

VERMONT AGENCY OF AGRICULTURE, FOOD & MARKETS
CONSUMER PROTECTION AND FOOD SAFETY
Meat Inspection Service
MONTPELIER, VT
Roger Allbee, Secretary



MIS DIRECTIVE

Adopted from FSIS Directive 5220.3

5220.3

12/1/07

ISSUANCE OF A TEN-DAY LETTER FOR INACTIVE OPERATIONS

I. PURPOSE

This Directive sets out the actions that a State Director or designee may take with an establishment that is not operating or has not responded to the Meat Inspection Service (MIS) inspection personnel inquiries as to the establishment's operations status and intentions. This procedure is provided as a tool that State Directors or designees may use to ensure that MIS resources are used as effectively and efficiently as possible. This directive also provides instructions for recording an establishment's activity status in the Performance Based Inspection System (PBIS).

II. REFERENCES

9 CFR part 302.1 and 381.6
FSIS Directive 5220.1, Revision 1

III. BACKGROUND

- A. An establishment may request in writing a voluntary suspension of inspection. A voluntary suspension of inspection is temporary and cannot exceed 120 calendar days. An establishment typically requests such suspension for purposes of resale, major structural changes, or remodeling. When situations arise that are beyond the establishment's control (such as inability to obtain equipment on schedule, inability to complete major structural changes because of weather conditions or other valid reasons), the State Director or designee may extend the 120-day period. Meat or poultry establishments that traditionally operate on a seasonal basis may be in suspension status beyond the 120-day period, but the suspension may not exceed 1 year. Seasonal plants are required to notify the Vermont Meat Inspection Office (MIO) at least two weeks prior to their starting and stopping dates.
- B. Situations have occurred in which an establishment fails to resume operations after the 120 days or ceases operations without notifying the MIO or without providing any explanation whether (or when) it plans to resume operations. Because every establishment must be under inspection to operate, the State Director must account for every establishment in Vermont, even those that are not operating. Thus, inspection assignments are made to all establishments at which inspection has been voluntarily suspended. For this reason, it is necessary to provide a mechanism whereby the State Director can remove from the inspection rolls an establishment that does not resume operations after 120

DISTRIBUTION: Field Inspection Staff; Office inspection personnel; State Plants; Compliance

Subject: Administration

calendar days, or that otherwise ceases operations, without communicating with MIS.

IV. PROCEDURES FOR COMMUNICATING WITH INACTIVE ESTABLISHMENTS

A. How should a State Director contact an establishment that has been inactive for more than 120 days?

If an establishment is inactive for more than 120 days and does not communicate its intentions to the Vermont Meat Inspection Office, or if it ceases operations and does not communicate with the MIS, the State Director or designee should send a letter providing the establishment ten days to address why its grant of inspection should not be considered to have been voluntarily abandoned, and the grant of inspection withdrawn. The letter should be sent “return receipt requested” and inform the establishment that:

1. failure to respond will result in a determination that the grant of inspection has been voluntarily abandoned,
2. VT MIS will withdraw the grant of inspection and the establishment will no longer retain its number,
3. if the establishment plans to resume operation, it should respond to the letter and provide an approximate time period in which it plans to do so, and
4. inspection services will begin at establishments resuming operations after the State Director has made the proper determination about the sanitary conditions at the establishment (See C. below).

B. What does the State Director do if the establishment does not respond within ten days?

If the establishment does not respond within ten days of receipt of the letter, or if the letter is not deliverable, the State Director will treat the grant of inspection as being voluntarily abandoned, terminate the inspectional assignment for the establishment, and consider the grant of inspection as withdrawn.

C. What does the State Director do if the establishment responds within ten days?

1. If the establishment responds and provides an explanation as to when it plans to resume operations, the grant has not been voluntarily abandoned and no action to remove the grant is to be taken. The establishment’s response or the fact that it has been inactive may, however, cause the State Director to make additional inquiries before reinstating inspection services. For example, given the establishment’s inactivity, the State Director may question whether sanitary conditions exist in the establishment. Therefore, the State Director can direct that the IIC or compliance officer assess the facility’s sanitation before reassigning inspectors to the establishment. Should the State Director determine that a review

of the facility's sanitation is necessary, he or she should see that it is scheduled as soon as practicable.

