

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 8010.2 Rev. 5

8010.2  
Rev. 5

1/1/18

## INVESTIGATIVE METHODOLOGY

### CHAPTER I – GENERAL

#### I. PURPOSE

This directive provides instructions to Compliance and Enforcement Officers and other investigative employees on the methods for conducting investigations of apparent violations, food safety incidents, food defense incidents, or other allegations or incidents under the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), the Vermont Statutes Annotated, the Humane Methods of Slaughter Act (HMSA) (the Acts), and related state and federal laws and regulations within the state of Vermont.

#### KEY POINTS:

- *States authority for investigative activities, including access to and examination of regulated-products, facilities, and records*
- *States responsibilities of Investigators*
- *Describes the methodology for investigative plans*
- *Describes the investigative methodology procedures, including for initiating investigations, assessing allegations, and preparing an investigative plan*
- *Describes the methodology for investigative notes*
- *Describes the investigative analysis and decisions process*
- *Describes procedures for preparing signed statements, memoranda of interviews, and other forms of interview documentation*

#### II. CANCELLATION

VT Directive 8010.2, Revision 3, Investigative Methodology, dated 1/13/13

#### III. BACKGROUND

A. Under the 6 V.S.A Chapter 204, and the FMIA and PPIA incorporated by reference, and related laws and regulations, the Vermont Agency of Agriculture, Food and Markets has the legal authority to regulate meat and poultry in commerce within the state of Vermont. These Acts state that it is essential to the public interest to protect the health and welfare of consumers by ensuring that meat and poultry products are wholesome, not adulterated, and properly marked, labeled, and packaged.

B. Authorized program employees conduct investigations and related activities at Official establishments, food warehouses, distribution centers, transporters, retail stores, brokers, and other businesses where meat and poultry products are produced, sold, distributed, offered for sale or distribution, stored, or otherwise prepared or handled. These activities are designed to ensure that meat and poultry products are safe, secure, wholesome, not adulterated, and properly marked, labeled, and packaged. When violations of the Acts or regulations are alleged or detected, VAAFM program employees control or detain adulterated, misbranded, or other violative products in commerce; investigate allegations, violations, or food safety incidents; collect, maintain, and secure evidence; and document investigative reports to support Agency decisions, investigative findings, and enforcement or legal actions.

C. 6 V.S.A § 3304(7)(A)(B)(C), Section 202 of the FMIA (21 U.S.C. 642), and Section 11 of the PPIA (21 U.S.C. 460) require persons, firms, and corporations that prepare, package, label, buy, sell, store, transport, or engage in other specified activities, to keep records that fully and correctly disclose all transactions involved in their business. These provisions also provide authorized program employees authority to access and examine the facilities, inventory, premises, inventory, equipment, operations, and records of these businesses, to take photographs during investigations and to perform an examination to ensure products are safe, wholesome, not adulterated, properly labeled, and that firms are operating under sanitary conditions; to copy records required to be kept under the Acts, and to take reasonable samples of inventory upon payment of the fair market value. The Acts also provide for penalties for failure to comply with these requirements.

## **V. INVESTIGATIVE RESPONSIBILITIES**

### **A. Investigators:**

1. Conduct investigations and related activities in accordance with this directive.
2. Collect, maintain, and secure evidence in accordance with VT Directive 8010.3.
3. Prepare a Report of Investigation (ROI) in accordance with VT Directive 8010.4, Report of Investigations; and
4. Maintain communication with their supervisory chain of command regarding investigative activities, from the initiation of an investigation through the investigative decision.

### **B. Compliance and Enforcement Officers:**

1. Conduct supervisory activities related to investigations in accordance with this directive.
2. Monitor and coordinate the investigative caseload of Investigators under their supervision.
3. Maintain communication and be available to discuss investigations and related activities with the Investigators under their supervision from the initiation of an investigation through the investigative decision.
4. Update the Direct Supervisor periodically with the status of the investigative caseload and

investigative activities of Investigators under their supervision, particularly complex or unusual investigations.

