United States General Accounting Office

GAO

Report to the Secretary of Agriculture

March 1989

INTERNAL CONTROLS

Program to Address Problem Meat and Poultry Plants Needs Improvement

GAO/RCED-89-55

GAO

United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-234580

March 31, 1989

The Honorable Clayton Yeutter
Secretary of Agriculture

Dear Mr. Secretary:

As you are aware, the Federal Managers' Financial Integrity Act (FMFIA) requires agencies to assess and report to the President and the Congress on the adequacy of the internal controls in their programs. Accordingly, the U.S. Department of Agriculture (USDA) reported in its 1984 annual assurance letter that it needed to improve conditions at meat and poultry plants that chronically violated requirements for health, safety, and product standards. In this report, those plants are described as problem plants. To address this situation, USDA's Food Safety and Inspection Service (FSIS) initiated an Intensified Regulatory Enforcement (IRE) program at problem plants. As part of our continuing effort to determine if agencies are improving internal controls under FMFIA, we reviewed the IRE program to determine if conditions at 10 problem plants once in the program had improved.

Results in Brief

The IRE program has been successful in the short run in improving conditions at plants where problems concerning health, safety, and product standards have been identified. However, long-term improvements in problem plants are less likely to occur for two principal reasons. First, FSIS does not have an adequate follow-up monitoring system for plants that have shown improvement and graduated from the IRE program. Seven of 10 such plants that we reviewed had again become problem plants, and FSIS had generally not taken corrective action against them. Second, FSIS cannot ensure that all problem plants are being identified and considered for IRE because it does not have an adequate method to identify the universe of potential IRE candidates.

Background

To help ensure that health and safety standards for products are met, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) require federal inspection of plants that slaughter and/or process livestock and poultry and do business in interstate or foreign commerce. FSIS administers the meat and poultry inspection program.

Managers of meat and poultry plants are responsible for meeting the inspection program's requirements. FSIS inspectors, through daily sanitation inspections, lab tests, and other means, ensure that plant management meets its responsibilities and solves any problems identified. Inspectors can temporarily suspend or withdraw inspection if a problem continues to exist, detain products suspected of being contaminated, and condemn adulterated products. During the time when inspection is withdrawn or suspended, a plant cannot operate.

According to FSIS, the decision to put a plant in IRE has been and will continue to be based on an accumulation of objective evidence. Such evidence does not always lend itself to precise definitions and quantifications, however, because of the wide variety of circumstances that surround each plant. A serious violation of an inspection regulation may qualify a plant for IRE. Generally, a serious violation is one involving a threat to the health of consumers, economic adulteration of meat or poultry products (for example, the addition of poultry or pork to an all-beef product or excessive added water content), or criminal activities. In addition, the cooperation of plant owners is an important consideration in deciding on whether a plant should be put in IRE.

The IRE program focuses on particular problem areas by developing and implementing a plan of action that defines the problem areas, identifies their causes, and develops solutions. Further, the program increases the number of inspections, the level of detail in these inspections, and the number of product samples taken at the problem plant. The goal of the program is to improve the conditions at problem plants.

According to FSIS' Deputy Director of Meat and Poultry Inspection Operations, a plant is generally removed from IRE status when the problems that caused the designation have been satisfactorily corrected. He added that plant officials' commitment to continued compliance is also an important factor in determining whether a plant is removed from IRE status.

IRE Program Has Been Successful in the Short Run

Since 1984, IRE has been instituted on 43 occasions at 42 plants nationwide. One of the plants is currently in IRE for a second time and is, thus, included in our statistics as a plant removed from IRE and a plant in IRE. Twenty-four plants, according to FSIS records, improved operations and were subsequently removed, or graduated, from the program. In addition, one plant went out of business, seven plants had inspection permanently withdrawn, and four plants changed ownership while in IRE. As of September 30, 1988, seven plants remained in IRE.

While the 24 graduated plants were in the IRE program, conditions improved at 17, or 71 percent, of them within 1 year or less. Of the seven plants remaining on IRE, four have been in for less than 1 year. (See app. I for additional information about the plants.)

FSIS records for the 10 plants in our review indicated that the serious violations that had put the plants in IRE had been corrected when they were removed from IRE. However, as shown in the following section, our analysis of conditions at seven of these plants indicated that they had again become problem plants.

Long-Run Success Hampered by Inadequate Monitoring System

Although FSIS performs routine plant inspections and a one-time post-IRE review about 3 months after a plant is removed from IRE, it does not have a systematic method of analyzing plant conditions to determine if they have worsened. Our review of 10 plants that had graduated from the IRE program showed that 7 of them were once again violating health, safety, and product standards at unacceptable levels. Of these seven, one plant is currently in IRE for the second time.

Our analysis of FSIS records indicated that at some plants (1) sanitary conditions were again a problem, (2) a high number of laboratory samples were out of compliance with FSIS standards, and/or (3) livestock presented for slaughter had excessive levels of antibiotics and animal drugs (residue), and the cattle condemnation rate was higher than the national average.

Although condemnation rates and residue program violations are not necessarily functions of plant noncompliance, they should trigger heightened concern on the parts of those who consider specific indicators of plant compliance. For example, we used FSIS records to conclude that seven of the plants had again become problem plants. At one of these plants, we noted that (1) FSIS had found 2 major sanitation violations during its annual review, (2) 62 percent of 775 residue samples

taken at the plant were out of compliance with FSIS standards, and (3) the plant's cattle condemnation rate was 7 times above the national average. (See app. II for a profile of the conditions at each of the 10 plants we reviewed and app. IV for the scope and methodology used in our analysis.)

