

VERMONT AGENCY OF AGRICULTURE, FOOD & MARKETS
FOOD SAFETY CONSUMER PROTECTION DIVISION
Meat Inspection Service
MONTPELIER, VT

<h1>MIS DIRECTIVE</h1> <p>Adopted from FSIS Directive 8010.3 Rev 7</p>	8010.3 Rev. 7	04/22/24
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PROCEDURES FOR EVIDENCE COLLECTION, SAFEGUARDING AND DISPOSAL

CHAPTER I - GENERAL

I. PURPOSE

This directive prescribes the methodologies that VAAFMM personnel in the Meat Inspection Section (MIS) (collectively referred to in this directive as “program employees”) are to apply when collecting, safeguarding, and disposing of evidence in the performance of surveillance, investigations, and other activities under the Federal Meat Inspection Act, (FMIA), the Poultry Products Inspection Act (PPIA),— collectively referred to as —the Acts— related laws and regulations, and 6 V.S.A Chapter 204. MIS is reissuing this directive to update procedures for the collection, storage, and retention of evidence.

KEY POINTS:

- *Procedures for collecting, safeguarding, and disposal of evidence, including photographs, videos, and other electronic/digital evidence*
- *Procedures for collecting investigative samples*
- *Procedures for retention and disposal of evidence*

II. CANCELLATION

Mis Directive 8010.3, Revision 6, *Procedures for Evidence Collection, Safeguarding and Disposal*, 06/15/2022.

III. MIS FORMS ASSOCIATED WITH THIS DIRECTIVE

Program employees are to complete the following MIS forms to the maximum extent practicable. These forms can be found on the Compliance SharePoint page in the *Compliance Forms* folder.

VT Form MI-C&E-24E (Photographic Report) - provides a detailed description of the subject of the photograph, the location where the photograph was taken, the date the photograph was taken, and the name of the photographer.

VT Form MI-C&E-35E (Photographic Log) – Section I identifies the subject or location photographed; Section II identifies the type of media and a specific description of each photograph; and Section III provides for a reference sketch of the area/items photographed.

VT Form MI-C&E-5 (Shipper's or Receiver's Certification) - may be used when initial contact is made with the shipper or receiver of meat or poultry that appear to be in violation of the Acts or 6 V.S.A Chapter 204.

VT Form MI-C&E-30E (Property Receipt) - is completed when an original or source document is presented by the owner or custodian of records, documents, or other items of personal property when that property is collected as evidence. The original form is used to authenticate the documents and is signed by the investigator and owner or custodian of the source documents. The original form is maintained with the case file and a copy is provided to the owner or custodian.

VT Form MI-C&E-33E (Evidence Log) – This form provides a detailed accounting of all evidentiary items collected in an investigation and is used to monitor the control and accountability of these items.

VT Form MI-C&E-32E (Evidence Receipt and Chain of Custody) – Section I of this form identifies the evidentiary items collected in an investigation and establishes the chain of custody for that evidence; Section II tracks the chain of custody to maintain control and accountability for the items; and Section III documents the final disposal action of the items.

IV. BACKGROUND

A. The Meat Safety and Compliance Enforcement Specialist (MSCES) and FSS III Compliance Investigators (CI) have a responsibility to conduct surveillance, investigations, and other activities; Food Safety specialist III Enforcement Investigation and Analysis Officers (EIAO) have a responsibility to conduct investigations, Food Safety Assessments (FSA), and other activities;

B. The evidence collected and safeguarded during these activities is essential to the Agency mission and to support Agency decisions, regulatory action, investigative findings, and enforcement or other legal actions. Evidence includes documents, photographs, investigative samples, items, and other facts or records collected during surveillance, investigations, FSAs, and other activities.

C. The safeguarding of evidence includes the steps needed to establish legal integrity (i.e., identification, security, handling, and chain of custody) from the time of initial acquisition to final disposal. These steps prevent loss, unauthorized alteration, mishandling, or other actions that may affect the integrity of evidence.

D. Chain of custody is the methodology used to maintain, track, and document control of all evidentiary items. Chain of custody includes the order of places where, and the persons with whom, evidence collected by Agency program employees was located from the time it was collected to its disposal. Evidence disposal addresses retention, disposal requirements, and procedures.

E. Other authorized Agency personnel may sometimes collect evidence while performing official duties and are to follow the procedures set out in this directive to collect, safeguard, and maintain evidence.

