MIS DIRECTIVE **Adopted from FSIS Directive 8010.4**	8010.4 Revision 5	6/1/17

REPORT OF INVESTIGATION

I. PURPOSE

This directive provides the methodologies that Compliance and Enforcement Officer, investigators and other authorized Agency personnel (referred to hereafter as program employees) will apply when preparing a Report of Investigation (ROI). Program employees prepare an ROI to support findings of apparent violations, food safety incidents, or other allegations under the VT State statutues, Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), the Humane Methods of Slaughter Act (HMSA) (the Acts), and related laws and regulations.

KEY POINTS:

- *Defines an ROI and its components*.
- *Clarifies ROI document, heading, and subheading formats*
- *Sets out the process for the review and submittal of the ROI.*

II. CANCELLATION

VT Directive 8010.4, Revision 3, Report of Investigation, dated 6/25/12

III. . BACKGROUND

The purpose of the ROI is to set out findings and supporting evidence that program employees developed in investigating apparent violations, food safety incidents, or other allegations relating to the Statutes and Acts, using the methodology set out in FSIS Directive 8010.2, *Investigative Methodology* . The ROI provides VAAFM a means to determine whether the evidence supports the findings, and whether the Agency will take action. The ROI is used to support Agency decisions, investigative findings, and enforcement or legal actions. The ROI is also used to document investigations that may not result in a violation.

IV. THE ROI

A. A well-written ROI chronicles the nature of the alleged violations and the applicable statutes and regulations, and organizes the findings and supporting evidence to allow the reader to evaluate and assess whether the ROI and evidence support the allegations, and determine if a violation(s) occurred. An ROI is to be factually correct, impartial, concise, clear, logically organized, and completed in a timely manner.

B. Each ROI is to contain clear and concise statements of findings that present the relevant evidence, identify sources for the evidence and report the evidence or other case information in context (e.g., fact as fact, observations as observations). The ROI is to be exhibit oriented; therefore, the text narrative is to be a summary of the findings and is to refer the reader to particular exhibits for detail.

C. Program employees are to ensure that the ROI:

1. Communicates the purpose, scope, sources of information, facts, and findings of the investigation appropriately and is restricted to items that are important and relevant to the scope and objectives of the investigation;

2. Sets forth facts in a manner that facilitates reader comprehension;

3. Includes a statement of the applicable law that was allegedly violated or that formed the basis for the investigation;

4. Is factual, objective, and does not contain personal opinions or views;

5. Avoids unanswered questions and does not leave matters open to interpretation;

6. Records or references all pertinent evidence and investigative activities;

7. Contains enough relevant and reliable evidence to support the findings; and

8. Is completed in a timely manner.

D. Program employees are to limit distribution of the ROI to officials responsible for taking action on the matter investigated and to those having an official need to know the results of the investigation (e.g., VT Assistant Attorney General, Division Director, VT Secretary of Agriculture). Program employees are not to distribute the ROI without authorization.

V. ROI FORMAT

A. Title Page

B. Title Page Contents :The generated title page is to include the following information:

1. City and State of the program employee completing the ROI

2. Title Block containing the following information:

    a. File number;

    b. Date of the violation;

    c. Name and address of the primary violator (i.e., firm or individual that is the subject of the investigation);

    d. Case type and violation type; and

    e. Name of the program employee completing the ROI.

3. Signature Lines and date:

    a. Program Employee – upon completion of the final ROI, the program employee is to sign and date the form.

    b. Director – upon his or her review of the ROI, Director (or designee) is to sign and date the form.

    c. When a designee signs the form, the designee is to annotate the signature block with the word “for.”

C. Continuation Title Page – If the ROI involves multiple firms or individuals, Investigators are to prepare a separate, Continuation Title Page, using Microsoft Word, upload it with the ROI Title Page, label the Continuation Title Page with the heading “Title Continued,” and enter the additional firm name(s) and firm address or individual/multiple individuals information under the heading. Investigators are not to include any other information on the continuation page.

D. ROI Document Format – Investigators are to prepare the ROI text and other documents created by Investigators for use in the ROI (e.g., Organizational Structure) using Microsoft Word.