When IRE was instituted, FSIS' Deputy Administrator, Meat and Poultry Inspection Operations, stressed to all regional directors the need to consider a method of ensuring continued and improved documentation of problems arising at plants. In January 1988, the deputy administrator told us that FSIS was planning to institute, as needed, a post-IRE action plan, under which in-plant inspections and visits by FSIS supervisors would continue at a higher-than-normal frequency following IRE. However, as of February 1989, no post-IRE plan had been initiated.

FSIS Has Actions Available for Plants That Regress

FSIS has generally not taken any action against the seven graduated plants that had again become problem plants. FSIS has several types of actions it can take in these cases, depending on particular circumstances. (See app. III.)

According to a June 1988 FSIS directive, FSIS can reinstate IRE at any plant that fails to maintain the level of compliance achieved during its initial IRE term. FSIS took this step once, after discovering that a graduated plant was selling products containing poultry without disclosing it on the product label.

In addition, FSIS can seek to withdraw inspection at a given plant either permanently or temporarily. Because a meat and poultry plant must be inspected before it can ship any product in interstate or foreign commerce, permanent withdrawal of inspection effectively closes a plant down. FSIS does not take this action often because the withdrawal process is lengthy and a shutdown can have a severe effect on the surrounding community. It has not taken this action for any of the seven plants that had again become problem plants.

FSIS inspectors can temporarily shut down a plant's production line because of a sanitation problem or product adulteration. FSIS does not have any records to show if, or how frequently, this action has been taken at the seven plants.

Finally, when a plant's management has been convicted of a criminal offense, FSIS can use stipulation and consent orders, signed by plant

management and USDA, instead of withdrawing inspection. Such orders set forth terms and conditions that plant management must meet. If not met, inspection can be withdrawn without delay. At the time of our review, stipulation and consent orders existed at three of the seven plants: one of the three is in IRE for a second time; another signed the order prior to getting off IRE; and the third was placed under an order about 2 years after being taken off IRE.

IRE May Not Address All Problem Plants

When the IRE program began in 1984, FSIS implemented a data collection system for identifying possible candidates for the program. First, each region identified, on a judgmental basis, its worst plants. Then, the system provided the information needed to develop a plant profile for each of these plants. The data elements included in the profiles focused on sanitary conditions, lab tests, compliance, and livestock condemnation rates.

After the initial plants were put in IRE, this system, however, was discontinued. According to an FSIS official, each region identified its worst plants because of the newness of the program and the need to emphasize it to its inspectors and field office personnel. FSIS believes the system is no longer necessary because inspectors will take appropriate action when a plant becomes a problem.

At present, FSIS does not have a formal system for identifying problem plants. After the initial plants were put in IRE in 1984, FSIS changed its procedures for identifying problem plants from a formal to an informal system. Its current approach does not provide assurance that all candidates for IRE are being considered.

Currently, FSIS relies on the in-plant inspectors and circuit supervisors in the field to identify problem plants for IRE. These employees, however, have been given only very general guidance from headquarters on how to choose such plants. The number of plants placed on IRE has declined from 28 in 1984-85 to 15 in 1986-88. Without some kind of a data collection system in place, such as the one initially used, FSIS does not know whether the number of problem plants has actually declined or inspectors are simply not identifying plants for IRE.

According to FSIS' Deputy Administrator of Meat and Poultry Inspection Operations in January 1988, a wide variety of circumstances may contribute to a decision to place a plant on IRE. Therefore, he believes FSIS cannot provide precise definitions on which plants should be in IRE, and

he prefers to rely on FSIS' current informal approach of identification by local inspectors.

Although we agree that FSIS needs to have flexibility concerning its decision to put a plant in IRE, a data collection system such as was originally used would allow FSIS to profile the types of plants that might be considered for IRE. Such an improved identification system would not take away from FSIS' flexibility. It would, however, provide FSIS with a means to help ensure consistency in the application of the IRE program. Much of the information necessary to measure plant conditions and establish plant profiles is computerized and readily available at FSIS headquarters.

Conclusions

According to FSIS data, the IRE program has experienced short-term success in improving conditions at meat and poultry plants with chronic violations. However, once off IRE, and without special follow-up from FSIS after the post-IRE review, 7 of the 10 plants we reviewed had again become problem plants. FSIS does not have a monitoring system for plants that have been taken off IRE, nor has it taken any of several available enforcement actions at four of the seven plants where conditions have regressed.

In addition, long-term gains are unlikely without a more systematic method for following up on plants that have been on IRE or for identifying plants that might be candidates for the IRE program. If long-term gains are not ensured, the reported weakness in internal controls will continue to exist in FSIS' meat and poultry inspection program.

Recommendations

To ensure the long-term effectiveness of the IRE program, the Secretary of Agriculture should direct the Administrator, FSIS, to improve the IRE program by

- developing and implementing (1) criteria for placing plants in the program and (2) a data information system based on these criteria that profiles all plants inspected,
- developing and implementing a special monitoring system for plants taken off IRE so that these plants are monitored to determine if they again become problem plants, and
- taking such actions as entering into stipulation and consent orders and reinstating plants in the IRE program, or withdrawing inspections at plants that become problem plants after being taken off IRE.

