the alien is applying simultaneously for a waiver under both those sub-sections.)—$170.00.

Form I–612. For filing an application for waiver of the foreign-residence requirement under section 212(e) of the Act—$170.00.

* * * * *

Form I–751. For filing a petition to remove the conditions on residence, based on marriage—$125.00.

Form I–765. For filing an application for employment authorization pursuant to 8 CFR 274a.13—$100.00.

* * * * *

Form I–817. For filing an application for voluntary departure under the Family Unity Program—$120.00.

* * * * *

Form I–824. For filing for action on an approved application or petition—$120.00

Form I–829. For filing petition by entrepreneur to remove conditions—$345.00.

* * * * *

Form N–400. For filing an application for naturalization—$225.00. For filing an application for naturalization under section 405 of the Immigration Act of 1990, if the applicant will be interviewed in the Philippines—$250.00.

* * * * *

Form N–565. For filing an application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed; for a certificate of citizenship in a changed name under section 343(b) or (d) of the Act; or for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(c) of the Act—$135.00.

Form N–600. For filing an application for certificate of citizenship under section 309(c) or section 341 of the Act—$160.00.

Form N–643. For filing an application for a certificate of citizenship on behalf of an adopted child—$125.00.

* * * * *

Dated: January 5, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–576 Filed 1–9–98; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 304, 305, 327, 335, 381, and 500

[Docket No. 95–025P]

RIN 0583–AC34

Rules of Practice

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to consolidate and amend its regulations concerning the rules of practice that apply to refusal, suspension, or withdrawal of inspection services. FSIS also is proposing to add specific language regarding the refusal, suspension, or withdrawal of inspection services when the Agency determines that an establishment's Hazard Analysis and Critical Control Point (HACCP) system is inadequate, an establishment is not meeting the *Salmonella* pathogen reduction performance standards, an establishment's Sanitation Standard Operating Procedures (Sanitation SOP's) are inadequate or ineffective, or an establishment is not complying with generic *E. coli* testing requirements. This proposal is part of FSIS's ongoing efforts to consolidate, streamline, and clarify the meat and poultry product inspection regulations.

DATES: Comments on the proposed regulations must be received on or before March 13, 1998.

ADDRESSES: Please send an original and two copies of comments to: FSIS Docket Clerk, Docket No. 95–025P, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation, FSIS, Room 402, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700; (202) 205–0699.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), FSIS can refuse to grant inspection, suspend inspection, or withdraw inspection services from establishments based on unsanitary conditions (9 CFR 335.13 and 381.234), inhumane livestock slaughtering (9 CFR 335.30–.32), or unfitness to engage in business because of prior criminal convictions (9 CFR 335.10 and 381.231). Inspection services also can be suspended or withdrawn if establishments fail to destroy condemned product (9 CFR 335.11 and 9 CFR 381.232), or if establishment personnel assault, intimidate, or interfere with inspection service employees (9 CFR 335.20–.21 and 381.235–.236). Additionally, FSIS can rescind approval of any marking, labeling, or container that is false or misleading (9 CFR 335.12 and 381.233).

As discussed in the ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) System'' final rule (61 FR 38806), FSIS also can refuse to grant, suspend, or withdraw the grant of inspection if an establishment has failed to: (1) Develop and implement a HACCP plan or operate in accordance with 9 CFR Part 417; (2) develop, implement, and maintain Sanitation SOP's in accordance with 9 CFR part 416; (3) conduct generic *E. coli* testing in accordance with 9 CFR 310.25(a) or 381.45(a); or (4) meet the pathogen reduction performance standard for *Salmonella* or, after failing two sample sets, reassess its HACCP plan in accordance with 9 CFR 310.25(b) or 381.94(b).