C. Supervisor is to:

1. Conduct management activities related to investigations in accordance with this directive.
2. Monitor the investigative caseload and investigative activities.
3. Maintain communication with Investigators to provide guidance on investigations and related activities from the initiation of an investigation through the investigative decision.
4. Inform, when necessary, program management (e.g., Director, Deputy Secretary) of significant investigative activities or decisions.

## **CHAPTER II – INVESTIGATIVE METHODOLOGY**

### **I. INITIATION OF AN INVESTIGATION**

A. An investigation is a fact-gathering and analytical activity conducted to develop and document facts relevant to apparent violations, food safety incidents, or other allegations to support Agency decisions, investigative findings, and enforcement or legal actions.

B. This directive provides the steps and methods necessary to conduct the investigative process effectively. Although the directive presents the methods as steps, all steps are not sequential and some steps of the investigation may occur simultaneously.

C. Investigators may initiate investigations in response to different occurrences of apparent violations, possible violations, food safety incidents, consumer complaints or other requirements under the meat and poultry products laws and regulations. The occurrences that lead to the initiation of an investigation are:

1. Observation by an Investigator of an apparent violation while conducting surveillance or other regulatory activities;
2. Referral of an allegation or apparent violation from another Agency program area (e.g., Arm Division) regarding possible violations;
3. Referral of an allegation or apparent violation from another Federal, State, or local government agency (e.g., Department of Health, Food and Drug Administration) regarding possible violations;
4. Referral of an allegation from a consumer, firm, trade association, business, or other individual, business, association, or entity regarding possible violations; and
5. Other information, observations, or findings that support initiation of an investigation.

### **II. ASSESSMENT OF AN ALLEGATION OR VIOLATION**

A. When Investigators observe an apparent violation, receive an allegation, or identify other information, observations, or findings regarding food safety incidents, possible violations, or other matters, they are to:

1. Determine if VAAFM has jurisdiction and authority to investigate the apparent or possible violation, food safety incident, or other matter.

2. Assess the available facts to determine whether they support an apparent or possible violation of VT statutes or regulations, food safety incident, or other matter that requires investigation.
3. Conduct a preliminary inquiry, when necessary, to assess whether the basis exists to support the allegation or information, the reliability of the source, or that VAAFM has jurisdiction.

B. When the available facts or preliminary inquiry indicate that a violation of VT or Federal statutes or regulations has occurred, and VAAFM has jurisdiction and authority, they are to open the investigation. All criminal investigations and all matters requiring referral to the AGO will go through the Agency Attorney and liaison.

1. If the allegation is referred to the AGO, the AGO will determine whether to initiate an investigation (i.e., open a case memorandum); or
2. If the AGO declines to open an investigation, VAAFM may initiate an investigation.

C. When Investigators determine it is appropriate to initiate an investigation, they are to:

1. Open the investigation; and record the basis on which the Investigator initiated the investigation.

NOTE: Investigators are to follow the methodology in this directive for investigations involving alleged Smuggled meat, poultry products.. In these instances, Investigators are also, as appropriate, to coordinate regulatory actions with FSIS and other agencies (e.g., Customs and Border Protection (CBP)).

D. When the available facts or a preliminary inquiry do not substantiate that a violation of VT statutes or regulations has occurred, or if VAAFM does not have jurisdiction and authority, Investigators are to:

1. Discuss the findings with their supervisor to verify that the facts, the allegation, or the findings do not support initiation of an investigation.
2. Close the matter with no further action; initiate an investigation if directed by the supervisor, or recommend that the matter be referred to the appropriate Federal, State, or local government agency.

## II. INVESTIGATIVE REFERRAL

A. Compliance and Enforcement Investigations and referrals: When the available facts or preliminary inquiry indicate a violation of VT statutes or regulations, and VAAFM has jurisdiction and authority, the Compliance Officer or designee is to determine whether to refer the allegation or information to the Office of the Attorney General for investigation.

1. If the allegation is referred to the Office of the Attorney General, they will determine whether to investigate. If the AG declines to open an investigation, VAAFM may initiate an investigation.
2. If the Compliance Officer determines that referral to the AG is not required, VAAFM may initiate an investigation.