2. If an establishment indicates that it plans to maintain its grant but does not indicate when it plans to resume operations, the State Director will notify the establishment in writing that:

a. he or she will continue to consider the establishment's grant as voluntarily abandoned and will not make inspection assignments for that establishment, and

b. before inspection services resume at the establishment, a compliance officer or IIC will need to assess the facility's sanitation.

V. UPDATING PBIS 5.1.3

A. How is PBIS updated for voluntarily abandonment of the Grant of Inspection?

The State Director or designee will:

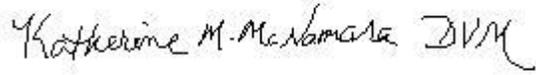
1. select "Update" from the "File" drop down menu;
2. enter the establishment number in the "Select Establishment" box;
3. wait for the establishment profile tabs to appear;
4. select the "Status" tab in the establishment's profile; and
5. on the Status tab, locate the "Current Status" section; select "Withdrawal" from the drop down menu; and check the new box labeled "Abandoned Grant."

B. How is PBIS updated for all voluntary suspensions as provided for in FSIS Directive 5220.1, Revision 1?

The State Director or designee will:

1. select "Update" from the "File" drop down menu;
2. enter the Establishment number in the "Select Establishment" box;
3. wait for the establishment profile tabs to appear;
4. select the "Status" tab in the establishment's profile; and

5. on the Status tab, click the Add button in the "Periods of Inactivity" section to specify the date the closure period began and projected ending date. Enter "voluntary suspension" in the comments section.

A handwritten signature in black ink that reads "Katherine M. McNamara DVM". The signature is written in a cursive style.

Katherine McNamara, DVM
Head of Service
Meat Inspection Service

SAMPLE 10 DAY LETTER-SUGGESTED FORMAT

Attachment 1

Date

Est. point of contact
Est. name & number
Est. address
Est. address

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT NO. XXXX XXXX XXXX

SUBJECT: 10 Day Notice of Abandonment of Inspection Services

To Whom It May Concern:

Please be advised that if you do not respond to the State Director at 116 State St., Montpelier, VT, 05620, in writing within ten calendar days of your receipt of this letter with respect to your intentions regarding operations requiring federal inspection services under your Grant of Inspection at [state name and location of est.], the grant of inspection will be deemed to have been abandoned.

There is no evidence of operations at your location, and there has been no communication with the Vermont Meat Inspection Office clarifying your intentions.

In the event that you do not respond, the establishment number currently assigned to your location will be deleted. If you wish to resume operations, reapplication for the Grant following Agency procedures will be required.

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

Sincerely,

Katherine M. McNamara, DVM
Head of Service
Meat Inspection Service

cc: Inspectors
Key office personnel
Compliance

SAMPLE LETTER ADVISING GRANT DEEMED VOLUNTARILY
ABANDONED-SUGGESTED

Attachment 2

Date

Est. point of contact
Est. name & number
Est. address
Est. address

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT NO. XXXX XXXX XXXX

SUBJECT: Notice of Voluntary Abandonment of Grant

To Whom It May Concern:

Certified mail was sent to you on INSERT DATE by Dr. Katherine McNamara at 116 State St., Montpelier, VT 05454, asking whether you intend to continue to conduct operations. Because of your failure to respond in writing to the Vermont Inspection Office as requested, your Grant of Inspection has been deemed voluntarily abandoned pursuant to MIS Directive 5220.3. As such, inspection services for the establishment have been ordered discontinued effective immediately. The establishment number currently assigned to your location will be deleted. If you wish to resume operations after this termination, you must make reapplication for the Grant following Agency procedures will be required.

It must be understood that you may no longer utilize any labels, cartons, casings or other packaging or packing materials, brands, etc., that bear any reference to or indicate that your establishment operates under State Inspection.

Any questions should be directed to Dr. Katherine McNamara at (802)828-2426.

Sincerely,

Katherine McNamara, DVM
Head of Service
Meat Inspection Program

cc: Inspectors
Key office personnel
Compliance