Agency Comments and Our Evaluation

In a January 26, 1989, response to our draft report, USDA stated that the report satisfactorily presented and analyzed FSIS' IRE program. The Department agreed that, although the IRE program is an effective short-term solution for addressing chronic noncompliance with federal requirements by some meat and poultry plants, it is not an effective long-term policy. Thus, USDA stated, the IRE program will become part of a new Improved Processing Inspection Program and other ongoing initiatives designed to (1) better address varying levels and terms of noncompliance by plants and (2) protect the consumer. USDA stated that our recommendations for strengthening the IRE program will be used in planning the Improved Processing Inspection Program. It pointed out, however, that moving plants in or out of IRE, and the monitoring of plant performance after IRE, will continue to be based principally on the current manual system of records review until a planned, nationwide system for automatically recording day-to-day plant inspection results becomes available. This system, according to USDA, will not be completely implemented for several years. (USDA's comments, in their entirety, may be found in app. V.)

While these proposed actions are a step in the right direction, we believe more can and should be done now, without waiting for the automated system. As pointed out earlier, much information on plant performance is already computerized and available at FSIS headquarters. We believe that FSIS can make better use of these data on a plant-by-plant basis to (1) help ensure consistency and equity in moving plants into and out of IRE and (2) monitor plants removed from IRE to determine if they again become problem plants.

We examined the effect of the IRE program at 10 plants. (See app. IV for the criteria used in selecting the plants.) Although these plants represent about 24 percent of the 42 plants that have been placed on IRE, the results for these 10 plants are not necessarily indicative of the results at all 42 plants that have been in IRE. The small number of plants in IRE would force us to take almost a 100-percent sample to be able to obtain reliable results for all 42 plants.

To determine conditions at the 10 plants, we analyzed sanitation records, lab sample results, livestock condemnation rates, and compliance records. We did not independently assess plant conditions but relied on FSIS inspections and analyses. We conducted our review

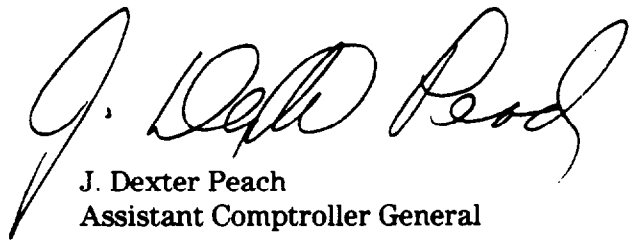
between October 1987 and September 1988, with updates through February 1989, in accordance with generally accepted government auditing standards.

As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs no later than 60 days from the date of this letter and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of this letter.

We are sending copies of this report to the chairmen of the above committees; the chairmen of the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture; and to the Director, Office of Management and Budget.

This work was performed under the direction of Flora H. Milans, Associate Director. Other major contributors are listed in appendix VI.

Sincerely yours,



J. Dexter Peach
Assistant Comptroller General

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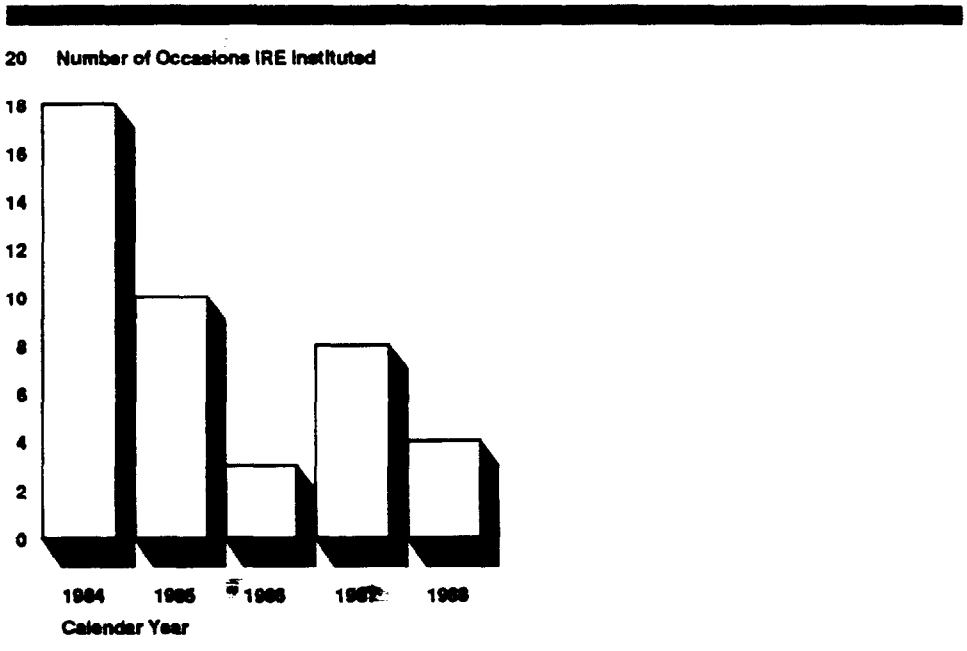
Abbreviations

FMFIA	Federal Managers' Financial Integrity Act
FSIS	Food Safety and Inspection Service
GAO	General Accounting Office
IRE	Intensified Regulatory Enforcement
USDA	Department of Agriculture

Status of Plants Put in IRE

The Food Safety and Inspection Service's (FSIS) use of Intensified Regulatory Enforcement (IRE) has decreased since the program's inception. IRE was instituted on 28 occasions in 1984 and 1985, but on only 15 occasions from 1986 through September 1988. Figure I.1 shows the number of occasions IRE was instituted from February 1984 through September 1988.