**NOTE:** In some instances, VAAFM may conduct investigations jointly with the AG.

B. When the available facts or preliminary inquiry substantiates that a violation of VT statutes or regulations has occurred and VAAFM has jurisdiction and authority, the Director or designee is to:

1. Determine whether the facts, allegation, or information require referral to the AG for apparent or possible violations that may require criminal or civil prosecution.
2. Determine whether the facts, allegation, or information require referral to or consultation with another Federal, State, or local agency.

**NOTE:** VAAFM personnel do not conduct investigations into criminal matters.

D. Matters that require referral FSIS CID for investigation or other action are to be referred, where practicable, in the ICS (i.e., the investigation is in ICS). In these situations, Investigators are to initiate an investigation in ICS and refer the ICS investigative record, through supervisory channels, to the CID or other appropriate authority, in accordance with the instructions in this section.

### **III. INVESTIGATIVE PLAN**

A. The development of an Investigative Plan helps to ensure that an investigation is thorough and well organized. Planning also promotes efficient use of limited investigative resources.

B. Investigators are to:

1. prepare a written Investigative Plan for each investigation in accordance with the methods in this section of the directive.
2. Add the watermark “Confidential” on the Investigative Plan and beside the date insert “Draft” and attach the plan to the associated investigative record;
3. The Investigator is to remove the watermark “Confidential” and “Draft” beside the date prior to sending the case to his or her supervisor for; and
4. If the case is referred, the Investigator is not to remove the watermark “Confidential and “Draft” beside the date

C. There may be situations when Investigators or their supervisors determine that an Investigative Plan is not necessary. For example, an Investigator may determine that a plan is not necessary when an apparent violation is identified while conducting surveillance activities and relevant findings and evidence are concurrently collected. In this situation, the supervisor and the program employee may determine that the findings and evidence is sufficient to prove the violation and support any subsequent enforcement action (e.g., Notice of Warning).

D. An Investigative Plan includes:

1. File Number - A unique identifier number that is assigned to the investigation by ICS (if using ICS).
2. Subject of the Investigation - The name or person(s) or firm(s) that are subjects of the investigation. For firms, include the type of business (e.g., corporation, partnership, sole proprietor) and any known names the firm operates under (e.g., d/b/a).
3. Apparent Violations/Allegations - A brief statement (summary) of the apparent or possible violation, food safety incident, or other matter under investigation. The plan should cite the relevant statutes and/or regulations, and state or paraphrase the language of the statutes or regulations (e.g., 21 U.S.C. 453 (g) (4) and 458 (a) (3), improperly stored poultry products, after transportation in

commerce, under insanitary conditions, causing the products to become adulterated).

4. Scope of Investigation - The proposed scope of the investigation based on available information. The scope should briefly state the extent or range of the investigation and may address areas such as: subjects or parties of interest, laws or regulations at issue, geographic area, time period, magnitude of the apparent or possible violation, food safety incident, or other matter, and any public health issues or concerns. If the initial scope of the investigation cannot be determined with the available information, Investigators may indicate that the scope cannot be determined based on the available information and/or indicate that the scope will be determined later, as information becomes available or changes during the investigation.
5. Investigative Steps - the steps necessary to develop facts and findings and to collect evidence relevant to the apparent or possible violation, allegation, food safety incident, or other matter under investigation. The steps may include one or more of the following:
  - a. Investigative Techniques - Investigators are to use appropriate investigative techniques to ensure that material facts are developed, and that relevant evidence is collected (e.g., interviewing, evidence collection, analysis).
  - b. Resources - the resources necessary to meet investigative needs (e.g., personnel, equipment, timeframes).
  - c. Safety - resources and tools that are to be used should the investigation involve situations that could become hostile, unsafe, or potentially dangerous (e.g., State or local police, Unified Training Protocols).
  - d. Investigative Liaison - the appropriate Agency or other Government officials if issues or situations are observed or encountered that involve safety (e.g., state or local police), public health concerns or issues (e.g., Department of Health or state or local agencies), or food defense issues (e.g., VT Fusion Center, Federal Bureau of Investigation).
- E. Investigators are to periodically evaluate the investigative plan during the investigation, revise the plan as findings are developed or evidence is collected that necessitate a revision, attach the revised plan, and delete the current plan.