When FSIS determines to refuse to grant an application for inspection, to withdraw a grant of inspection, or to rescind or refuse to approve markings, labels or containers, the Agency initiates an administrative action under USDA's Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 CFR subtitle A, part 1, subpart H), as supplemented by its own ''Rules of Practice,'' which are set out in 9 CFR part 335 or part 381, subpart W. The Department's uniform Rules of Practice contain the procedures applicable to formal adjudicatory proceedings under various USDA implemented statutes, including specified sections of the FMIA and PPIA. The Department's Rules of Practice contain procedures that FSIS follows when filing a complaint with the Department's Hearing Clerk and requesting a hearing before an Administrative Law Judge. FSIS's current supplemental Rules of Practice regulations provide establishments an opportunity to correct problems before the Agency files a complaint to withdraw the establishment's grant of inspection. However, FSIS may suspend inspection services until the problem is corrected.

Generally, FSIS initially uses ''withholding actions'' to withhold the mark of inspection from an establishment's products that are deficient. A U.S. Retain Tag is placed on deficient product or a U.S. Rejected Tag is attached to deficient equipment. The withholding action is discontinued when the deficiencies are corrected.

In most cases, FSIS suspends inspection services only after repeated violations. A suspension may affect an entire establishment or may be limited to a specific process or production line within the establishment. A suspension will last until the establishment achieves compliance with the applicable laws and regulations. If the suspension involves an entire establishment, FSIS removes inspection personnel unless there is reason to believe that corrective action can be completed in a timeframe that is

consistent with the efficient assignment of program personnel. FSIS may allow the establishment to operate while under a suspension if the establishment presents adequate written assurances that corrective actions are being implemented. If establishments fail to take appropriate corrective actions, FSIS may proceed to file a complaint to withdraw inspection services, as discussed above.

FSIS is committed to providing establishments with appropriate notice and an opportunity to appeal withholding actions and suspensions of inspection. It recognizes the need for timely resolution of all such appeals. Withholding actions taken by FSIS inspectors can be appealed to the next level of supervision. The decision to suspend inspection services is made by the District Manager. Traditionally, appeal from this decision has been to the Assistant Deputy Administrator for Field Enforcement Operations. FSIS intends to continue handling appeals through the ''chain-of-command'' process, which is incorporated into FSIS's existing regulations (9 CFR 306.5 and 381.35). However, the Agency has received comments raising concerns about the timeliness of this process, especially when operations have been shut down.

FSIS welcomes comments on the adequacy of its approach. One possible alternative to the Agency's traditional approach would be for it to include specific appeal procedures in the supplemental Rules of Practice regulations concerning the procedures that the Agency will follow in providing notice and an opportunity to contest a suspension. For example, the appeal procedures could be modeled after the Food and Drug Administration's procedures for supervisory review (21 CFR 10.75) . FSIS also requests comments on how it should provide notice of a suspension action and on whether additional procedures are necessary and appropriate if an establishment wishes to appeal a suspension. FSIS will consider the comments it receives on these issues and intends to provide the most appropriate review mechanisms in any final rule that it issues.

Proposed Rule

For the most part, FSIS's supplemental Rules of Practice duplicate each other and the Department's uniform Rules of Practice regulations. FSIS's regulations do, however, establish procedures for the suspension of inspection services. However, these regulations are difficult to read and do not clearly outline the process. Therefore, as part of FSIS's ongoing efforts to consolidate, streamline, and clarify the meat and poultry products inspection regulations, FSIS is proposing to reorganize and revise these regulations to eliminate redundancy and to clearly identify the processes and situations involved when FSIS suspends inspection services.

FSIS is proposing to revise and consolidate the existing regulations into a new part, CFR Part 500, ''Rules of Practice.'' Section 500.11 in this proposed new part is titled, ''Refusal to Grant Inspection'' and sets out the following different bases on which FSIS may refuse to grant inspection services to an applicant: (1) Failure to develop a HACCP plan as required by §§ 417.2 and 417.4; (2) failure to develop Sanitation SOP's as required by part 416; (3) failure to demonstrate that adequate sanitary conditions exist in accordance with part 416, and part 308 or part 381, subpart H; or (4) failure to demonstrate that livestock will be handled and slaughtered humanely (proposed § 500.11(a)). Proposed § 500.11(b) states that, if FSIS refuses to grant inspection, the applicant will be notified and have an opportunity for a hearing in accordance with the uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H.