CHAPTER II - EVIDENCE COLLECTION

I. GENERAL

A. Evidence may be used to support Agency decisions, to support that a violation of law has occurred, to take enforcement actions, to help obtain a ruling in a court of law, or to accomplish other purposes. It is critical that evidence be preserved in the condition in which it was collected; that the established protocol for collecting, transferring, storing, and disposing of evidence be followed; and that the chain of custody be documented and maintained throughout each stage of the process. When collecting evidence, program employees are to treat every item of evidence in the manner described in this directive.

B. There are three general categories of evidence for which the procedures outlined in this directive apply. These categories are:

1. Electronic/digital evidence: documents, records, photographs, videos, audio recordings, or other evidence collected or received in an electronic or digital format; sample results are typically received and handled as electronic/digital evidence.
2. Physical evidence: paper documents and records (including originals and copies), or other tangible objects received or collected as evidence; and
3. Investigative samples: physical evidence (typically meat, poultry, or egg product samples) collected by a program employee for laboratory testing as part of an investigation.

C. Program employees may, as necessary, develop demonstrative exhibits to illustrate, clarify, or summarize evidence (i.e., documents, records, items, photographs, or samples) collected during surveillance, investigations, FSAs, and other activities. Demonstrative exhibits need to fairly and accurately represent the evidence. Examples of demonstrative exhibits include diagrams, flowcharts, maps, drawings, or graphs. Program employees are to include any demonstrative exhibits in the list of exhibits. Because demonstrative exhibits are generated by the program employee, and not collected from a subject or witness of an investigation, it is not necessary to prepare VT Form MI-C&E-32E, *Evidence Receipt and Chain of Custody*.

II. ELECTRONIC/DIGITAL EVIDENCE

A. 6 V.S.A Chapter 204 provides MIS personnel broad authority to conduct inspections and examinations of the premises, facilities, inventory, records, equipment, and operations of VT state inspected establishments and warehouses, distribution centers, and other in-commerce facilities subject to the statutes (6 V.S.A [3304](#), [3306](#), and [3307](#)). These statutory provisions also provide program employees authority to copy certain business records. Program employees are to use photography, under these authorities and using government-issued equipment only, as a technique, where necessary, to inspect and examine premises, facilities, inventory, records, equipment, and operations and to copy business records. Permission from company management at official establishments or in-commerce facilities to take photographic evidence during surveillance, investigations, or other activities is not necessary.

B. Photographs are one of the most effective and useful forms of evidence. Photographs and video (when appropriate and in consultation with supervisors), can provide visual evidence to demonstrate violative conditions or products, insanitary conditions or practices that are likely to render products injurious to health, or other observations. Photography and digital scanning are used to capture business records and other documents and should be used in place of collecting or reproducing hard

copies whenever possible.

C. Examples of conditions or practices effectively documented by photography include:

1. Evidence of rodents, insect infestation, other insanitary conditions, or facility construction or maintenance problems that contribute to insanitary conditions;
2. Routes or pathways of contamination, as well as actual contamination of raw materials or finished products;
3. Condition of raw materials or finished products;
4. Insanitary conditions or equipment contributing to contamination or to violative condition of raw materials or finished products; or
5. Employee practices contributing to contamination or to violative condition of raw materials or finished products.

D. Examples of evidentiary documents that may be collected or received in electronic/digital format (e.g., scanning, photography, e-mail) include:

1. Sales invoices (as a means of identifying the seller or buyer; the amount, type, price, or date of the sale; or purchase or receipt of the product);
2. Receiving and storage records (as a means of identifying dates relevant to product storage, product condition or temperature, or storage temperature);
3. Product labels (the physical, printed label; if obtained as a photograph it is digital/photographic evidence);
4. Transportation records (as a means of identifying the transporter, the location the product was shipped from, or the location to which the product was shipped);
5. Rodent and pest control service records;
6. Contracts, Agreements, or similar transactional documents;
7. E-mails received from a firm or individual (when proffered);
8. In-commerce forms or official establishment records, including records showing errors, substitutions, penciled changes in procedure, or faulty practices;
9. Sanitation Standard Operating Procedures (Sanitation SOP) records and Hazard Analysis Critical Control Point (HACCP) records;
10. Production records (e.g., establishment production dates, lot numbers, pre-shipment review conducted);
11. Laboratory analysis records of product (analysis requested by a manufacturer, custodian, or owner);

12. Records or reports documented by Federal, State, or local authorities of noncompliance, violations, or other issues (e.g., FSIS Form 5400-5 Establishment/Shift Inspection Procedure Worksheet, FSIS Form 5400-4 Noncompliance Record);
13. Statements (signed and unsigned) documenting an interview;
14. Memorandums of Interview (MOI);
15. Diagrams, maps, charts, or graphs collected from a subject or witness during an investigation;
16. Photographic prints, videos, or other items collected from a subject or witness during an investigation and
17. Other relevant printed materials (e.g., Information from a company website or social media page).