1. The text of the ROI, including headings, and other documents created for the ROI, are to be in font type Times New Roman, font size 11 point; and

2. The text of the ROI and all other documents created for the ROI are to use 0.5” margin on all sides.

NOTE: Subject, Witnesses, Firms – When a subject, witness, or firm is mentioned more than once in the ROI, Investigators are to write the full name of the person or firm the first time it is used in the ROI; thereafter, they are to use uppercase letters to abbreviate and reference names of those persons and firms (e.g., John Smith (SMITH); Clyde’s Meat Company (CLYDES). Investigators are not to use this abbreviation method for Federal, State, and local government employees.

E. ROI Headings Format – Investigators are to prepare the ROI headings and any sub-headings using the following format:

1. Headings Format – Headings in the ROI are to be in uppercase, underlined, and aligned over each section on the left side of the page (e.g., <u>PREDICATION</u>). Investigators are to ensure that headings do not start at the bottom of a page.

2. Sub-headings Format – Sub-headings may be used to organize the Predication and Findings sections of the ROI and to aid the reader’s comprehension (i.e., sub-headings are <u>not</u> to be used in the Summary and Background sections). When used, sub-headings are to be formatted in title case and underlined (e.g., <u>ABC Sold Misbranded Product)</u>.

F. ROI Headings – Investigators are to prepare the ROI text to include the following components as headings:

1. Predication – A brief statement that identifies when and how the program area became aware of and involved in the issue;

2. Objective – A brief statement that identifies the purpose (one or more objectives) of the investigation or inquiry;

3. Summary – A brief statement of the results of the investigation or inquiry with respect to the Objective statement, presented in the same order as the objectives to answer whether the findings

sustain or do not sustain the respective objectives;

4. Background – A brief statement that states the Agency's statutory and regulatory responsibilities and identifies relevant background information about the subject of the investigation (e.g., nature of business operations, organization, responsible officials). Program employees also may use background, when necessary, to explain any unusual, confusing, or complex regulatory or other issues (e.g., issues concerning Specified Risk Material (SRM) or humane handling);

5. Findings – Organization and content of the findings are critical to the ROI. Sub-headings may be used to organize the findings and aid in the reader's understanding. These sub-headings are to be in title case and underlined. **Example**: Product Disposition. Findings are to be organized as follows:

    a. Include the Firm Information and Subject of Investigation;

    b. Include a paragraph that charges the elements of the statutory or regulatory violation;

NOTE: Investigators may need to address a factual situation that may not involve violations, but an ROI is necessary to show a completed inquiry (e.g., Office of Inspector General (OIG) Hotline Complaint with no violation).

    c. Cite the relevant section of the statute or statutes and quote or paraphrase the language of the statute (e.g., Title 6 Vermont Statutes Annotated Chapter 204 § 3302(1)(A))

    d. Present the findings and evidence developed in response to each statutory violation or factual situation.

    e. Include, for each finding, a specific reference to the supporting evidence in an exhibit or exhibits.

6. Product Disposition – A brief, specific statement of the products dispositions, if applicable, including whether the Investigator witnessed the disposition actions.

7. Compliance History – Include relevant compliance history for the subjects of the ROI. Include any known violations of the VT Statutes, FMIA, PPIA, or HMSA; relevant administrative enforcement actions; or relevant violations of Federal or other State laws. Include the file number, type of case (e.g., Criminal – Adulterated – Food Safety), closing action (e.g., Notice of Warning, Injunction), and date closed. If none, state "No record of past violations."

G. List of Exhibits – The "List of Exhibits" is the list of evidence included as exhibits in the ROI.

1. There is no prescribed order for exhibits in the ROI. Exhibits are to be presented in an order that facilitates an understanding of the findings and the evidence in the ROI. Exhibits may be placed in the order referenced in the text of the ROI or organized by exhibit type (e.g., statements, invoices).

2. All exhibits used in the ROI are to have an evidence collection date, as required by FSIS Directive 8010.3, *Procedures for Evidence Collection, Safeguarding and Disposal*. The evidence collection date is the date the Investigator obtained the evidence. For organizational structure, flow charts, summary tables, and other demonstrative or informational documents created by Investigators, the evidence collection date is the date the Investigator collected the information from an individual, firm, or government entity to support creating the document, not the date the document was created; and