Figure I.1: Number of Occasions IRE Instituted, February 1984 Through September 1988

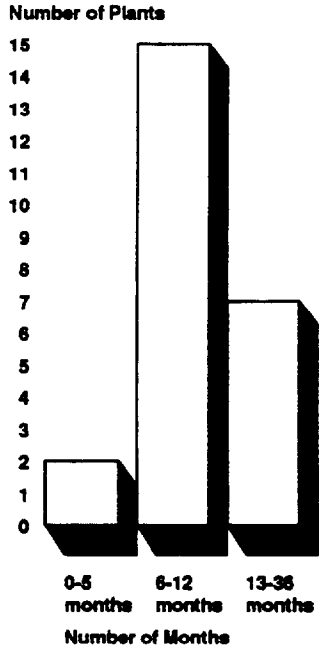


On the 43 occasions—1 plant currently in IRE for a second time is included in our statistics as a plant removed from IRE and as 1 still on IRE—in which IRE has been instituted since the program's inception, 24 plants have been removed from IRE status; 7 plants were in IRE as of the end of fiscal year 1988; 1 plant had gone out of business; 7 plants had inspection withdrawn permanently; and 4 plants had changed ownership and were no longer operating under the original grant of inspection. Although the IRE program's goal is to improve conditions at problem plants, its success can sometimes be measured by the number of plants going out of business, having inspection withdrawn, or being transferred to a new ownership that complies with USDA requirements.

Plants are designated for IRE status for many reasons. The most common reasons stated in FSIS' IRE designation letters were poor sanitary conditions at the plants, harassment of inspection personnel, and poor maintenance of facilities and equipment.

Plants are currently placed in IRE for at least 6 months before FSIS considers them eligible to be removed from IRE status, and they are generally in IRE for 6 to 12 months before being removed. However, two plants were removed before they had been in IRE for 6 months, and some plants have been in IRE from 13 to 36 months. Figure I.2 shows the length of time spent in IRE for those 24 plants that have been removed from IRE.

Figure I.2: Time Spent in IRE Status



Profile of Conditions at Plants Reviewed

Plants A and B

Plants A and B are jointly managed. Plant A was placed in IRE in November 1985 because it had an extensive history of problems involving product mislabeling, long-term facilities maintenance, technical capabilities of key personnel in taking critical temperature measurements, and recent salmonella contamination in products. Plant B was placed in IRE in December 1985 because of its close affiliation with plant A.

About 15 months after the two plants were placed in IRE, an FSIS review found significant overall improvements with respect to plant management accepting its responsibilities at both plants and compliance with applicable requirements. On the basis of this review, both plants were removed from IRE status in June 1987. In its formal notification of plant removal from IRE, FSIS stated that its review had determined that the critical areas that led to the initial IRE designations had improved substantially.

FSIS data indicated that conditions at the plants remained in reasonably good shape following their removal from the IRE program. At our request, FSIS officials reviewed each plant's daily sanitation reports for January and February of 1988. They found conditions to be good 53 percent of the time at plant A and 84 percent of the time at plant B. Establishment reviews and assessment reports (based on in-depth reviews of plant conditions performed by FSIS at least once a year) were performed and prepared at both plants in July, August, September, and October 1987, and January and February 1988. These noted no major violations. Establishment reviews and assessment reports performed and prepared at plant A in June, November, and December of 1987 also noted no major violations. (A major violation is a deviation from FSIS standards that could have a significant impact on a product's wholesomeness.)

Plant C

Plant C was placed in IRE in July 1985 for operating jointly with another IRE plant and sharing its history of problems: the upkeep of facilities and equipment, pest control, operational sanitation and hygiene, condemned/retained product handling, and uncooperative relationships with FSIS inspectors.

Nine months after the plant was placed in IRE, FSIS found that plant management was cooperating with FSIS inspectors and was properly controlling operational sanitation and product handling; product labeling practices were also found to be satisfactory. As a result of this review,

FSIS removed the plant from IRE status in May 1986. In its formal notification of plant removal from IRE, FSIS stated that its review had determined that the critical areas that had led to the initial designation had improved substantially.

A scarcity of FSIS data made it impossible for us to judge whether conditions at plant C had changed for the better or worse after its removal from the IRE program. Daily sanitation reports for January and February of 1988 were unavailable; thus FSIS officials were unable to review them with those of the other plants in our sample. No establishment review and assessment reports were available after September 1984. FSIS plant inspectors had not submitted any laboratory samples for analysis, and no compliance incidents occurred following the plant's removal from IRE.

Plant D

Plant D was placed in IRE in February 1984 for having a history of FSIS violations involving improperly adding water to cured and smoked products, removing tags placed by USDA officials on products or equipment, recurring sanitation problems, and an uncooperative relationship with FSIS inspectors.

About 22 months after the plant was placed in IRE, an FSIS review found that (1) added-water compliance had been good for the previous 3 months, (2) management was properly controlling incoming and off-condition products,[1] (3) sanitation was being maintained at a relatively high level, and (4) plant management was cooperative. On the basis of this review, the plant was removed from IRE in January 1986. In its formal notification to plant management of the removal of the plant from IRE, FSIS stated that the November 1985 review had determined that the critical areas that led to the initial IRE designation had improved substantially.

FSIS data we reviewed showed that problems still existed at the plant in that water was being improperly added to certain products. For example, the data showed that since the plant had been taken off IRE, all water-added hams and picnic hams had been sporadically in violation of added-water standards to the point of requiring retention sampling, i.e, each product lot had to be tested for added-water violations before it could be shipped. Water-added hams required retention sampling for 3

[1]Off-condition product is a product that at one time met USDA standards, but is no longer acceptable. The primary reason for this is spoilage.

months in 1986 and 5 months in 1987, while retention sampling was required for water-added picnic hams for 2 months in both 1986 and 1988.