E. When necessary, program employees are to contact the Vermont Assistant Attorney General, through supervisory channels, to obtain guidance or support to enforce the law, address violations, or to request an administrative subpoena for access to and examination, including the use of photography, of the facility, inventory, and records. These situations include:

1. When an official establishment or in-commerce facility personnel refuse to allow program employees to take photographic evidence, program employees are to explain the statutory authority cited above, and that the camera is a tool used in the examination of facilities and inventories and for copying business records. Refusal to allow program employees to take photographic evidence under these authorities may constitute interference in violation of the statutes and may be addressed, as appropriate, through enforcement measures. NOTE: In an official establishment, the refusal to allow program employees to take photographic evidence may provide the basis for a withholding action or suspension without prior notification in accordance with [9 CFR 500.3\(a\)\(6\)](#).
2. Official establishment or in-commerce facility personnel may take companion photographs or video for their records, provided it is not done in a manner that opposes, impedes, intimidates, or interferes with any program employees while engaged in or on account of the performance of his or her official duties under the Acts. Program employees who believe that establishment or facility personnel are photographing or videoing them in a manner that is intended to oppose, impede, intimidate, or interfere with the execution of his or her official duties are to notify their supervisors.

NOTE: Program employees are not to surrender any government-issued equipment (e.g., smartphones, tablets, cameras), or evidence collected using government-issued equipment, to official establishment or in-commerce facility personnel. Program employees are to advise the establishment or facility that it can seek to obtain copies of photographs or other digital images collected under the Freedom of Information Act (FOIA).

F. To collect photographic evidence on a government-issued camera, smartphone, or tablet, program employees are to use the following procedures:

1. Ensure all external photo-sharing options are turned off before using a government-issued

smartphone, tablet, or computer for photographic evidence collection. On an iPhone, go to Settings, select Apple ID, select iCloud, and turn off the appropriate sharing options, including Photos (iCloud Photos), iCloud Backup, and any other auto-syncing applications;

2. Prevent the disturbance of the scene until the necessary images are collected. Once the images have been taken, the investigation or other activity may continue;
3. Capture the scene in a comprehensive logical sequence, whenever possible. The sequence should provide an overview of the entire area, a medium eye-view angle, close-up, and extreme close-up images of the subject. Avoid deleting any images in the sequence, even if poorly exposed;
4. Ensure conclusive photographic or videographic identification of the location, as appropriate, in both the exterior and interior sections of the facility (e.g., include an identifiable landmark, such as a street sign, in a photograph of the exterior of the facility); and
5. Depict scale of the subject of a photograph/video, when scale is important, using a ruler or similar item strategically placed in the close-up images of the subject.

NOTE: Personal (non-government) equipment is not to be used to collect evidence.

G. The case folders and restricted access folders on the compliance SharePoint webpage are the official repositories for evidence collected by MIS. Access to these folders are restricted to Compliance Investigators, the Meat Safety Compliance & Enforcement Specialist, and the Head of Service only. When uploading evidence to the compliance case folders program employees are to:

1. Transfer the files (unaltered and in their original format at the time of collection) into their respective folder as soon as possible.
2. Complete Section I of VT Form MI-C&E-32E, *Evidence Receipt and Chain of Custody* form by completing the appropriate data fields and uploading to the case folder.

H. To identify photographic evidence, program employees are to initiate and maintain VT Form MI-C&E-35E, *Photographic Log Sheet* to identify the subject or location being photographed and include a description of each photograph.

1. A single entry on VT Form MI-C&E-35E, *Photographic Log Sheet* may be used to describe a series of photographs that depict a situation or conditions if the entry is sufficient to describe what is being depicted (e.g., “00011 – 00020 show insanitary conditions in cooler B at XYZ Company”); and
2. When information relevant to photographs of a subject or location is initially captured in investigative notes, ensure that all pertinent information is transferred into Sections I and II of VT Form MI-C&E-35E, *Photographic Log Sheet*.

