that upon request of the operator he shall be afforded an opportunity for an expedited hearing to show cause why the suspension should be terminated. At the discretion of the chief of the division of meat inspection any of the following actions may be taken: (1) send a letter of warning, (2) schedule a hearing for plant management, (3) initiate further legal actions under a section of law; and,"
- (4) "(a)(2) Inspection service may be temporarily suspended, in whole or in part, at an official establishment, by the director, to the extent that it is determined necessary to prevent inhumane slaughtering or handling in connection with slaughter of livestock as defined in 9 C.F.R. 301.2(kk). The administrator shall notify the operator of an establishment orally or in writing, as promptly as circumstances permit, of such suspension and the reason therefor. Such suspension shall remain in effect until the operator of the establishment takes effective steps to prevent a recurrence, and provides district supervision satisfactory assurances that there will not be any recurrences. Upon request, the operator shall be afforded an opportunity for a hearing to show cause why the suspension should be terminated."
- (5) "(b) Denial or withdrawal of service:"
- "(1) For disciplinary reasons:

(i) Basis for denial or withdrawal. An application or request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency:

(A) Has willfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under the regulations in this chapter;

(B) Has given or attempted to give as a loan or for any other purpose, any money, favor, or other thing of value, to any employee of the department authorized to perform any function under the regulations in this chapter;

(C) Has interfered with or obstructed, or attempted to interfere with or to 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;

(D) Has 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;

(E) Has knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device;

(F) Has 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, identification;

(G) Has 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;

(H) Has, 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;

(I) Has in any manner not specified in this paragraph violated any part of the Ohio Revised Code. Provided, that paragraph (b)(1)(i)(F) of this section shall not be deemed to be violated if the person in possession of any item

mentioned therein notifies the inspector without delay that he has possession of such item and, in the case of an official device, surrenders it to the inspector, and, in the case of any other item, surrenders it to the inspector or destroys it or brings it into compliance with the regulations by obliterating or removing the violative features under supervision of the inspector; and provided further, that an application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from any person who operates an establishment for which he has made application for service if, with the knowledge of such operator, any other person conducting any operations in such establishment has committed any of the offenses specified in paragraph (b)(1)(i)(A) through (b)(1)(i)(J) of this section after such application was made. Moreover, an application or a request for service made in the name of a person otherwise eligible for service under the regulations may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from such a person (1) in case the service is or would be performed at an establishment operated (i) by a corporation, partnership, or other person from whom the benefits of the service are currently being withheld under this chapter, or (ii) by a corporation, partnership, or other person having an officer, director, partner, or substantial investor from whom the benefits of service under this chapter are currently being withheld and who has any authority with respect to the establishment where service is or would be performed, or (2) in case the service is or would be performed with respect to any meat or meat food product in which any corporation, partnership, or other person within (1)(i) of this section has a contract or other financial interest; and,

(J) Procedure. An application or request for service may be rejected, or benefits of the service may be otherwise denied to or withdrawn by the director, as provided in Chapter 119. of the Revised Code after notice and opportunity for hearing before a proper official of the department. The director may reject an application or request for service or deny or withdraw service under this paragraph without hearing, pending final determination of the matter, when he determines that the public interest so requires. The operator or applicant of such plant shall be notified of the director's decision to reject the application or request for service or to deny or withdraw such service, and the reason therefor, in writing, in the manner prescribed in Chapter 119. of the Revised Code or orally. The director's decision to reject an application or request for service or to deny or withdrawn the benefits of service under the act shall be effective upon such oral or written notification, whichever is earlier, to the operator or applicant of such plant. If such notification is oral, the director shall confirm such decision, and the reasons therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the operator or applicant of such plant in the manner prescribed in Chapter 119. of the Revised Code.

(c) For correctable cause:

(1) Basis for denial or withdrawal. An application or request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person whose establishment does not meet the requirements as to premises, facilities, and equipment, and the operation thereof, prescribed in the regulations to prevent the distribution of adulterated meat or meat food products, or who has not received approval of labeling and containers to be used at the establishment as required by the regulations; and,

(2) Procedure. An application or request for service may be rejected, or benefits of the service may be otherwise denied to or withdrawn by the director, as provided by this paragraph, after notice and opportunity for hearing before a proper official of the department. The director may reject an application or request for service or deny or withdraw service under this paragraph without hearing, pending final determination of the matter, when he determines that the public interest so requires. The operator or applicant of such plant shall be notified of the director's decision to reject the application or request for service or to deny or withdraw such service, and the reason therefor, in writing, in the manner prescribed in Chapter 119. of the Revised Code or orally. The director's decision to reject an application or request for service or to deny or withdraw the benefits of service under the act shall be effective upon such oral or written notification, whichever is earlier, to the operator or applicant of such plant. If such notification is oral, the director shall confirm such decision, and the reasons therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the operator or applicant of such plant in the manner prescribed in Chapter 119. of the Revised Code.

(3) For miscellaneous reasons. An application or request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing: (i) for administrative reasons such as the nonavailability of personnel to perform the service; (ii) for failure to pay for the service; (iii) in case the application or request relates to animals or food products which are not eligible for service under parts 300 through 329; or (iv) in case the person is a partnership, corporation, or other person from whom the benefits of the service are currently being withheld under paragraph (c)(1) of this section. Notice of such rejection, denial, or withdrawal, and the reasons therefor shall promptly be given to the person involved. The operator or applicant of such plant shall be notified of such decisions to reject an application or request for service or deny or withdraw the benefits of the service, and the reason therefor, in writing, in the manner prescribed in Chapter 119. of the Revised Code or orally. Such decision shall be effective upon such oral or written notification, whichever is earlier, to the operator nor applicant of such plant. If such notification is oral, the person

making such decision shall confirm such decision, and the reason therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the operator or applicant of such plant in the manner prescribed in Chapter 119. of the Revised Code."

Effective:

Five Year Review (FYR) Dates: 09/15/2015

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 918.04
Rule Amplifies: 918.02
Prior Effective Dates: 4/1/02; 3/1/03, 2/11/2010, 2/03/2011, 12/29/2012