Section 500.12 in the proposed new part is titled ''Conditions for the Suspension or Withdrawal of Inspection.'' This section lists the following as the different bases on which FSIS may suspend or withdraw inspection: (a) Failure to implement HACCP or operate in accordance with part 417; (b) failure to implement or maintain Sanitation SOP's in accordance with part 416; (c) failure to collect and analyze samples for *E. coli* Biotype I and record results in accordance with §§ 310.25(a) or 381.94(a); (d) failure to meet the *Salmonella* performance standard requirements or reassess a HACCP plan in accordance with §§ 310.25(b) or 381.45(b); (e) failure to maintain sanitary conditions in accordance with part 308 or part 381, subpart H; (f) failure to destroy a condemned meat or poultry carcass, or part or product thereof, in accordance with part 314 or part 381, subpart L, within three days of notification; (g) assault, threat of assault, intimidation or other interference with an inspection service employee's performance of official duties; or (h) inhumane slaughtering or handling of livestock.

Section 500.13 of the proposed new part is titled ''Suspension of Inspection.'' It states that inspection services may be suspended at an establishment that has a condition described in § 500.12, and that if inspection is suspended, an establishment will receive a written ''Notice of Suspension of Inspection.'' Under proposed § 500.13(b), the notice will include the following: (1) The effective date of the suspension; (2) the reasons for the suspension; and (3) the name and address where an appeal may be sent. Proposed § 500.13(c) states that a suspension of inspection will remain in effect until an establishment brings itself into compliance with the regulations.

Section 500.14 of the proposed new part is ''Withdrawal of Inspection.'' It states that inspection services may be withdrawn at an establishment that fails to correct conditions in § 500.12 (proposed § 500.14(a)) and that FSIS will initiate a complaint to withdraw inspection in accordance with the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H (proposed § 500.14(b)).

Section 500.15 of the proposed new part is titled ''Rescinding the Approval of Marks, Labels, or Containers'' and states that FSIS will rescind or refuse approval of false or misleading marks or labels or container sizes or forms for use with any meat or poultry product under section 7 of the FMIA, or under section 8 of the PPIA, in accordance with the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H. Proposed § 500.15(b) states that the Agency will provide notification that explains the basis for any such action, grants an opportunity to modify the marking, labeling, or container so that it is no longer false or misleading, and advises the firm of its opportunity for a hearing with respect to the merits or validity of the Agency's determination about the product's labeling.

Section 500.16 of the proposed new part is titled ''Refusing or Withdrawing Inspection Service for Unfitness to Engage in Business Requiring Federal Inspection'' and states that applicants for inspection services or recipients of inspection services unfit to engage in business requiring inspection as specified in section 401 of the FMIA or section 18(a) of the PPIA will be refused or have their inspection services withdrawn in accordance with the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H.

There is one provision in the current regulations that FSIS has not incorporated into the proposed regulations. Under the current regulations in section 335.13, establishments operating under insanitary conditions are notified by FSIS as to what action is necessary to

correct the violations and of the time period within which corrections must be made. FSIS has decided not to incorporate this provision in these proposed regulations because, as discussed in the Pathogen Reduction/HACCP final rule, it is the establishment's responsibility to identify problems that exist and to determine how best to correct them.

FSIS also is proposing to delete some of its other regulations that are duplicative. First, this proposal would eliminate § 305.5, (9 CFR 305.5) ''Withdrawal of Inspection; Statement of Policy.'' The subject that this statement of policy addresses is dealt with fully in proposed Part 500. Similarly, the Agency is proposing to eliminate § 381.29, which is duplicative for the same reason.

The Agency is also proposing to eliminate all portions of §§ 304.2, 327.6 and 381.21 that refer to denying or refusing an application for inspection or import reinspection services and to replace those portions with a statement indicating that any application for inspection services can be denied in accordance with the rules of practice in Part 500.

Lastly, FSIS is proposing to remove part 335, subpart E. This subpart, also referred to as the ''present your views'' (PYV) provision, was added in 1988 under the Processed Products Inspection Improvement Act of 1986 (Pub. L. 99–641, Title VI), which was not reauthorized by Congress in 1992.