#### **IV. PROCEDURES FOR INVESTIGATIVE ACTIVITIES**

- A. Investigative activities include those activities performed to investigate apparent violations, food safety incidents, or other allegations.
- B. When conducting an investigation, Investigators are to use appropriate investigative techniques necessary to ensure that material facts are developed, and that relevant evidence is collected and preserved, to support findings of apparent violations, food safety incidents, or other allegations.
- C. Investigative techniques include:
  1. Examining meat or poultry products and the facilities and conditions under which they are held using the methodology as set forth in VT Directive 8010.1 to determine whether products are wholesome, not adulterated, and properly marked, labeled, and packaged, or exempt from the requirements of the Acts.
  2. Collecting and submitting investigative samples of meat or poultry products, alleged to be in violation of the Acts, in accordance with VT Directive 8010.3. Laboratory analysis findings may

prove the allegation or violation or be used to focus activities in the investigation.

3. Photographing meat or poultry products alleged to be in violation of the Acts and any conditions that may have contributed to the violation in accordance with VT Directive 8010.3.
4. Photographing facilities, premises, inventory, equipment, or operations as a method or technique of conducting examinations and investigations to verify that products are safe, wholesome, not adulterated, and properly labeled and that establishments are operating under sanitary conditions.
5. Detaining meat or poultry products, in accordance with VT Directive 8410.1, when there is reason to believe are adulterated, misbranded, or otherwise in violation of the Acts. Investigators may work jointly, if necessary/appropriate, with other Federal, state, or local agencies to control product under that jurisdiction (e.g., state health department embargos).
6. Examining, copying, collecting, and/or photographing records (e.g., invoices, contracts, temperature records, Hazard Analysis and Critical Control Point (HACCP) records, entry documents) or database reports (e.g., Public Health Information System) relevant to apparent violations. Investigators are to examine and to analyze these evidentiary documents carefully to assess whether the content will prove the violation, incident, or allegation under investigation. Findings may be subject to differing interpretations; therefore, Investigators are to examine the evidence for inconsistencies and either resolve the issues or be prepared to explain the contradictions (make investigative notes of explanations to refresh memory in situations of extended time lapse). Investigators are to collect documentary evidence in accordance with VT Directive 8010.3.
7. Identifying subjects of the investigation (e.g., persons, firms, responsible management officials, product owners, custodians), possible witnesses with information relevant to the investigation (e.g., employees, consignees, brokers, importer of record), or others with background or other information relevant to the investigation (e.g., Agency officials, Federal or State officials with relevant background information).
8. Interviewing subjects, witnesses, or others to obtain information about the allegation or apparent violation under investigation. Interviews explain, confirm, supplement, and expand upon the facts; identify and document what subject or witnesses heard or observed or know about the situation, allegation, or apparent violation; help correlate, identify, and explain evidence; and, permit persons involved to admit, deny, or explain actions.
9. Documenting interviews in accordance with Chapter IV of this directive (e.g., in a signed statement, memorandum of interview (MOI), or Shipper's or Receiver's Certification).
10. Determining whether product may have been shipped to other entities ("trace-forward" activities), or whether product came from other entities, where it still may be present ("trace-back" activities). Investigators conduct trace-forward and trace-back activities to determine the scope of the incident and to determine the extent of detention actions necessary to control adulterated or misbranded product. These activities may occur simultaneously at multiple locations in multiple areas. Investigators should coordinate related activities to maintain the integrity of the investigation. Investigators are to collect associated records and any other relevant evidence and conduct interviews with employees at multiple levels of the organization (e.g., president, manager, or employee) to determine the following information:
  - a. Product Identifying Information – Include pertinent information on container type, size, lot codes, production or pull dates (if available), establishment number, shipping marks, and product origin.

- b. Shipping and Receiving Practices –
  - i. Determine the receiving dates and times for each shipment of the identified products in the identified time period.
  - ii. Indicate how the dates on the shipping records reflect the receipt date of the product.
  - iii. Determine how the supplier documents or records deliveries of the identified product.
  - iv. Determine the firm’s suppliers or consignees during the identified time period.
- c. Handling and Storage Practices - Interview employees regarding handling and storage of the implicated product.
- d. Stock Rotation Practices - Review the standard operating procedures or good manufacturing practices at the firm for stock rotation (e.g., first-in-first-out) and determine how closely the firm follows the procedures or practices.
- e. Sanitation and Pest Control Records - Determine whether the firm has, or has had, issues or concerns directly related to, or having impact on, the implicated product.