NOTE: Under most circumstances, program employees are to complete FSIS Form 8000-15, *Photographic Log Sheet*. Program employees, in consultation with supervisors, may determine that it is not necessary to complete VT Form MI-C&E-35E when, during surveillance, investigative, or other activities, a small number of photographs are taken, and all are included in the final investigative report on VT Form MI-C&E-24E, *Photographic Report*. In these cases, the VT Form MI-C&E-24E, *Photographic Report* and VT Form MI-C&E-35E, *Evidence Receipt and Chain of Custody* will serve to

identify those photographs and the FSIS Form 8000-15, *Photographic Log Sheet* is not required.

III. PHYSICAL EVIDENCE

I. To the maximum extent possible, program employees should collect evidentiary documents and records in an electronic/digital format. However, program employees may encounter rare situations in which there is no alternative to collecting or receiving evidentiary documents, records, or other items in the form of physical evidence.

J. When collecting or receiving records, documents, and other items in the form of physical evidence, program employees are to use the following procedures:

1. Collect appropriate records, documents, or items;
2. Complete Section I of VT Form MI-C&E-35E, *Evidence Receipt and Chain of Custody*, by completing the appropriate data fields, print a hard copy and sign it, and maintain the hard copy with the original evidence in a secure location;
3. Initial and date the back of each document or record that is obtained as a copy collected (e.g., initials mm/dd/yy). There are occasions when a single piece of documentary evidence may consist of hundreds of sheets of paper, which may or may not be bound or sequentially numbered (e.g., page 6 of 10). In these instances, program employees may use an abbreviated method to initial and date these documents. If the program employee ensures that all pages are accounted for, the program employee may initial and date the first and last page and identify the number of pages (e.g., page 1 of 500 on the first sheet and page 500 of 500 on the last sheet);

NOTE: Official MIS forms or Agency investigative or administrative reports (e.g, *Notice of Detention; Exhibit Cover Sheet; FSA tools* etc.) are not to be initialed or dated.

4. Issue FSIS Form 8200-1, *Property Receipt* to the owner or custodian when a source record, document, or item is obtained *in lieu* of a copy. Source documents are considered personal property. As such, the program employee is to maintain FSIS Form 8200-1, *Property Receipt* with the case file. Personal property is to be returned to the owner or custodian in the same condition as received; therefore, program employees are to ensure these records, documents, or items are not altered in any way. The FSIS Form 8200-1, *Property Receipt* is to be completed and a copy given to the owner or custodian to ensure that these records, documents, or items are identified and authenticated; and
5. Sign and date written statements.

NOTE: When a wet signature is obtained on printed documentary evidence (e.g., signed statements, shipper's/receiver's certifications, detention forms), program employees are to upload the signed document into the evidence collected tab within ANet. Once uploaded, program employees are to return the original signed document to the signee. Unsigned statements and shipper's/receiver's certifications are not to be provided to non-agency personnel. Program employees are to upload the unsigned statement or shipper's/receiver's certification into ANet and destroy the original hard copy.

IV. INVESTIGATIVE SAMPLES

A. Investigative samples are samples collected by program personnel as evidence to support a violation,

usually during the course of an investigation. Investigative sample collection is an important component of evidence collection. It includes the sampling of inventory from persons or firms engaged in preparation, distribution, or storage of meat or poultry products. It also includes collection and analysis of other materials, as necessary. The FMIA (21 U.S.C. 642), PPIA (21 U.S.C. 460) and State Statutes (6 V.S.A Chapter 204) provide authority that includes the sampling of inventory, upon payment of fair market value, from persons or firms engaged in the preparation, distribution, or storage of meat and poultry. When samples are collected, Investigators need to collect and submit samples for laboratory analysis in a manner that safeguards the integrity of the evidentiary material, so that it is reliable as evidence.

B. Investigative samples are a type of evidence that requires collection of products, substances, debris, trace matter, or unidentified material for scientific testing to determine characteristics of the collected item; these characteristics may include species identification, microbiological determinations, fecal identification, chemical analysis, residue testing, and many others.

C. When official establishment or in-commerce facility personnel refuse to allow Investigators to obtain samples of inventory, Investigators are to explain the statutory authority cited above, and that reasonable samples of the inventory can be taken upon payment of fair market value. If necessary, program employees are to contact, through supervisory channels, our Agency counsel, to request an administrative subpoena.