Plant E

Plant E was placed in IRE in July 1985 for having a history of problems involving upkeep of facilities and equipment, pest control, operational sanitation and hygiene, dressing procedures and presentation for inspection, edible product handling, condemned/retained product handling, and uncooperative relationships with FSIS inspectors.

About 7 months after the plant was placed in IRE, FSIS found steady improvement in the relationship between plant management and the FSIS inspection team and acceptable improvements in the plant's facilities. FSIS' review also stated that plant management had fully assumed its responsibility for maintaining the facilities and proper sanitary conditions. Because of this review, the plant was removed from IRE status in March 1986. In its formal notification of the plant's removal from IRE, FSIS stated that its January 1986 review had determined that all critical areas that had led to the initial IRE designation had improved substantially.

FSIS data we reviewed, however, showed that the plant had become a problem plant once again. FSIS noted two major sanitation violations in a February 1987 establishment review and assessment report. These violations were in the areas of personal hygiene practices and postmortem sanitation. Further, residue samples taken by FSIS between March 1986 and February 1988 indicated violations in 62 percent of the 775 samples taken. In addition, the plant's cattle condemnation rate ran about 7 times the national average between October 1987 and March 1988.

According to FSIS officials, a combination of high rates of residue violations and cattle condemnations indicates that sickly cattle are being presented for inspection. The high numbers of residue violations and cattle condemnations indicate that the in-plant inspector is finding problems. However, the possibility of unwholesome products reaching the public exists if the plant attempts to circumvent the proper handling of condemned or retained products or if the inspector becomes lax. Because this plant was initially put on IRE in part for improper condemned/retained product handling, subsequent residue violations and high condemnation rates are possible indicators of a continued problem.

Plant F

Plant F was placed in IRE in December 1985 when some of its employees were convicted of a felony for supplying adulterated turkey meat to the national school lunch program.

About 10 months after the plant had been placed in IRE, FSIS noted in a review that the plant had reorganized its management and that plant management and employee attitudes were excellent. Plant management was assuming its full responsibility for operating and maintaining the facility. On the basis of this review, the plant was removed from IRE in December 1986. In formally notifying plant management that it was removing the plant from IRE, FSIS stated that its October review had determined that the critical areas that led to the IRE designation had improved substantially.

FSIS data, however, showed that the plant had once again become a problem plant after its removal from the IRE program. FSIS noted two major violations in its establishment review and assessment reports. One violation occurred in March 1987, in the area of pest and rodent controls. The other occurred in November 1987, in the plant's quality control program.

Plant G

Plant G was placed in IRE in January 1985 for having a history of FSIS violations involving marginal sanitation, evisceration and processing defects,[2] and uncooperative relationships with FSIS inspectors.

Eighteen months after the plant was placed in IRE, an FSIS review found that sanitary conditions at the facility were in good condition and plant management's attitude showed a substantial improvement. On the basis of this review, the plant was removed from IRE in August 1986. In formally notifying plant management that it was removing the plant from IRE, FSIS stated that its July 1986 review had determined that the critical areas leading to the initial IRE designation had improved substantially.

FSIS data that we reviewed showed that the plant was again a problem plant. At our request, FSIS officials reviewed the plant's daily sanitation reports for January and February 1988. Through their review, they found sanitary conditions at the plant were good only 48 percent of the time, fair 41 percent of the time, and poor 11 percent of the time. A February 1987 establishment review and assessment report noted a

[2]Evisceration defects involve the improper removal and handling of internal organs while the carcass is on the slaughter floor.

major violation in the category of facilities and equipment involving ice handling.

Plant H

Plant H was placed in IRE in April 1986 because of the criminal conviction of several plant officials for conspiring to defraud livestock suppliers and to distribute adulterated food products and because the plant had a history of problems involving deficiencies in facilities maintenance, operating practices, and product handling.

About 10 months after the plant was placed in IRE, an FSIS review indicated that the plant had made significant improvements in the areas of sanitation, facilities, and operations. FSIS also noted that plant management had assumed its responsibilities for maintaining the plant in an acceptable manner. The plant was removed from IRE status in March 1987. In formally notifying plant management that it was removing the plant from IRE, FSIS stated that the combination of compliance with a stipulation and consent order signed in December 1986 (see app. III) and the favorable results of FSIS' February 1987 review indicated that all critical areas that had led to the initial IRE designation had improved substantially.

FSIS data, however, showed that the plant had again become a problem plant. At our request, FSIS officials reviewed all daily sanitation reports for January and February 1988 and found sanitary conditions to be good only 24 percent of the time, fair 44 percent of the time, and poor 32 percent of the time. Further, residue samples taken by FSIS between March 1987 and March 1988 indicated a violation in 12 percent of the 559 samples taken. In addition, the plant's cattle condemnation rate ran from about 7.6 to 8.3 times the national average in fiscal year 1987 and the first 6 months of fiscal year 1988. A combination of high residue violations and cattle condemnation rates indicates that sickly cattle are being presented for inspection. Although this combination indicates that the in-plant inspector is finding problems, the possibility of unwholesome products reaching the public exists if the plant attempts to circumvent the proper handling of condemned products or if the inspector becomes lax. Because this plant was initially put in IRE, in part, for improper product handling and a criminal conviction involving conspiracy to distribute adulterated food products, the high residue violations and high condemnation rates are possible indicators of a continued problem.

Plant I

Plant I was placed in IRE in January 1985 for having a history of FSIS violations involving marginal sanitation, preparation of the carcass on the slaughter floor, and uncooperative relationships with FSIS inspectors.