11. Performing searches of relevant public records, including internet searches of public records (e.g., relevant Secretary of State website, Google or other search engines).

D. Investigators are to collect and safeguard evidence, in accordance with VT Directive 8010.3, to ensure positive identification of evidence and that chain of custody is documented, so that the integrity of the evidence is maintained, and the evidence is admissible in any litigation.

E. Investigators may conduct covert surveillance, as necessary and with supervisory approval, of people, places, or things to obtain information. These activities may be conducted on foot, in vehicles, or from a fixed location and by using photographic equipment and detailed investigative notes to document the subject’s activity.

F. Investigators are to request an Administrative *Subpoena Duces Tecum* when necessary (i.e., when program employees are refused entry or access to records), to obtain access to facilities, inventory, and records, to copy or collect copies of records, or for other lawful purposes.

- 1. Investigators are to contact, through supervisory channels, the Assistant Attorney General to request a subpoena and provide any supporting information necessary to obtain the subpoena, and for enforcement or related activities.

## V. INVESTIGATIVE NOTES

A. Investigative notes are contemporaneous records regarding surveillance, investigations, or other regulatory activities. Investigative notes are to be accurate, objective, factual, and free of personal feelings or conclusions. Investigative notes are confidential because of the data they may contain (e.g., information pertaining to open investigations, confidential business information, and personal information protected under the Freedom of Information Act (FOIA) or Privacy Act).

B. When Investigators make notes of their investigative activities, the notes are to:

- 1. Be handwritten or electronic;



2. Be made, if handwritten, in a manner and in a recording medium that will provide continuity and integrity (e.g., bound notebook);
3. Be stored, if electronic, in a manner that ensures data integrity (e.g., on a CD-R or computer disk).
4. Be identified with the Investigators' name, title, telephone number, and address;
5. Be maintained with the corresponding case file or Report of Investigation (ROI); and
6. Be retained in accordance with the retention schedule for the associated enforcement or other action in set out in VT Directive 8010.3.

C. If investigative notes are associated with an investigation that is referred to the AG office, Investigators are to prepare and maintain any investigative notes made while working them in accordance with this directive.

D. If investigative notes are associated with a joint investigation with the AG, Investigators are to prepare and maintain any investigative notes made during those activities in accordance with this directive or as directed by the AG.

## CHAPTER III – INVESTIGATIVE ANALYSIS AND DECISION

### I. INVESTIGATIVE ANALYSIS

A. Periodic analysis of an ongoing investigation and of the evidence collected in critical. During the course of an investigation, Investigators are periodically to:

1. Organize and analyze the evidence and facts to make determinations regarding investigative activities and scope;
2. Determine whether the evidence and facts are sufficient to support an Agency decision or referral for enforcement or legal action, or that further investigation is required;
3. Determine whether the evidence and facts require that another program area conduct further investigation of the apparent or alleged violation;

**NOTE:** When findings and evidence reveal that the apparent violation, food safety incident, or other allegation occurs interstate, the Compliance Officer will contact FSIS CID to coordinate investigative activities.

4. Determine whether the evidence and facts require investigative resources from other Federal, State, or local agencies;
5. Determine whether the facts and evidence indicate that the case should be referred to the AG Office;
6. Determine whether the facts and evidence indicate that the case should be referred or consultation with appropriate Federal, State, or local agency for investigation and enforcement action;
7. Determine and recommend to program management whether, after using all appropriate investigative techniques, the evidence and facts do not support further enforcement action and the investigation should be closed with no action.

### II. INVESTIGATIVE DECISION

A. At the conclusion of an investigation, Investigators are to:

1. Organize the findings and evidence in a logical and comprehensible fashion;
2. Conduct a thorough and impartial analysis of the evidence to determine if the findings are supported by the evidence;
3. Complete an ROI in accordance with [FSIS Directive 8010.4](#);

**NOTE:** There may be situations in which an ROI will be prepared at the conclusion of an investigation, even when the evidence and findings do not support Agency enforcement action under the Acts.