D. During the development of an Investigative Plan ([MIS Directive 8010.2](#), *Investigative Methodology*) and prior to submitting investigative samples, Investigators are to contact the laboratory to discuss the specific analytical capabilities needed for each sample.

E. To ensure the appropriate submission of investigative samples and the timely reporting of significant results relevant to public health, Investigators are to discuss submissions with laboratory personnel before submitting samples.

F. The two primary factors in determining how quickly sample results are reported are asking the right questions prior to submitting the samples and submitting the samples correctly.

1. The laboratory can analyze the samples for the desired analyses; and
2. The laboratory is prepared for the samples and a point of contact is made.

G. Once the Investigator contacts the appropriate laboratory, he or she is to discuss which analyses might be the most appropriate to request and how to best submit samples for those analyses. To get guidance on how best to submit each of the samples, the Investigator is to ask questions such as:

1. What type of sample should be submitted for a multiple analyses request and how much sample is required?
2. How many samples should be submitted for a multiple analyses request?
3. What is the best way to collect and submit each sample for a multiple analyses request?
4. What is the best way to submit each sample to facilitate the quickest possible reporting (see paragraph L below) of high priority lab results?
5. Which analyses may be incompatible with other analyses? and

6. What is the best way to ensure that results involving food safety are available as soon as possible and reported independently of other results if a sample is undergoing several analyses?

H. When Investigators request multiple analyses involving multiple lab disciplines, they are to submit a single sample per laboratory discipline or per analysis requested, as discussed with laboratory supervisors and Staff. This amount is necessary to ensure potential public health related results can be reported independently and before results of economic significance.

1. Examples of items that may be collected for analysis are:
 1. Raw, in-process, or finished meat or poultry products;
 2. Ingredients used in raw, in-process, or finished meat or poultry products;
 3. Product packaging;
 4. Rodent excreta, insects, apparent nesting, or vermin-gnawed material; or
 5. Extraneous materials.

K. Sample Types

1. Intact sampling: Obtain a sample of an unopened packaged product. Collecting intact samples, if possible, is preferred; however, if intact sampling is not possible, non-intact samples may be collected.
2. Non-intact sampling: At times, intact sampling may not be practical because of the volume of product involved or the product's unpackaged state.

L. Sample Selection

1. Investigators are to submit one sample per each type of analysis they request.

NOTE: Investigators are to work with lab personnel to determine what test and how many tests can be performed if they only have a single sample available for testing.

2. Samples collected for laboratory analysis are to be collected from the location where the violative condition of the product is known or suspected to exist. Select the portions that will demonstrate the violative nature of the product.
3. There may be times when additional sampling is necessary to gain information or otherwise protect public health. In these situations, obtain guidance from an appropriate source regarding specific techniques, sampling plans, and policy.
4. Investigators are to maintain the integrity of the sample and not cause contamination during sampling. If microbiological analyses will be requested, Investigators are to use aseptic techniques when collecting samples from non-intact samples (opened package), and to the extent necessary when collecting samples from intact (unopened package).

M. To request laboratory analysis of investigative samples, Investigators are to:

1. Complete the appropriate laboratory sample form upon consultation with the laboratory where samples are being sent for analysis.
2. Provide the producer's name, address, and establishment number;
3. Provide a sample description, list of ingredients, and product codes (e.g., —sell by dates);
4. Provide the name and address of the location where the sample was collected;
5. Provide date, time, and quantity collected;
6. Describe how the sample is identified and sealed (e.g., —collected by____, on____(date), sealed with VT seal #____);
7. Provide the contact information for transmission of sample results;
8. Describe the analysis requested;

N. To identify investigative samples, Investigators are to:

1. Photograph the product or other evidentiary material before and after sample collection;
2. Obtain identifying information (e.g., invoices, labels, or other product identification);
3. As appropriate, document a signed statement, MOI, or Shipper's or Receiver's Certification from witnesses with direct knowledge of the sample identity;
4. Complete Section I of an Evidence Receipt and Chain of Custody form. Include a description of the sample/evidence and the sample serial number; print a hard copy of the form; and place the associated bar-coded, pressure-sensitive sticker from VT Form 7355-2B, in the appropriate block; and
5. Maintain all other identifying information (e.g., invoice, bill of lading) under separate Evidence Receipt and Chain of Custody form with the associated case file.