About 7 months after the plant was placed in IRE, an FSIS review found that plant management was fully cooperative, products were prepared under sanitary conditions, facilities and equipment deficiencies were promptly corrected, and carcass preparation on the slaughter floor was acceptable. On the basis of this review, the plant was removed from IRE in August 1985. In formally notifying plant management that it was removing the plant from IRE, FSIS stated that its July 1985 review had determined that all critical areas that had led to the initial IRE designation had improved substantially.

FSIS data we reviewed showed that the plant was again beset by problems. At our request, FSIS officials reviewed all daily sanitation reports submitted for the plant for January and February 1988 and found sanitary conditions to be good only 37 percent of the time, fair 26 percent of the time, and poor 37 percent of the time. The plant's compliance history further showed that an evaluation incident had been noted in March 1986 when the plant improperly used a number of cartons bearing official marks of USDA inspection without authorization.

Plant J

Plant J was first placed in IRE in February 1984 for having a history of violations of FSIS regulations: failure to maintain acceptable sanitation standards and recurring labeling violations. FSIS removed the plant from IRE status in August 1984, stating that all of the critical deficiencies had been corrected.

Plant J was placed in IRE for the second time in November 1986 when FSIS laboratory analysis disclosed that 9 of 11 samples of a finished product contained unlisted ingredients. Other reasons for placing the plant in IRE for a second time included several deficiencies in handling and storage of products as well as continuing problems with maintaining acceptable sanitation standards. As of October 1988, the plant remained in IRE status.

FSIS data showed that the plant remained a problem plant while under IRE. Microbiology samples taken by FSIS between December 1986 and February 1988 disclosed that cooked pork proteins were an unlisted ingredient in the product in 43 percent of 112 samples taken. Further, during 1988 FSIS found that all water-added, heat-treated, water-cooked

hams violated added-water standards. For 2 months all such product was placed in retention sampling, i.e., each product lot must be tested for added-water violations before it can be shipped. Between January 1987 and February 1988, the plant's compliance history shows that three evaluation incidents were noted. Two involved improper labeling and the third involved a product that caused an illness. The third incident stemmed from a consumer complaint and resulted in a recall of the product. In addition, at our request, FSIS officials reviewed all daily sanitation reports for January and February 1988 and found sanitary conditions to be good only 39 percent of the time, fair 27 percent of the time, and poor 34 percent of the time.

Actions FSIS Can Take Against Plants

FSIS has several options available to bring plants that chronically violate FSIS requirements for health, safety, and product standards into compliance with the standards, including shutting them down by withdrawing inspection.

Reinstatement of the IRE Program

On one occasion, in late 1986, FSIS reinstated the IRE program at a plant that had been off IRE for over 2 years. Of 11 laboratory samples of the plant's products, FSIS found 9 in which the product included poultry as an unlisted ingredient. FSIS also found, before reinstatement to IRE, several deficiencies in the handling and storage of products, as well as continuing problems with maintaining acceptable sanitation standards. As of October 1988, this plant continued to be in IRE.

In a June 1988 directive, FSIS said it can reinstate the IRE program in any plant that fails to maintain the level of compliance achieved during IRE. The directive makes the reinstatement of the IRE program less cumbersome by waiving the need to develop completely a new history of deficiencies, thus avoiding the need to repeat the original procedures.

Withdrawal of Inspection

FSIS can seek to permanently withdraw inspection at a plant, or it can temporarily withdraw inspection by shutting down the production line for a certain time period.

USDA Does Not Often Seek Permanent Withdrawal of Inspection

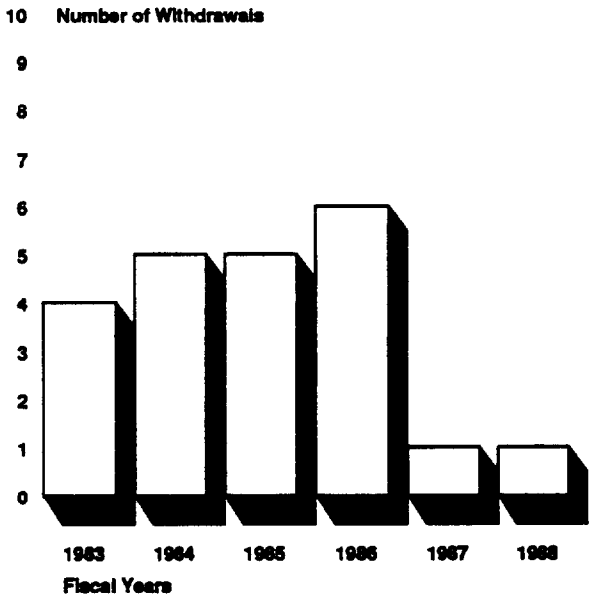
Because a meat and poultry plant must be inspected before it can ship any product in interstate or foreign commerce, permanent withdrawal of inspection effectively closes the plant down. For meat plants, FSIS can request the courts to issue an order withdrawing inspection, and for both meat and poultry plants, FSIS has the authority to administratively withdraw inspection from plants whose management has been convicted of felonies. This option, though severe, is used in those plants where conditions regress to levels that could seriously affect public health or consistently result in product or economic adulteration.

FSIS has not very often requested the courts to issue orders permanently withdrawing inspection from meat plants because (1) the process is lengthy and (2) withdrawal could harm the economy of the surrounding community. According to an official in USDA's Office of General Counsel, FSIS must show clear and convincing evidence of harm to the health of the general public in the court hearing. Each step in the process can be appealed by the plant; thus, final judgment may take from 1 to 5 years.