The PYV provision allows suspected violators of the FMIA an opportunity to present their views regarding the alleged criminal violation to the Secretary of Agriculture before FSIS refers the violation to the Department of Justice for prosecution. Because the PYV provision can be a useful administrative procedure, FSIS will continue to use the PYV process, as a matter of administrative discretion, in appropriate situations. However, FSIS has determined that it is unnecessary to continue to include the provision in its regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant, and therefore, has not been reviewed by the Office of Management and Budget.

The Administrator has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

There are no direct costs or benefits associated with this proposal. Costs and benefits are related to the regulatory actions, not the proceedings. At the present time, there is no way to predict whether ''down time'' will increase or decrease under these proposed rules of practice. To the extent that disputes can be resolved in a timely and more efficient manner, there are potential benefits to both industry and the government. To the extent that clear rules of practice promote timely and effective regulatory action, there would also be consumer protection benefits.

When disputes are related to public health issues, there is a risk reduction component to having operations suspended during the period of resolution. There are also costs associated with actions that suspend production operations.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If the proposed rule becomes final: (1) All state and local laws and regulations that are inconsistent with this rule would be preempted; (2) no retroactive effect would be given to this rule; and (3) administrative proceedings would not be required before parties may file suit in court challenging this rule.

Paperwork Requirements

This proposed rule does not include any new paperwork requirements.

List of Subjects

9 CFR Part 304

Meat inspection.

9 CFR Part 305

Meat inspection.

9 CFR Part 327

Imports, Meat inspection.

9 CFR Part 381

Poultry and poultry products.

9 CFR Part 500

Administrative practice and procedure, Crime, Government employees, Meat inspection.

For the reasons set forth in this preamble, 9 CFR chapter III would be amended as follows:

PART 304—APPLICATION FOR INSPECTION; GRANT OF INSPECTION

1. The authority citation for part 304 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Part 304 would be amended by revising the title to read as set forth above, amending § 304.2 to remove paragraphs (c) and (e), redesignating paragraph (d) as paragraph (c), and removing the last sentence of paragraph (b) and replacing it with a sentence to read as follows:

§ 304.2 Information to be furnished; grant or refusal of inspection.

* * * * *

(b) * * * Any application for inspection services may be refused in accordance with the rules of practice in part 500 of this chapter.

* * * * *

PART 305—OFFICIAL NUMBERS; INAUGURATION OF INSPECTION; WITHDRAWAL OF INSPECTION; REPORTS OF VIOLATION

3. The authority citation for part 305 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

4. Part 305 would be amended by removing section 305.5.

PART 327—IMPORTED PRODUCTS

5. The authority citation for part 327 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

6. Section 327.6 would be amended by removing the last four sentences in paragraph (f) and replacing them with one sentence to read as follows:

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers

* * * * *

(f) * * * Any application for inspection services under this section may be denied or refused in accordance with the rules of practice in part 500 of this chapter.

* * * * *

PART 335—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE FEDERAL MEAT INSPECTION ACT

7. Part 335 would be removed.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

8. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450, 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

9. Section 381.21 would be revised to read as follows:

§ 381.21 Refusal of inspection.

Any application for inspection services in accordance with this part may be denied or refused in accordance with the rules of practice in part 500 of this chapter.

10. Part 381 would be amended by removing section 381.29.

11. Part 381 would be amended by removing Subpart W.

SUBCHAPTER E—REGULATORY REQUIREMENTS UNDER THE FEDERAL MEAT INSPECTION ACT AND THE POULTRY PRODUCTS INSPECTION ACT

12. Subchapter E would be amended by adding a new Part 500 to read as follows:

PART 500—RULES OF PRACTICE

Sec.

500.11 Refusal to grant inspection.
500.12 Conditions for the suspension or withdrawal of inspection.
500.13 Suspension of inspection.
500.14 Withdrawal of inspection.
500.15 Rescinding or refusing approval of marks, labels, and containers.
500.16 Refusing or withdrawing inspection for applicants or recipients unfit to engage in business.