O. Prior to transferring investigative samples to the laboratory, Investigators are to:

1. Complete the first entry in Section II of an Evidence Receipt and Chain of Custody form to initiate chain of custody;
2. Maintain a copy of the signed Receipt with the associated case file;
3. Place the signed Evidence Receipt and Chain of Custody form in the package with the investigative sample;
4. Seal the sample in accordance with [FSIS Directive 7355.1](#), *Use of Sample Seals for Laboratory Samples and Other Applications*; and

- Placing the signed *Evidence Receipt and Chain of Custody* and Laboratory Analysis form into the provided plastic sleeve to protect them during shipping and including the forms with the collected sample;
 - Sealing the sample bag with the medium-sized bar-coded label (VT Form 7355-2B, *FSIS Laboratory Sample Identification Label*); and
 - Packaging the sample in the shipping container with sufficient coolant and sealing the shipping container by placing the large-sized bar-coded label (VT Form 7355-2A, *FSIS Laboratory Sample Container Seal*) across the flap.
5. Transfer the evidentiary investigative sample to the laboratory.

CHAPTER III – SAFEGUARDING, TRANSFERRING, RETAINING, AND DISPOSING OF EVIDENCE

I. SAFEGUARDING EVIDENCE

A. To the maximum extent possible, program employees are to use government issued equipment (e.g., smartphones, tablets, cameras, scanners) to collect evidence in a digital format and upload it in its original, unaltered form to its respective compliance SharePoint case folder. In situations where it is necessary to collect physical evidence, program employees are to follow the instructions below to ensure its appropriate safeguarding, transfer, retention, and disposal

B. Physical evidence is to be maintained under security and have a documented and continuous chain of custody showing the order of the places where, and the persons with whom, evidence collected was located, from the time of collection until the time it is admitted into court, or the case is resolved, and the evidence is no longer needed.

C. Evidence security is to be initiated and maintained as follows:

1. Maintain evidence in a secure, controlled-access area (e.g., a locked room, a locked steel file cabinet, or other suitably-locked enclosure), accessible only to designated personnel;
2. Prepare an VT Form MI-C&E-33E *Evidence Log*
3. Print a hard copy of the Evidence Log to file with the evidence when the case is complete, or otherwise as necessary, to demonstrate that, or monitor whether control of and accountability for the evidence was maintained in each case; and
4. Keep the number of people involved in handling evidence to a minimum (e.g., persons associated with the investigation).

D. Chain of custody is to be initiated and maintained as follows:

1. Ensure that the transfer of evidence from one person to another is documented in Section II of the VT Form MI-C&E-32E *Evidence Receipt and Chain of Custody*;
2. Ensure that evidence is always accompanied with a signed, hard copy Evidence Receipt and Chain of Custody form to provide identification and the continuous chain of custody; and

3. Ensure that the Evidence Receipt and Chain of Custody form is filled out in a legible manner and signed with permanent ink.

II. TRANSFERRING AND RECEIVING EVIDENCE

A. Transferring Evidence

1. To preserve the chain of custody when evidence is transferred in person, program employees are to:
 - a. Sign Section II of the Evidence Receipt and Chain of Custody form as the person releasing the evidence and identify the purpose of the change in custody; and
 - b. Sign the evidence when received.
2. To preserve the chain of custody when evidence is transferred using the Agency-approved service for express and ground delivery or using Registered Mail, program employees are to:
 - a. Sign Section II of the VT Form MI-C&E-32E *Evidence Receipt and Chain of Custody* as the person releasing the evidence and identify the purpose of the change in custody;
 - b. Enclose the evidence and VT Form MI-C&E-32E *Evidence Receipt and Chain of Custody* in a suitable envelope or container marked to show that the contents are evidence, and that it is to be opened only by the identified recipient;
 - c. Seal the envelope or container, write the word "Sealed" on the outside of the envelope or container, and initial and date the envelope or container;
 - d. Prepare a transmittal letter or memorandum to include date, file number, description of the evidence, method of transportation, and tracking number;
 - e. E-mail or fax a copy of the transmittal letter or memorandum separately to the recipient to advise them of the transfer, except for investigative samples, as the sample analysis request PHIS form and the official sample seal serve this purpose;
 - f. Place the sealed envelope or container and transmittal letter in a larger envelope or container addressed to the recipient;
 - g. Use the Agency-approved service for express and ground delivery to transfer evidence when possible and always request tracking and signature confirmation;
 - h. Print a tracking receipt from the Agency-approved service's website and maintain with the evidence; and
 - i. If Certified Mail is used, always request a Return Receipt for signature confirmation.