When inspection is withdrawn, the action has the effect of closing down the plant, and causing a loss of jobs and tax revenue for the community in which the plant is located.

Between October 1982 and September 1986, FSIS withdrew inspection from 20 plants. Since October 1, 1986, it has withdrawn inspection from only two plants. Figure III.1 shows the trend in withdrawals.

Figure III.1: Number of Inspection Withdrawals



Twenty-one of the 22 plants had inspection withdrawn because the management had been convicted of felonies or misdemeanors. The twenty-second plant had inspection withdrawn when management failed to destroy a condemned product.

FSIS Inspectors Can Temporarily Withdraw Inspection

FSIS' in-plant inspectors can temporarily shut down the production line at a plant because of problems with sanitation or adulteration. This can be done without involving the authority of the courts. According to FSIS officials, temporary withdrawal, along with permanent withdrawal, is FSIS' best enforcement tool and should be used more frequently than it has been to deal with plants when conditions begin to regress.

FSIS does not keep centralized statistics on how often, for what reasons, and/or the time period that production lines at various plants are shut down. In-plant inspectors are responsible for temporarily shutting down production lines, and they are to use this authority on a regular basis if warranted.

Stipulation and Consent Orders

FSIS has begun using stipulation and consent orders as an alternative to withdrawing inspections in cases where a plant's management has been convicted of a criminal offense. According to USDA's Office of General Counsel, the agreement, signed by the plant management and USDA, is a contractual agreement that sets forth the conditions under which a plant can continue to operate. As of October 1988, 36 plants were operating under stipulation and consent orders.

The conditions in the stipulation and consent order are negotiated, and if the conditions are violated, FSIS can withdraw inspection without delay. The orders can be in force for a specified period of time or can be indefinite.

Three of the seven plants we reviewed that had again become problem plants were under stipulation and consent orders, including the plant that had been put in IRE for a second time. Although each order is tailored to the circumstances at that plant, the orders generally contain some similar requirements such as the following:

- Certain management officials must divest themselves of interest in the company for a period of time.
- The plant may not violate any section of the Federal Meat Inspection Act involving the preparation, sale, transportation, or attempted distribution of any adulterated or misbranded meat and poultry products.
- The plant must maintain full, complete, and accurate records of all business activities and provide those records, upon request, to any authorized representative of the Secretary of Agriculture.
- The plant must designate a full-time person who has overall responsibility to conduct daily reviews of all areas of the plant for sanitation and record daily entries in a log book that is available for review by FSIS personnel.

Scope and Methodology

We initially chose plants for our review that (1) were currently in operation, (2) had been in IRE during the last 3 years, and (3) had been out of IRE for at least 1 year. We found seven plants that met these criteria. We also found two plants that came close to meeting the criteria and included them in our review. A tenth plant was included because it was the only plant to be put in IRE on two separate occasions.

For these 10 plants, we analyzed the following data and information:

- the IRE case file located at USDA headquarters that contained the reason(s) each plant had been placed in IRE and the related plan of action developed by FSIS,
- daily logs prepared by inspectors that pointed out problems while the plants were in IRE,
- information pertaining to FSIS' rationale for removing a plant from IRE,
- the daily sanitation reports and the establishment review and assessment reports that determine sanitation conditions at the plants,
- the laboratory sample results to determine the number of occasions the test results were outside acceptable limits,
- the evaluation incident reports, reports of apparent violation, and plant compliance history to determine the number of occasions each plant's products were out of compliance, and
- the antemortem and postmortem inspection summaries to determine the number of livestock condemned and the number of diseased animals presented for slaughter at the plants.

The data we obtained covered the following time periods:

- for the daily sanitation reports, the last 2 months before the plant was put in IRE, a 2-month time period after the plant was removed from IRE, and January and February 1988, which at the time of our request in March 1988 were the months for which the most recent reports were available,
- for the establishment review and assessment reports, the year before the plant was put in IRE and all reports after the plant was removed from IRE through the end of February 1988, and
- for laboratory sample results, compliance histories, and condemnation rates for the 12 months before the plant was put in IRE and all reports when the plant was removed from IRE through the end of February 1988.

Prior to beginning this review, FSIS officials agreed that comparing its data and reports on a before- and after-IRE basis would allow us to determine if plants regressed once out of IRE. At our request, FSIS officials reviewed the daily sanitation reports for the plants in our sample for January and February 1988 and rated the conditions at the plants for each day. Specifically, if FSIS rated the daily plant conditions as a 1 through 3, the conditions were classified as good; conditions classified as a 4 through 6 were fair, and 7 through 10 were poor.

As a result of our analysis of FSIS records, we concluded that seven of the plants were again problem plants. We judged a plant as being a problem if, after it had been removed from IRE, it was violating FSIS regulations in an area in which previous violations had resulted in FSIS' designating it for IRE, or if it had one or more major violations noted in a FSIS annual review, or if it met more than one of the following criteria:

- It had a majority of days within a 2-month period in which FSIS judged sanitary conditions to be either fair or poor.
- More than one-third of the laboratory samples submitted from the plant were found to be in violation of FSIS standards.
- It had one or more products or groups of products undergo retention sampling because of added-substance violations.
- It had a combination of residue violations in samples taken at the plant, cattle condemnation rates greater than the national average, and a plant history of improper product handling. This combination indicates that there was the possibility of unwholesome product reaching the public.
- It had any compliance violations noted by FSIS' compliance division.