3. The exhibits may be ordered in various ways. One example of a possible exhibit order is:

    a. A flow chart with a graphic representation of the step-by-step progression of the alleged statutory or regulatory violation;

    b. Memorandum of Interview, a Statement, or a Shipper's or Receiver's Certification (FSIS Form 8050-2) from the subject of the investigation;

    c. Relevant photographs, which must be entered on FSIS Form 8000-7B, Compliance Photographic Report (see Directive 8010.3, Evidence Collection);

    d. Relevant business records (e.g., invoices, bills of lading, storage temperature charts, or formulation records);

    e. Relevant Agency records (e.g., Laboratory Sample Forms, Notice of Detention, Termination of Detention, voluntary disposition forms, and other Federal, State, or local agency records);

    f. Other evidence that is relevant; and

    g. The legal structure of each alleged violator's business or organization (e.g., sole proprietorship, partnership, corporation, L.L.C.), if relevant. If the firm is a corporation, the company structure information is to be included as evidence. The company information is generally available on the website of the State where the business entity is registered

H. List of Evidence Not Included – The "List of Evidence Not Included" is a list of evidence and any non-evidentiary materials obtained in the investigation but not included as exhibits in the ROI.

I. Exhibits – Exhibits supplement and support findings. Each ROI is to include exhibits that are relevant and necessary to facilitate an understanding of the findings and evidence.

1. All exhibits (evidence) included in the ROI are to be identified under an Exhibit Cover Sheet, FSIS Form 8000-7.

2. Each Exhibit Cover Sheet is to include:

    a. A description of the evidence;

    b. Name and address of the person from whom the evidence was obtained;

    c. Name, title, and badge number of the program employee who obtained the evidence;

    d. Date the evidence was obtained;

    e. Location of the original evidence; and

    f. The appropriate sequential exhibit number.

3. Exhibit Legibility – Exhibits are to be legible. When a document is not legible, the program employee is to copy or reproduce the document, make the copy legible by writing in the information or by otherwise reproducing the information, and include both the original document and the legible copy or reproduction with the exhibit. When a signed statement is handwritten, the program employee is to include a verbatim, typed copy with the exhibit.

J. Witness List – A witness list only needs to be compiled when a case is referred for prosecution consideration. When requested, the witness list is to be prepared in the following format:

1. Identity of each witness (name, title);

2. Residence address, if known (street, apt. number, city, state, zip code);

3. Business address (street, suite number, city, state, zip code);

4. Telephone number, if known;

5. A short summary of what the witness can attest to; and

6. Any information that could bear on the credibility of the witness.

VI. REFERRAL AND TRANSFER OF ROI TO FEDERAL COUNTERPARTS

A. At times, it is necessary to refer and transfer an ROI to a federal Regional Office or program area for completion. When the ROI is referred to a federal Regional Office or program area, the assigned Regional Office or program area is responsible for adding its findings to the current ROI. Only one ROI is to be included in the final investigative record. The file is transferred electronically in ANet/ICS.

B. The Regional Office or program area responsible for completing the ROI is to complete the following steps when the RIO is referred and transferred:

1. Complete the ROI and ensure it satisfies all parts of this directive.

2. Determine the proper order of the exhibits and prepare the list of exhibits.

3. Print, sign, and date the ROI cover page. Scan the signed cover page and attach it in the File Attachments tab in the Investigation record in ICS. Only the completing Regional Office or program area is to sign the ROI cover page.

NOTE: Step 3 is not required for transfers between CID regions or between CID and States with access to ANet/ICS because the file is transferred electronically in ANet/ICS.

4. Complete a referral letter as described in FSIS Directive 8010.5, *Case Referral and Disposition*. Only the most current referral letter should be included with the final investigative record.

VIII. ROI SUBMITTAL AND REVIEW

Program employees and supervisors are to use the following process for review and submittal of the ROI in ICS:

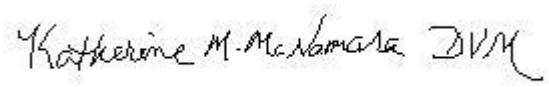
1. Program employees are to submit the ROI to his or her supervisor.

2. The supervisor is to review and evaluate, as necessary, the ROI to ensure that it has been prepared in accordance with this directive.

3. The supervisor is to return the ROI to the program employee if changes are needed. If no changes are necessary, or after revisions are received, the supervisor and/or lead investigator is to consult with the Director regarding recommended actions.

4. Based on the findings and evidence in the ROI, the Director is to make a determination (e.g., issue a Notice of Warning, refer the for civil or criminal prosecution consideration) in accordance with the criteria in VT Directive 8010.5, “Case Referral and Disposition,”.

Refer questions through supervisory channels.



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