B. Receiving Evidence

1. To preserve the chain of custody when evidence is received in person program employees are to:
 - a. Sign Section II of the VT Form MI-C&E-32E *Evidence Receipt and Chain of Custody* as

the person receiving the evidence; and

- b. Maintain the signed VT Form MI-C&E-32E *Evidence Receipt and Chain of Custody* under security with the evidence.
2. To preserve the chain of custody as the receiver when evidence is received using the Agency-approved service for express and ground delivery or using Certified Mail, program employees are to:
 - a. Sign Section II of the VT Form MI-C&E-32E *Evidence Receipt and Chain of Custody*, as the person receiving the evidence;
 - b. Write the word "Opened," the initials of the employee who opened the envelope or container, and the date the envelope or container is opened on the inner envelope or container; and

Maintain the original initialed envelope or shipping package with the original evidence to provide proof of the chain of custody.

III. RETENTION AND DISPOSAL OF EVIDENCE

A. Program employees are to apply the instructions in this section to the retention and disposal of records maintained in all formats. This includes electronic and hard copy case files, such as Reports of Investigation (ROI), AER, documentary evidence, photographic evidence, investigative samples, business correspondence, and other official records created or maintained as a part of surveillance, investigations, enforcement, and related Agency activities.

B. Retention schedules for evidence and other records collected in the performance of surveillance, investigations, FSAs, enforcement actions, or other activities, are as follows:

1. General correspondence and other records:
 - a. Pertaining to surveillance activities or allegations that do not result in an investigation – destroy three (3) years after the end of the fiscal year in which the records were created;
 - b. Pertaining to product detentions that do not result in an investigation – destroy three (3) years after the end of the fiscal year in which the records were created; and
 - c. Pertaining to administrative activities (e.g., FSAs), or allegations that do not result in an investigation – destroy three (3) years after the end of the fiscal year in which the records were created.
2. Administrative case files, including Report of Investigation, Administrative Enforcement Report, associated case correspondence, and other records that result in:
 - a. Administrative Consent Order, Administrative Exempt Settlement Agreement, Administrative Judicial Decision & Order, Administrative Exempt Ineligibility Order, or voluntary withdrawal – destroy three (3) years after the end of the fiscal year in which the administrative action terminates;

- b. Notice of Warning (NOW), Letter of Information (LOI), Letter of Warning (LOW), Notice of Violation (NOV) Notice of Prohibited Activity (NoPA), or no action – destroy three (3) years after the end of the fiscal year in which the case was closed; and
 - c. A firm placed under Recordkeeping Requirements ((9 CFR 303.1(d)) – destroy three (3) years after the end of the fiscal year in which the termination notice is issued.
- 3. Criminal Case Files, including Reports of Investigation, associated evidence and case correspondence, and other records that result in:
 - a. Prosecute and result in a Conviction – destroy ten (10) years after the end of the fiscal year in which the case is closed;
 - b. Criminal case, other than the above – destroy five (5) years after the end of the fiscal year in which the case is closed;
 - c. Pretrial Diversion or other type of Agreement entered by Department of Justice – destroy three (3) years after the end of the fiscal year in which the Agreement terminates; and
 - d. Notice of Warning (NOW), Letter of Information (LOI), or no action – destroy three (3) years after the end of the fiscal year in which the case was closed.
- 4. Civil Case Files, including Reports of Investigation and associated case correspondence and other records that result in:
 - a. Civil Consent Decree, Civil Judgment, or Civil Decree of Forfeiture – destroy three (3) years after the end of the fiscal year in which the civil action terminates; and
 - b. Civil outcomes other than those listed above – destroy three (3) years after the end of the fiscal year in which the case was closed.
- 5. Other investigative reports that result in an Other type of disposition or that are closed with No Action – destroy three (3) years after the end of the fiscal year in which the Other disposition terminates or the case is closed with No Action;
- 6. Reports of cases demonstrating major or significant enforcement actions are to be maintained permanently. Gather all existing records and review the Meat and Poultry Inspection Enforcement Section’s criteria below for permanent retention. If the enforcement action is major and significant alert the Records Officer. Triggers that will likely designate a ‘precedent setting’ meat inspection enforcement case:
 - a. Human death caused by a foodborne illness, where consumption of meat or poultry is likely or confirmed as the causative agent.
 - b. The promulgation, repeal, or change to state statute, based on the outcome of a meat compliance and enforcement case.
 - c. Resulted in referrals to the Attorney General’s Office for civil or criminal enforcement.
 - d. If the referral of an enforcement case results in a felony conviction, such that the individual or business is no longer able to hold a meat inspection license in the future.
 - e. Required federal financial and employee resources, other than technical expertise, to resolve.
 - f. Involved multiple state agencies to remediate a significantly harmful situation or resulted in shared or more than one state agency taking enforcement.