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–470, 601–695; 7 CFR 2.18, 2.53.

§ 500.11 Refusal to grant inspection.

(a) Inspection services may be refused to be granted at an establishment for any of the following reasons:

(1) Failing to develop a HACCP plan as required by §§ 417.2 and 417.4 of this chapter; or

(2) Failing to develop Sanitation SOP's as required by part 416 of this chapter; or

(3) Failing to demonstrate that adequate sanitary conditions exist as required by part 308 or part 381, subpart H, and part 416 of this chapter; or

(4) Failing to demonstrate that livestock will be handled and slaughtered humanely.

(b) If FSIS refuses to grant inspection services, the applicant will be notified and given an opportunity for a hearing in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

§ 500.12 Conditions for the suspension or withdrawal of inspection.

Inspection services may be suspended or withdrawn at an establishment for any of the following reasons:

(a) Failing to implement HACCP or operate in accordance with part 417 of this chapter; or

(b) Failing to implement or maintain Sanitation SOP's in accordance with part 416 of this chapter; or

(c) Failing to maintain sanitary conditions in accordance with part 308 or part 381, subpart H, and part 416 of this chapter; or

(d) Failing to collect and analyze samples for *Escherichia coli* Biotype I and record results in accordance with §§ 310.25(a) or 381.94(a) of this chapter; or

(e) Failing to meet the *Salmonella* performance standard requirements in accordance with §§ 310.25(b)(3)(iii) and 381.94(b)(3)(ii) of this chapter; or

(f) Failing to destroy a condemned meat or poultry carcass, or part or product thereof, in accordance with part 314 or part 381, subpart L, of this chapter within three days of notification; or

(g) Impairing inspection because of assaults, threats of assault, intimidation or other interference that prevents a program official from conducting official duties; or

(h) Slaughtering or handling livestock inhumanely.

§ 500.13 Suspension of inspection.

(a) Inspection services may be suspended at an establishment for any of the conditions described in § 500.12 of this part.

(b) If inspection services are suspended, an establishment will receive a written ''Notice of Suspension of Inspection.'' The notice will provide the following:

(1) The effective date of the suspension.

(2) The reasons for the suspension.

(3) The name and address where an appeal may be sent.

(c) A suspension of inspection services will remain in effect until an establishment is found to be in compliance with the regulations in this chapter.

§ 500.14 Withdrawal of inspection.

(a) A grant of inspection services may be withdrawn at an establishment that fails to correct any of the conditions described in § 500.12 of this part.

(b) FSIS will initiate a complaint to withdraw inspection services in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

§ 500.15 Rescinding or refusing approval of marks, labels, and containers

(a) FSIS will 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 under section 7 of the FMIA, or under section 8 of the PPIA, in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

(b) FSIS will provide written notification that:

(1) Explains the reason for rescinding or refusing the approval,

(2) Provides an opportunity to modify the marking, labeling, or container so that it will no longer be false or misleading, and

(3) Advises the firm of its opportunity to submit a written statement to answer the notification and to request a hearing with respect to the merits or validity of FSIS's determination.

(c) Effective upon service of the notification in accordance with § 1.147 of the Uniform Rules of Practice (7 CFR 1.147), the use of the marking, labeling, or container shall cease.

(d) If a hearing is requested, FSIS will initiate a complaint in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

§ 500.16 Refusing or withdrawing inspection for applicants or recipients unfit to engage in business.

If the Administrator has reason to believe that an applicant for inspection services or recipient of inspection services is unfit to engage in any business requiring inspection because of any of the reasons specified in section 401 of the FMIA or section 18(a) of the PPIA, inspection services will be refused or withdrawn in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

Done at Washington, DC on: January 5, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–573 Filed 1–9–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 310

[Docket No. 97–079P]

RIN 0583–AC40

Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Salmonella Performance Standard for Fresh Pork Sausage

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: FSIS is proposing to add a *Salmonella* performance standard for fresh pork sausage to the Federal meat inspection regulations. On November 14, 1997, FSIS published this performance standard in a direct final rule. The Agency received an adverse