We also reviewed USDA's reports on the Federal Managers' Financial Integrity Act for 1983-87 and examined USDA's internal controls for dealing with meat and poultry plants.

Comments From the U.S. Department of Agriculture

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

3 1989

Mr. J. Dexter Peach
Assistant Comptroller General
United States General Accounting Office
Washington, DC 20548

Dear Mr. Peach:

This responds to Mr. John Harman's December 19, 1988, letter, enclosing a copy of the proposed draft report entitled INTERNAL CONTROLS: Program to Address Problem Meat and Poultry Plants Needs Improvement (GAO/RCED-89-55).

I appreciate the opportunity to review the draft report and believe the General Accounting Office (GAO) report is satisfactory in its presentation and analysis of the Food Safety and Inspection Service's (FSIS) Intensified Regulatory Enforcement (IRE) program.

General Comments:

For some time, FSIS has recognized that dealing with chronic noncompliance with federal requirements by some plants is its most difficult and challenging problem. The majority of plants do, in fact, produce wholesome, properly labeled products in a sanitary environment. However, some plants neglect to assume their responsibilities in a business requiring the highest degree of care for the public health. In these instances, FSIS has had to intensify its inspection efforts, resulting in added program costs, in order to provide public protection.

As the report shows, the IRE program has been an effective short-term solution for addressing chronic noncompliance. However, IRE, or any other regulatory strategy that places the burden of noncompliance on the taxpayer through increased inspection resources, is not an effective long-term policy. In the first place, such an approach can only be applied in limited circumstances, because of resource limits. Thus, as the report shows, few plants can be designated for the kind of special attention provided under IRE. Second, in some instances, the improvements may be short-lived, since they are dependent on the pressure generated by the intensified coverage, and do not ensure long-term changes in operating practices by the plant.

These two factors have led FSIS to conclude that the IRE program should be continued, but only as an interim strategy employed as a temporary measure in plants where chronic noncompliance is evident, or in some cases where criminal or civil proceedings are underway. As part of its further planning for Improved Processing Inspection (IPI), FSIS is developing a Progressive Enforcement Program that will make the IRE program just one of a series of steps designed to address varying levels and terms of noncompliance by plants.

A principal feature of the Improved Processing Inspection Program is the better documentation of deficiencies in plants through centralized recordkeeping and tracking that reflects a history of noncompliance. Under IPI, inspection will be routinely intensified in plants where significant deficiencies are frequently found. Failure to address the identified deficiencies or a pattern of temporary correction followed by recurrences will lead to IRE designation. The focus of IRE will be on bringing about permanent changes in plant compliance, documenting sufficient evidence of noncompliance for withdrawal of inspection, or other actions that place the burden of compliance with the law on the plant. We will utilize GAO's recommendations in planning this new approach.

Comments on audit findings.

The Department accepts the basic audit findings, with one exception: Condemnation rates and sample results that disclose residue program violations, are not functions of plant noncompliance. However, they could trigger heightened concern in conjunction with specific indicators of plant violations, e.g., if there are suspicions or evidence of condemned products being diverted into human food channels. (Other types of samples are indicators of plant noncompliance, e.g., those that disclose illegal preservatives or undeclared ingredients of lesser value in processed products.)

Below are comments on the specific recommendations made in the report:

(1) Develop and implement (a) criteria for placing plants in the program and (b) a data information system based on these criteria that profiles all plants inspected.

FSIS Directive 8410.2 dated 6/3/88 (copy enclosed), contains current instructions for entering and removing plants from the IRE program. It relies principally on a manual system of records review that is scheduled to be replaced by a nationwide ADP system for recording day-to-day inspection results for

plants. This ADP system is a major initiative involving staged implementation over the next several years. Preliminary start-up activities are underway in 11 of 26 inspection areas throughout the country. This system will greatly facilitate profile analysis, problem plant identification, and the allocation of inspection resources on the basis of risk. It will also improve the quality of evidence needed to sustain legal actions against plants that consistently fail to sustain an adequate level of compliance. Ultimately, this approach will be adopted for all processing plants. Until it is fully implemented, FSIS will rely on the systems and procedures outlined in the enclosed directive, building on the improved systems of documentation as they are developed.

(2) Develop and implement a special monitoring system for plants taken off IRE so that these plants are monitored to determine if they again become problem plants.

For plants removed from IRE, the referenced Directive calls for a follow-up review within three months by the Regional Director or his designee, and an independent review anytime within six months by the Agency's Review and Evaluation Staff. The results of these reviews are monitored at the Washington level, and the IRE program will be reinstated when appropriate. To further ensure the integrity of the program, we will continue to selectively review former IRE plants.

In addition, the new ADP system, when fully operational, will support this monitoring activity by providing a source of continuous documentation of processing plant performance at critical points and by automatically triggering intensified inspection where and when necessary.

(3) Take actions available to improve conditions or to withdraw inspections at plants that become problem plants after being taken off IRE.

As new enforcement mechanisms emerge under the IPI program, they will be applied to IRE plants, and former IRE plants that fail to effect long-term corrections. When necessary, we will also initiate action authorized by law to withdraw inspection service. Although the latter is a complex, time consuming procedure involving opportunity for extensive appeals and due process, it sometimes results early-on in a formal Consent Decree that facilitates actual withdrawal of inspection if noncompliance continues.

We appreciate GAO's objective review of FSIS's IRE program. Your recommendations for strengthening the program will be helpful as the agency moves toward implementation of the Improved Processing Inspection Program and other ongoing initiatives designed to protect the consumer.

Sincerely,

Enclosure

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