

violation. A repeat violator is an individual or firm who repeatedly (*i.e.*, on more than one occasion) within a 12-month period sells an animal for slaughter whose carcass is found to contain a violative level of a drug, pesticide, or other chemical residue.

One commenter requested that FSIS work closely with the U.S. Animal Health Association to develop a quality assurance and food safety certification program that could be used by federal and state agencies to assist producers in developing certification and compliance procedures. The commenter also requested that FSIS develop and implement a national animal identification program to facilitate rapid traceback for animal disease and food safety issues.

FSIS believes that quality assurance programs can have significant value. Thus, through its Animal and Egg Production Food Safety Staff, it encourages States and private groups like the U.S. Animal Health and Education Association to develop them. Moreover, packers may want to require that their suppliers provide food safety certifications to ensure that the packers do not receive animals with violative residues.

FSIS, in February 2002, issued a notice, FSIS Notice 5-02, to its field personnel that emphasized the importance of animal identification and current regulatory requirements (9 CFR 310.2) on this subject. Section 310.2 requires that establishments handle severed parts of a carcass that are to be used in the preparation of meat food products in a manner that identifies them with the rest of the carcass and as being derived from the particular animal involved until the post mortem examination of the carcass and its parts have been completed. Thus, establishments are required to remove and present to FSIS program personnel, ear tags, backtags, implants, and other identifying devices in a manner that will provide a ready means of identifying a specific carcass until post-mortem examination has been completed, or to have alternative measures in place that accomplish the required identification. Additionally, 9 CFR 310.2(b)(5)(i) and (ii) require inspection program personnel to collect all IDs associated with animals to obtain the traceback information necessary for the proper disposition of an animal or carcass.

Two commenters asked whether FSIS has conducted studies that correlate target tissue collection with the actual source of the sample or correct carcass identification.

FSIS is not aware of any problems with its collection practices for target tissue samples and carcass identification. Thus, it has not conducted a study of the type described in the comment.

Some commenters asked whether FSIS would issue instructions or conduct training for all inspectors. They suggested that the instructions or training address such issues as standardized sample collection procedures for both monitoring and enforcement residue testing, and a standardized protocol for what tissue samples should be collected from each carcass to be tested.

FSIS conducts training for its personnel. The training for sample collection and sample identification that FSIS personnel receive is sufficient and provides the proper collection and sample identification methodologies. FSIS' Center for Learning conducts training for FSIS personnel that are responsible for sample collection, particularly on aseptic techniques and tissue collection for chemical residue testing. The TSC has provided hands-on, in-plant correlation training sessions with FSIS personnel that are responsible for sample collection and identification. Additionally, a computer-based training program is available to assist the in-plant inspection team on sample collection procedures.

Several commenters raised questions concerning the FSIS Web site presentation of the list of repeat violators, the residue violators alert list (RVAL). Questions included who has the responsibility for updating the list on the Web site, and how frequently FSIS will update it. Commenters also asked when the 12-month identification period on the RVAL begins if a seller is found to be a repeat violator.

The 12-month listing period on the RVAL will begin once a second violation has been confirmed by FDA, FDA, or a state government acting under FDA's authority, will conduct an on-site investigation. If FDA finds that a seller is responsible for a second violative sample, it will notify FSIS. The TSC will then notify the FSIS Webmaster to post the name and address of the repeat violator on the FSIS Web site. The Web site will be updated as violations are confirmed, and the names of the violators will be deleted once the 12-month period has passed. For subsequent violations, the time period will be extended by a year from the time the additional violation is confirmed by FDA.

One commenter asked whether there was an appeal process available to a

producer who is assigned the responsibility of a violation.

An appeal can be made to FSIS and, if necessary, FSIS will consult with FDA about the appeal.

Two commenters asked what type of economic impact there would be on the average pork producer and on current marketing practices from the posting of repeat violators on the FSIS Web site.

FSIS cannot anticipate what precise economic impact might be for pork producers. FSIS anticipates, however, that the impact will be minimal because, historically, FSIS has found few chemical residue violations in pork products. Also, if drugs are used properly and the proper withdrawal time is followed, there will be no residue violation.

One commenter suggested that FSIS change the number of violations to five instead of two. The commenter argued that a repeat violation by a livestock market is not the same as a repeat violation by a single, individual producer.

FSIS believes that when there is a second chemical residue violation, regardless of who is responsible for it, there is just cause to make information about the violation available to help better ensure that meat and poultry products distributed in commerce are not adulterated with violative chemical residues.

#### Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS webpage located on the Internet at <http://www.fsis.usda.gov>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, farm groups, and consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included on the list. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience.