

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



MIS DIRECTIVE

Adopted from FSIS Directive 8010.5 Rev.6

8010.5 Revision 6	10/18/2022
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CASE REFERRAL AND DISPOSITION

I. PURPOSE

This directive describes the methodologies that the Vermont Meat Inspection Service (MSI) applies in determining action on Reports of Investigations (ROI), Administrative Enforcement Reports (AER), and other case documentation.

II. CANCELLATION

VT Directive 8010.5, Revision 5, Case Referral and Disposition, dated 2018

III. BACKGROUND

The [FMIA](#), [PPIA](#), [HMSA](#), and [6 V.S.A Chapter 204 of the Vermont Statutes](#) provide Meat Inspection Service (MSI) with the authority for civil and administrative enforcement action when firms and individuals violate VT State statutes and regulations, and the authority to refer a case for criminal action. Criminal, civil, and administrative enforcement actions prevent adulterated, misbranded, or other illegal meat and poultry products from reaching consumers; stop ongoing violations; deter future violations; improve food safety; and impose, when necessary, sanctions for violations. MIS takes administrative enforcement actions and recommends criminal and civil prosecution through the VT Office of the Attorney General. MIS also may collaborate with Federal and other State agencies on enforcement actions.

IV. CASE REPORTS

The Meat Safety Compliance & Enforcement Specialist (MSCES), FSS III Compliance Investigators (CI), and other authorized program employees, in accordance with applicable directives (e.g., [VT Directive 8010.4](#), Report of Investigation; [VT Directive 5100.3](#), Administrative Enforcement Action Decision-Making Methodology; [VT Directive 5220.1](#), Granting or Refusing Inspection; Voluntary Suspending or Withdrawing Inspection; and Reinstating Inspection Under PHIS; [MIS Directive 8160.1](#), Custom Exempt Review Process), are to:

1. Complete ROIs, AERs, and other case documentation (e.g., Custom Exempt Review Reports), in accordance with applicable directives;

2. Submit ROI, AER, and other case documentation to their supervisor for review and action, in accordance with the MIS policy.

V. CASE ACTIONS

A. Directors, or designee, is to review case documentation, as necessary, and make a determination on the appropriate enforcement action or case referral to Vermont Attorney General Office (AGO). This is usually done in consultation with the Assistant Attorney General assigned to the Vermont Agency of Agriculture, Food and Markets (VAAF) and the lead investigator.

B. Possible actions include:

1. Issue a Letter of Information (LOI) (see section IX)
2. Issue a Letter of Warning (NOW) (see section X);
3. Issue a Notice of Violation (NOV) with the right to a hearing,
4. Seizure of adulterated, misbranded, or other illegal product in commerce (see [VT Directive 8410.1](#), Detention and Seizure);
5. Refer the ROI or other case documentation to AGO, or to a Federal or another State agency or entity.
6. Administrative subpoena when program employees are denied access to or examination of facilities, inventory, or records
7. Recommend continued verification through surveillance or other regulatory activities; or
8. Close the ROI or other case documentation with no action;

C. If the MSCES, a CI, other field employees, note any violations that may require investigation of or referral for criminal or civil prosecution (e.g., sale or transport of adulterated or misbranded product in commerce; illegal slaughter; fraud), or referral to a Federal or another State agency, they are to contact their supervisor.

VII. CASE REFERRAL TO AGO

- A. When referring the ROI, AER, or other documentation, the lead investigator is to prepare the documents, including the Notice of Violation with proposed penalties or other recommendation for action.
- B. Submit the case documentation electronically, or by hand delivery.

VIII. ENFORCEMENT LIAISON

A. Once a case is referred to AGO, program employees are to:

1. Participate in conference calls, when requested, to discuss case findings, evidence sufficiency, and related matters, to address any questions or concerns;

2. Participate in development of food safety, enforcement, and legal strategies, when requested;
3. Serve legal documents, attest to case evidence, or serve as a witness in legal proceedings, when requested;
4. Participate in monitoring and verification activities to ensure that firms and individuals comply with case disposition and settlement items, once actions are completed;
5. Document case updates, verification activities, and related matters, as applicable;
6. Inform AGO, in a timely and complete manner, about case activities, developments, and other issues that may impact enforcement and legal actions; and
7. Conduct other activities to support enforcement or legal action, when requested.

B. Once FSS refers a case to the compliance and enforcement officer, program employees are to:

1. Participate, when requested, to discuss case findings, evidence sufficiency, and related matters and to address any questions or concerns;
2. Attest to case evidence or serve as a witness in legal proceedings, when requested;
3. Participate in developing verification and monitoring plans, and conduct monitoring and verification activities, to ensure that firms and individuals comply with settlement items, once actions are completed;
4. Document case updates, verification activities, and related matters, or otherwise, as applicable;
5. Inform C&E officer, in a timely and complete manner, about case activities, developments, and other issues that may impact enforcement and legal actions; and
6. Conduct other activities to support enforcement or legal action, when requested

IX. LETTER OF INFORMATION

MIS may issue a LOI when it has been determined that a NOW or other enforcement action is not warranted. The main purpose of a LOI is to advise an individual or firm of statutory and regulatory requirements and to urge compliance.

X. NOTICE OF WARNING

A. The lead CI is to issue a NOW for minor violations, or otherwise as appropriate, as provided by the FMIA Section 406 (21 U.S.C. 676), PPIA Section 13 (21 U.S.C. 462), and 6 V.S.A Chapter 204 Section 3317. The NOW identifies the violative conduct, condition, practice, or product; provides the opportunity to achieve voluntary compliance; and is sent to the firm and responsible individuals. Situations where a NOW is issued include, but are not limited to, those involving improperly labeled product with no intent to defraud and no public health risk.

B. The lead C&E investigator is to issue a NOW when the public interest will be adequately served by a written notice of warning. Examples include, but are not limited to, those where:

1. The ROI, AER, or other case documentation does not support referral for criminal, civil, or administrative enforcement actions;
2. The ROI, AER, or other case documentation documents minor violations; or
3. The VT Assistant Attorney General has declined to initiate criminal, civil, or other legal proceedings.

E. The NOW is to:

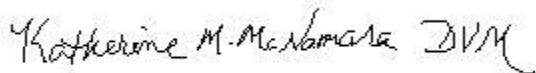
1. Include the name of the firm, responsible official and title, and the address of the firm or responsible official;
2. State that there is an ROI or other case documentation that supports that a violation has occurred;
3. Include a description of the alleged violation (i.e., who, what, when, and where), and the date the violation was discussed with the subjects;
4. Briefly explain the requirements of the Statutes, Acts and regulations and VAAF's enforcement authorities;
5. Use State Statutes, FMIA, PPIA, HMSA, U.S. Code citation, and regulatory citations, as appropriate; and
6. Explain the Agency's expectations of compliance and advise of possible penalties, enforcement actions, or sanctions for further violations.

XI. NOW APPEALS

A. When the individual or firm receiving a NOW questions (orally or in writing) the issuance of the NOW, the lead C&E investigator may:

1. Explain orally the violations and reason for issuance and prepare a memorandum, if necessary, summarizing the discussion;
2. Issue a letter to the individual or firm that rescinds the NOW if, after review of the information provided by the individual or firm, that the NOW is not supported by the case evidence; or
3. Issue a letter to the individual or firm that explains the basis for the NOW and advises the individual or firm that he or she may appeal the matter to the Director of the Food Safety Consumer Protection Division.

Refer questions through supervisory channels.



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