

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

FSIS DIRECTIVE

5220.3
Rev. 1

10/8/15

ISSUANCE OF A 10-DAY LETTER FOR INACTIVE OPERATIONS

I. PURPOSE

This directive outlines the actions that a District Manager (DM) may take when a meat or poultry establishment, egg products plant, or an import inspection establishment is not operating (i.e., inactive) or is operating but not conducting operations that require FSIS inspectional oversight (e.g., facility is a dual jurisdiction establishment, but is currently only producing Food and Drug Administration products). This directive provides instructions regarding communicating with an inactive establishment or plant, and actions to be taken when an establishment or plant has failed to respond to District Office (DO) inquiries about its operational status and intentions (i.e., the issuance of a ten-day letter). FSIS is reissuing this directive to include an instruction to the DM that he or she is to wait 15 days for a response after sending a 10-day letter to an egg products plant for inactive operations before acting on the letter. FSIS is also reissuing this directive to update the instructions concerning the Public Health Information System (PHIS).

II. CANCELLATION

FSIS Directive 5220.3, Issuance of a Ten-Day Letter for Inactive Operations, 2/7/06
FSIS PHIS Directive 5220.3, Issuance of a Ten-Day Letter for Inactive Operations, 4/11/11

III. BACKGROUND

A. An official meat or poultry establishment, an egg products plant, or an official import inspection establishment may request a voluntary suspension of inspection services for purposes such as, but not limited to, when the facility is for sale; when minor to major structural change or remodeling is being done; when the presence of inspection program personnel (IPP) or import inspection personnel is not needed; or when there is an unforeseen disaster. A voluntary suspension of inspection services is temporary and, except for establishments that operate on a seasonal basis, normally should not exceed 120 calendar days.

NOTE: From here on, official meat and poultry establishments and import inspection establishments will be referred to as “establishments,” and egg products plants will be referred to as “plants.” However, in PHIS, the term “establishment” is used to identify meat and poultry establishments, import inspection establishments, and egg products plants.

B. When situations beyond the establishment’s or plant’s control arise (e.g., inability to obtain equipment on schedule or inability to complete major structural changes because of weather conditions), the DM, at the establishment’s or plant’s request, may extend the 120-calendar day suspension for an additional time period.

C. If a seasonal establishment or plant has gone one year or more without conducting any operations, the DM is to follow the instructions in Section IV below.

IV. PROCEDURES FOR COMMUNICATING WITH INACTIVE ESTABLISHMENTS AND PLANTS

A. If an establishment or plant is inactive for more than 120 days and has not communicated its intentions, or if it ceases operations and has failed to communicate why the establishment or plant has been inactive to the DO, the DO is to send a letter to the plant or establishment address listed in PHIS. An example of a 10-day letter is provided in Attachment 1.

B. The letter is to be sent by overnight service with a “Return Receipt Requested” (e.g., U.S.P.S., Fed-Ex, UPS) and is to clearly inform the establishment or plant of the following:

1. The establishment or plant needs to respond back to the DM within 10 business days from the receipt of the 10-day letter. If the DO does not receive a response within 15 business days from the receipt of the 10-day letter, it will consider the grant of inspection to have been abandoned and voluntarily withdrawn;
2. The grant of inspection and the assigned establishment or plant number will be changed to “Voluntarily Withdrawn;”

NOTE: PHIS will not reassign a previously used establishment or plant number to a new request for a grant of inspection.

3. If the establishment or plant intends to resume operations, it needs to respond to the DM within 10 business days from the receipt of the 10-day letter. The establishment or plant in its response needs to propose a date that is acceptable to the DM on which it will resume inspected operations. The letter needs to inform the establishment or plant that its response must be received by the DO within 15 business days from the date that the establishment or plant received the 10-day letter;
4. The DM will reinstate an establishment’s inspection service only after FSIS finds the sanitary conditions, the written Sanitation Standard Operating Procedures, the HACCP food safety system, and the written recall procedure to be acceptable; and
5. The DM will reinstate inspection service to a plant only after FSIS finds sanitary conditions to be acceptable.