## **CHAPTER IV – PROCEDURES FOR A STATEMENT, MEMORANDUM OF INTERVIEW, AND SHIPPER’S OR RECEIVER’S CERTIFICATION**

### **I. INTERVIEW DOCUMENTATION**

- A. Investigators are to prepare and document signed statements, MOI, or other documentation, as appropriate, for each interview they conduct during investigative activities.
- B. A well-prepared and properly documented signed statement is the preferred method to document information provided by subjects of an investigation, witnesses to a violation, or others interviewed during an investigation.
- C. An MOI may be appropriate in a variety of situations (e.g., witness declines to sign statement, background interview with Federal or state agency official).
- D. A Shippers/Receivers Certification should be used with discretion to document information provided during an interview.

### **II. STATEMENTS**

- A. A statement is a written description of the facts, events, or other relevant information provided by an interviewee of his or her knowledge of, or role in, the subject of the investigation or inquiry.
- B. Investigators are to prepare statements in the following format:
  - 1. Show the date and the location of the interview in the upper right-hand corner of the first page.
  - 2. Write the statement in first person, from the interviewee’s point of view.
  - 3. In the opening paragraph, include the name of the interviewee and name and title of the program employee conducting the interview, attest that the information is being provided freely and voluntarily, reflect an understanding of what the interview is in regard to, and provide Privacy Act notification.

#### **Example:**

*I, Edward A. Jones, make the following statement in regard to inquiries made by Clyde Frebish, who has identified himself to me as an Investigator, Compliance and Investigations Division, Office of Program Evaluation, Enforcement and Review, Food Safety and Inspection Service, United States Department of Agriculture. I am providing this information freely and voluntarily. I understand that a possible violation of the Federal meat, poultry, or egg products inspection laws may be involved. I have been provided a copy of the Privacy Act Notice.*

- 4. When more than one program employee participates in an interview, include his or her name in the opening paragraph of the statement.
- 5. In the second paragraph, state the interviewee’s date and place of birth, address, official job title, name of employer, and length of service.

#### **Example:**

*I was born November 29, 1941, in Boise, Idaho. I live at R.D. #1, Turlock, California (zip code). I own and operate the Edward Jones Cattle Company, 100 Main Street, Turlock, California. I have been buying*

and selling cattle for the past 10 years.

6. In the body of the statement, use language that the interviewee used or can understand. The statement should not contain language that does not reflect the interviewee's language or manner of speaking. The statement should describe relevant facts, specific facts of the violation, events leading to the violation, the interviewee's knowledge of the intent and motivation behind the activities of the violation, and the interviewee's involvement, if any, in the violation. When relevant, the statement should include information about the amount of regulated product involved or affected. The statement may summarize some details succinctly as long as the summary does not affect the substance of the statement.
7. In the concluding paragraph, include an attestation that declares: the number of pages in the statement, that the interviewee has read, or has had read to him or her, that he or she initialed each page and each correction in the statement; and that the statement is complete and true to the best of his or her knowledge.

**Example:**

*I have read the preceding statement consisting of two (2) pages, and I had the opportunity to make additions and corrections. To my knowledge, it is true and correct.*

8. When more than one page is necessary for a statement, number each page for order clarification (e.g., Page 1 of 2, Page 2 of 2).
9. Type or print each signatory name and title under the concluding paragraph, leaving enough space for signatures.

C. Investigators are to execute and sign statements as follows:

1. Allow the interviewee the opportunity to make corrections or additions to the statement.
2. Have the interviewee initial any corrections or additions in the statement, sign or initial each page, and sign the statement above his or her name.
3. Observe the interviewee while he or she makes corrections or additions and signs the statement.
4. The Investigators preparing the statement should sign the last page of the statement above his or her name after the interviewee signs the statement.
5. If requested, Investigators are to provide the interviewee with a copy of their signed statement.

D. In a situation where the interviewee refuses to sign a statement but admits that the content is true, Investigators are to add a handwritten paragraph below the signature line of the statement that declares that the statement was read by or to the interviewee, who acknowledged the content to be true, but refused to sign the statement. The Investigator preparing the statement should sign below the handwritten paragraph and not sign on the signature line. In addition, the Investigator will ensure that other Investigators who heard the acknowledgment, sign below the handwritten paragraph attesting that they witnessed the acknowledgement.