- g. Resulted in significant assessment civil penalties (10x the maximum highest applicable single penalty in 6 VSA 1111) where the penalties were imposed for violations for severe risk to human health and the environment and other egregious use concerns.

7. Investigative Sample Retention:

- a. Investigative samples held at laboratories may be disposed of upon a determination that no action will be taken with regard to the sample;
- b. Investigative samples held at laboratories that support cases pending disposition may be disposed of subsequent to issuance of a closing action (e.g., NOW or LOI); and
- c. Investigative samples held at laboratories that support cases pending litigation may be disposed of after a final disposition in the case and all legal proceedings or appeals have been exhausted.

NOTE: When the retention schedule has been met for administrative, criminal, or civil case files or other investigative reports, the Records Officer is responsible for notifying the laboratory.

C. Evidence is to be disposed of in the following manner:

1. All evidence and all copies of evidence, including electronic records, are to be destroyed by shredding or incineration, except for personal property evidence for which a Property Receipt was issued;
2. Return personal property evidence for which a Property Receipt was issued to the property owner; and
3. Document the disposal of all evidence in Section III of the Evidence Receipt and Chain of Custody form and provide it to the supervisory official for verification of disposal.

CHAPTER IV - RESPONSIBILITIES

I. PROGRAM EMPLOYEES

The program employee who collects evidence is to:

1. Ensure the proper application of methods and procedures for collection, safeguarding, and disposal of evidence in accordance with this directive during surveillance, investigative, or other activities to prevent evidence from loss, unauthorized alteration, mishandling, or other actions that may affect its integrity;
2. Initial and date the back of all evidentiary documents, records, or items for evidence authentication, except original property, as previously defined in this directive;
3. Establish and maintain identity of investigative samples from the time of collection until receipt at the laboratory in accordance with this directive;
4. Upon collection of all evidentiary items, prepare an Evidence Receipt and Chain of Custody form to

establish identification of the evidence, initiate the chain of custody, and provide for evidence authentication;

5. When personal property is collected as evidence, complete a Property Receipt and provide the owner or custodian of the property with a copy;
6. When an evidentiary item is such that the Evidence Receipt and Chain of Custody form cannot easily accompany or be attached to the item, maintain the Evidence Receipt and Chain of Custody form with the case evidence;
7. Make copies of documentary evidence to be used in the investigative report;
8. Document transfers of evidence in Section II of the Evidence Receipt and Chain of Custody form to maintain the chain of custody; and
9. Ensure that the methods and procedures set forth in this directive are followed during liaison activities with other Federal, State, and local law enforcement agencies in the collection, safeguarding, and disposal of evidence, as applicable.

II. EVIDENCE OFFICER

The Meat Safety & Compliance Enforcement Officer is responsible for maintaining control of, and accountability for, all evidentiary items for each assigned investigation:

1. Protect all incoming evidentiary items from loss, unauthorized alteration, mishandling, or other actions that may affect their integrity;
2. Maintain all original evidence and chain of custody in a secure, controlled-access area;
3. Generate a hard-copy of the Evidence Log for each assigned investigation as necessary to audit the evidence for each investigation;
4. Arrange for and document in Section II of the Evidence Receipt and Chain of Custody form the receiving of each piece of evidence and subsequent transfer, release, or return of evidence for laboratory analysis, investigative use, use in court, or as otherwise necessary;
5. Serve as a liaison with other FSIS program areas or other Federal, State, or local law enforcement agencies for transfers, releases, and returns of evidence for laboratory analysis, investigative use, or use in court;
6. Conduct periodic inventory of evidence for each assigned investigation to monitor control of and ensure accountability for that evidence; and
7. Arrange for the proper disposal of evidence in accordance with the schedules for evidence retention in this directive.

V. QUESTIONS

Refer questions regarding this directive through supervisory channels.

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Head of Service
VT Meat Inspection Service