

§ 335.40 Opportunity for presentation of views before report of criminal violations.

(a) Except as provided in paragraphs (a)(1) through (5) of this section, before any violation of the Federal Meat Inspection Act is reported to the Department of Justice by the Secretary for criminal prosecution the Secretary must give reasonable notice to the suspected violator that the Secretary intends to report the violation for prosecution and give the suspected violator an opportunity to present the violator's views to the Secretary with respect to such proceeding.

(1) Notice and opportunity need not be provided if the Secretary has any reason to believe that providing such notice and opportunity could result in the alteration or destruction of evidence, or where disclosure could result in injury to persons or property.

(2) Notice and opportunity need not be provided if the Secretary has any reason to believe that providing such notice and opportunity could result in flight of a suspected violator to avoid prosecution.

(3) Notice and opportunity need not be provided if the Secretary has any reason to believe that providing such notice and opportunity could result in compromising special investigative techniques, such as undercover or other covert operations.

(4) Notice and opportunity need not be provided when the impending criminal referral involves suspicion of bribery and related offenses, or clandestine slaughtering and/or processing operations.

(5) Notice and opportunity need not be provided when the impending referral is part of an investigation involving non-Act violations, and the Act and non-Act violations are jointly referred for prosecution.

(b) A notice of opportunity to present views will be sent by registered or certified mail, summarize the violations that constitute the basis of the contemplated prosecution, and describe the procedures for presentation of views. Any information given by a respondent, orally or in writing, shall become part of the Department's official record concerning the matter. The Department is under no obligation to dis-

close evidence to the suspected violator.

[52 FR 13828, Apr. 27, 1987]

PART 350—SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

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AUTHORITY: 7 U.S.C. 1622, 1624; 7 CFR 2.17, 2.55.

SOURCE: 23 FR 9982, Dec. 23, 1958. Redesignated at 30 FR 4195, Mar. 31, 1965, and at 35 FR 15554, Oct. 3, 1970.

§ 350.1 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 350.2 Definitions.

For the purposes of the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *Department*. The United States Department of Agriculture.

(b) *Service*. The Food Safety and Inspection Service of the Department.

(c) *Administrator*. The Administrator of the Service or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) [Reserved]

(e) *Inspector*. Any officer or employee of the Department authorized to perform any duties under the regulations in this part.

(f) *Person*. Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other organized group of any of the foregoing.

(g) *Federally inspected and passed*. Inspected and passed under the Meat Inspection Act, as amended (21 U.S.C. 71

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et seq.) or under the provisions in paragraphs 306 (b) and (c) of the Tariff Act of 1930 (19 U.S.C. 1306 (b) and (c)).

(h) *Official establishment.* An establishment operated under Federal meat inspection pursuant to the Meat Inspection Act, as amended (21 U.S.C. 71 et seq.).

(i) *Food article.* Any article of human food derived wholly or in part from meat, meat byproducts, or meat food products, which is not subject to the Federal meat inspection laws, and animal casings, for which the mark of Federal meat inspection is requested: *Provided*, That such articles and casings are derived from federally inspected and passed carcasses.

(j) [Reserved]

(k) *Secretary.* The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or may hereafter be delegated, to act in his stead in connection with the function involved.

[23 FR 9982, Dec. 23, 1958, as amended at 25 FR 9642, Oct. 7, 1960; 30 FR 258, Jan. 9, 1965. Redesignated and amended at 30 FR 4195, Mar. 31, 1965; 32 FR 6021, Apr. 15, 1967; 32 FR 13115, Sept. 15, 1967. Further redesignated at 35 FR 15554, Oct. 3, 1970, and amended at 43 FR 11147, Mar. 17, 1978; 54 FR 1329, Jan. 13, 1989]

§ 350.3 Types and availability of service.

Upon application in accordance with § 350.5 the following types of service may be furnished under the regulations in this part:

(a) *Identification service.* (1) Meat or other product that is federally inspected and passed at an official establishment, or upon importation, under the meat inspection laws, is officially marked to identify it as federally inspected and passed. In order to facilitate the division of such meat or other product into smaller portions or its combination into larger units and still maintain its identity as product which has been federally inspected and passed and so marked, inspectors may supervise the handling of the product and mark such portions or units with the marks of Federal inspection when they determine that the identity has been maintained.

(2) At the time service is furnished product must be sound, wholesome and fit for human food. The service will be available only on premises other than those of an official establishment. The sanitation of the plant or area where service is furnished must comply with applicable provisions of part 416, §§ 416.1 through 416.6 of this chapter.

(3) The mark of inspection shall be applied only under the immediate supervision of an inspector.

(4) The service will be available for products moved in tank cars and tank trucks from an official establishment or from a location operating under this service only if such tank cars or tank trucks bear a label before leaving such official establishment or such other location, in accordance with 9 CFR §§ 316.14 and 317.2.

(b) *Certification service.* At the request of a purchaser, supplier, exporter, or others, inspectors may make certification regarding livestock products for human food purposes (including casings), to be exported, as meeting conditions or standards that are not imposed or are in addition to those imposed by the regulations in parts 301 through 331 of this chapter and the laws under which such regulations were issued.

(c) *Food inspection service.* An inspection and certification service for wholesomeness relating to the manufacture of a food article may be furnished upon application. All applicable provisions of this chapter shall apply to the preparation, labeling and certification of the food article prepared under this food inspection service.

(d) [Reserved]

[25 FR 9642, Oct. 7, 1960, as amended at 30 FR 258, Jan. 9, 1965. Redesignated at 30 FR 4195, Mar. 31, 1965, and amended at 30 FR 8675, July 9, 1965. Further redesignated at 35 FR 15554, Oct. 3, 1970, and amended at 38 FR 29215, Oct. 23, 1973; 53 FR 28634, July 29, 1988; 54 FR 1329, Jan. 13, 1989; 64 FR 56416, Oct. 20, 1999; 65 FR 2284, Jan. 14, 2000]

§ 350.4 [Reserved]

§ 350.5 Application for service.

Any person who desires to receive service under the regulations in this part for meat or other product eligible therefor under such regulations may make application for service to the Administrator, upon an application form