**Example:**

*On February 12, 2013, Jane Doe read the above statement and agreed that the content was true and correct; however, she refused to sign the statement. I am adding this paragraph in the presence of Ms. Doe to document her acknowledgement that the content of the statement was true and correct.*

E. Special Circumstances - When a signed statement is obtained from an individual who cannot read, cannot write, or cannot speak a language understood by the program employee, a third-party witness is required (e.g., relative, friend, neighbor, or employee) who is able to understand the program employee. In these situations, the program employee is to prepare the statement as follows:

1. Interviewee cannot read - allow the witness to read the statement to the individual so the witness can attest that what was written was in fact read. The last paragraph is modified as follows - "I have had read to me the preceding statement consisting of (number of handwritten/typed) pages and have been given an opportunity to make additions or corrections. It is true and correct to the best of my knowledge."
2. Interviewee cannot write (sign name) - have the individual make their identifying mark so that the witness can attest that the interviewee signed the statement.
3. Interviewee cannot speak the language - use a third-party witness who can interpret the conversation. Modify the last paragraph as follows: "(Name of interpreter), acting as my interpreter, has read to me the preceding statement consisting of (number of handwritten/typed) pages. I have been given an opportunity to make additions or corrections, and it is true and correct to the best of my knowledge" and have the third-party witness sign the statement and include, in the statement, the name, address, and relationship of the witness to the interviewee.

F. When the interviewee's attorney (or another representative) is present, provide the attorney (or representative) the opportunity to sign as a witness and include the name and address of the law firm (or representative) and the capacity in which he or she is serving the interviewee.

G. Investigators are to provide the interviewee with a copy of his or her signed statement, when signed by the interviewee. Investigators also are to provide copies of a signed statement to other signees (e.g., witness, attorney) when requested by the other signee. However, Investigators are not to provide a copy of a statement to an interviewee, when the interviewee has declined to sign the statement.

### **III. MEMORANDUM OF INTERVIEW (MOI)**

A. An MOI is the written summary of the information obtained from an interviewee to record the specifics of an interview.

B. When an MOI is used to document interviews, Investigators are to prepare a separate MOI for each interview they conduct.

C. Investigators are to prepare an MOI in the following format:

1. Show the date and the location of the interview in the upper right-hand corner of the first page.
2. Enter the title "Memorandum of Interview" on the first page, centered and in bold font.
3. Enter the name and title of Investigators or ISLOs aligned on the right; name and official job title, business address, employer, and length of service for the interviewee aligned on the left; and names and titles of others present during the interview in a heading format prior to the first

paragraph.

**Example:**

June 23, 2010  
Chicago, Illinois

**MEMORANDUM OF INTERVIEW**

Leo B. Uptowne  
Uptowne Meat Company  
Owner—10 years  
100 Main Street  
Schaumburg, Illinois

Investigator George Mason  
Investigator Clyde Frebish  
CID/OPEER/FSIS/USDA

4. Write the body of the MOI in the 1<sup>st</sup> person from the interviewer's point of view.
5. The first paragraph should indicate how the program employee(s) identified himself or herself to the interviewee. This description of the introduction and identification process should be sufficiently detailed and should include documentation of the interviewee's acknowledgement of understanding regarding the program employee(s)'s official capacity.

**Examples:**

*Investigator Frebish and I introduced ourselves to Ms. Jones and presented our credentials to her. I explained that we were Investigators with the Compliance and Investigations Division, Office of Program Evaluation, Enforcement and Review, Food Safety and Inspection Service, United States Department of Agriculture. Ms. Jones acknowledged that she understood our official capacity.*

*I introduced myself to Mr. Jones and presented my credentials to him. I explained that I am an Investigator with the Compliance and Investigations Division, Office of Program Evaluation, Enforcement and Review, Food Safety and Inspection Service, United States Department of Agriculture. Mr. Jones acknowledged that he understood my official capacity.*

6. Use either the first or the second paragraph to state the purpose of the interview to provide a summary that informs the reader early in the MOI what kind of information this MOI will reveal.
7. The remainder of the MOI should contain the facts elicited from the interviewee presented in a logical and concise manner. Present the facts in a narrative fashion using paragraphs to separate different segments.
8. Include a closing statement to account for the date the interview was conducted and the MOI was prepared and to certify that it contains all the information discussed during the interview.