C. The DO is to e-mail a copy of the letter to the IIC, FLS, and DDM for that establishment or plant.

V. ACTIONS TO BE TAKEN BASED ON ESTABLISHMENT OR PLANT RESPONSE

A. If the DM does not receive a response within 15 business days of receipt of the letter, if the letter is returned “Not Deliverable,” or if the establishment or plant responds that it does not intend to continue to operate, the DM is to:

1. Treat the grant of inspection as being voluntarily withdrawn;
2. Complete FSIS Form 5200-3, *Voluntary Suspension or Voluntary Withdrawal of Inspection Service*. Send a copy of the completed form to the establishment or plant through an overnight service with a “Return Receipt Requested” (e.g., U.S.P.S., Fed-Ex, UPS);
3. E-mail an electronic copy of the completed FSIS Form 5200-3 to the Inspector in Charge, Frontline Supervisor and Deputy District Manager for that establishment or plant; and
4. Update PHIS to reflect the appropriate status of the establishment or plant (see section VI).

B. If the establishment or plant responds that it intends to resume inspection with a tentative date acceptable to the DM, then no further action needs to be taken by the DM. If the DM determines that additional information is needed from the establishment or plant, however, the DM is to inform the owner of what additional information is required.

NOTE: Given the length of time that an establishment or plant has been inactive, sanitary conditions may need to be verified before inspection can resume. The DM may direct his or her field supervisors to assess the establishment's or plant's sanitary condition before reassigning inspectors.

VI. UPDATING PHIS

A. For voluntary withdrawals, the DM or his or her designee is to make the appropriate status change in the establishment profile in PHIS. He or she is to:

1. Open the Home page of the establishment or plant;
 - a. In the Application menu, click on Operating schedule;
 - b. Once this window opens, under the "Approved Hours of Operation" tab, click the edit icon; and
 - c. Once this window opens, uncheck the Active box in the Edit window and click Save.
2. Next, click on Grants and Approvals in the Application menu:
 - a. Once this window opens, click the term "Granted" under the Status box for each type of grant;
 - b. Once this window opens, adjacent the term "New status" is an oblong box with a drop down arrow. Click on the arrow and then select "Voluntary Withdrawn" from the menu; and
 - c. Click Save and then exit the program.

NOTE: If the establishment or plant has multiple grants (e.g., meat and poultry), then this process will need to be conducted for each type of grant in order for the PHIS system to function correctly.

B. If an establishment or plant owner or representative submits a new FSIS 5200-2 requesting to come back under inspection and requesting use of the former establishment number, the DM or designee (e.g., the Grant Curator) is to submit a FootPrint ticket requesting that the status of the grant of the withdrawn establishment or plant be changed to "Granted" or "Conditional." If the establishment or plant has more than one "type of grant," the FootPrint ticket will need to specify which types need to be changed.

VI. QUESTIONS

Refer questions through supervisory channels.



Assistant Administrator
Office of Policy and Program Development



United States
Department of
Agriculture

Food Safety
and Inspection
Service

[District Office Information]
Office of Policy and Program
Development

DRAFT EXAMPLE

CERTIFIED – RETURN RECEIPT REQUESTED

[Enter date]

[Enter establishment name]

[Establishment number]

[Establishment address as listed in Plant Profile]

SUBJECT: 10 Day Notice of Abandonment of Inspection Services

To whom it may concern:

[Establishment name, establishment number], was issued a 120-Day Voluntary Suspension that expired on [date]. We have not heard from you requesting reinstatement of Federal Inspection Service. Please send your written response within ten (10) calendar days of your receipt of this letter to the [name] District Office clarifying your intentions regarding operations under Federal Inspection, including a specific date when production will resume. If your response is not received by the District Office within 15 days of your receipt of this letter, or you fail to provide specific plans concerning your resumption of operations under federal inspection, the District Manager will consider your grant of inspection abandoned. This will result in your grant of inspection being designated as “Voluntarily Withdrawn.”

The District Manager will reinstate inspection only after [he or she] verifies sanitary conditions[, the written Sanitation SOP, the HACCP food safety system and the written recall procedure] are acceptable.

If you no longer plan to produce federally inspected products, please request to be withdrawn from Federal Inspection and relinquish your grant of inspection and number assigned to your establishment or plant. Please keep in mind that you may reapply at any time, and that reapplication for the grant of inspection following Agency procedures will be required. If you reapply within three (3) years after withdrawal, and you did not relinquish your establishment number, you will be assigned, upon request, the same USDA – FSIS establishment number you currently have.

If you wish to avoid withdrawal, please contact me in writing and explain your intentions.

Sincerely,

[Name and title]

Cc:
IIC
FLS
DDM
Establishment File
Reader File