**Examples:**

*I prepared this report on \_\_\_\_, 20\_\_, immediately after the interview with the witness. I certify that this report has recorded in it a summary of all pertinent matters discussed with the interviewee.*

OR

*I prepared this report on \_\_\_\_, 20\_\_, two days after the interview with the witness for inclusion in the Report of Investigation with the witness's signed statement. I certify that this report has recorded in it a*

summary of all pertinent matters discussed with the interviewee on \_\_\_\_\_, 20\_\_.

9. When more than one page is necessary for an MOI, number each page for order clarification (e.g., Page 1 of 2, Page 2 of 2).

D. Upon completion of the MOI, the program employee documenting the MOI is to promptly sign and date the MOI.

E. If additional Investigators participated in the interview, they may, but are not required to, sign the MOI as a witness.

#### **IV. SHIPPER'S OR RECEIVER'S CERTIFICATION**

A. The Shipper's or Receiver's Certification is used to document contact with the shipper or receiver of meat, poultry that appear to be in violation of the FMIA, PPIA.

B. When used, Investigators are to complete each block of the Shipper's or Receiver's Certification as follows:

1. Description of Product - Mark the appropriate block to identify the statement as that made by the shipper or receiver. Describe the product by its common or usual name. Show approximate weight and number of items or containers shipped or received, not just the product that is observed.
2. Date Product was Shipped or Received - Enter the phrase "shipped" or "received" and "on" or "about" and the date or dates."
3. Observed By - Enter the names of FSIS personnel involved.
4. Place Where Observed - Enter location where product was observed (i.e., Cooler #2).
5. Date Observed - Enter date product was observed.
6. Name and Address of Shipper - Enter the shipper's organizational name and address as identified by the consignee, invoice, receiving ticket, or other available material.
7. Type of Shipping Records - Enter type of shipping records examined, if any were available.
8. Shipping Record Numbers - Enter the identifying number from the bill of lading or other available shipping record.
9. Date of Shipping Records - Enter date of shipping record, if any.
10. Name of Processor and Address - Enter the processor's organizational name and address. If the shipper and processor are the same, the entry "Same as item 6" will suffice. If the case involves several processors, enter the name and address of the main processor, plus the word "various."
11. Method of Transportation - Enter the mode of transportation, such as Shipper's truck, Consignee's truck, or Tom Jones Company. Do not use the word "truck" without clarification of its owner or operator.
12. Markings on Containers or Product - Enter identifying marks observed on containers or product.
13. Invoice Issued By - Enter the name and address of the person or firm that issued the invoice, or if

the name is the same as item 6, the entry "Same as item 6."

14. Invoice Number - Enter the invoice number, or, if the invoice is not numbered, enter other identifying features of the invoice. If multiple invoices, enter the invoice numbers in a Word document and enter "See attached document" in the block.
15. Date of Invoice - Enter the invoice date. If multiple dates, enter the dates associated with the invoice numbers in a Word document and enter "See attached document" in the block.
16. Remarks - Entries in this block are to be brief and clarify the findings (e.g., capture key parts of violation – who, what, when, where, why, how, and history); and
17. Certification - Enter the organizational name and address of the shipper or receiver, or his or her representative. Enter the date of signature. In the area directly under his or her signature, print or type the true name (not nickname) of the person who signed the statement. Do this in the presence of the signatory.

**NOTE:** Investigators are to enter NA in the block if a block is not applicable.

## **V. PRIVACY ACT NOTIFICATION**

A. When personal information is obtained from an interviewee, regardless of the documentation of the interview (e.g., statement, MOI), Investigators are to provide a copy of the Privacy Act Notice, FSIS Form 8000-5 to the interviewee, and explain the notice.

B. Personal information includes, but is not limited to, date of birth, place of birth, home address, or home telephone number.

Direct all questions on this directive through supervisory channels.