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

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

REPORT OF INVESTIGATION

I. PURPOSE

This directive provides the methodologies that Meat Safety Compliance and Enforcement Specialist, 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 statutes, Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), the Humane Methods of Slaughter Act (HMSA) (the Acts), and related rules and regulations.

KEY POINTS:

- *Describes the format and components of a ROI*
- *Updates the process for submission and review of the ROI*
- *Clarifies the process for referring and transferring a ROI*

II. CANCELLATION

VT Directive 8010.4, Revision 5, Report of Investigation

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 is used to support Agency decisions and any enforcement or legal actions that result from investigations. The ROI is also used to document investigations that may not result in a violation or that result in a referral to another authority.

IV. THE ROI

A. A. A well-written ROI chronicles the nature of the alleged violations and the applicable statutes and regulations. The findings and supporting evidence are to be organized in a manner that allows the reader to evaluate and assess whether the ROI and evidence support the allegations and determine if violations occurred. The 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 summarize the investigative findings and refer the reader to particular exhibits for additional supporting information.

C. Program employees are to ensure that the ROI:

1. Communicates the purpose, scope, sources of information, facts, and findings of the investigation appropriately;

2. Includes information that is important and relevant to the scope and objectives of the investigation;

3. Provides facts in a manner that facilitates reader comprehension;

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

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

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

7. Records or references relevant evidence and investigative activities; and

8. Contains enough relevant and reliable evidence to support the findings.

D. Investigators are to complete the ROI within 10 business days of receipt of the last piece of evidence collected to meet the performance measures for timely completion and action on ROIs.

E. 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 title page is to include the following information:

1. Agency organizational information, including the City, and State

2. Title Block containing the following information:
   a. Investigation Number;

   b. Violation Date (i.e., date that the most current alleged violation occurred if there are multiple violation dates);

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

d. Case type and violation type.

3. Signatures 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 that are the subjects of the investigation (i.e. alleged violators), 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 Headings Format – Investigators are to prepare the ROI headings and any subheadings using the following format:

2. Headings are to be in uppercase, underlined, and aligned over each section on the left side of the page (e.g., PREDICATION). Investigators are to ensure that headings do not start at the bottom of a page.

3. Sub-headings may be used to organize sections of the ROI and to aid the reader's comprehension. When used, sub-headings are to be formatted in title case and underlined (e.g., ABC Sold Misbranded Product).

E. 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 identifies relevant background information about the subject of the investigation (e.g., nature of business operations, organization, responsible officials). When necessary, Investigators also are to use the background to:

   a. Explain any unusual, confusing, or complex regulatory provisions or other issues (e.g., issues concerning Specified Risk Material (SRM), humane handling, or

voluntary inspection under the Agricultural Marketing Act); and

b. Provide a brief statement regarding the Agency's statutory authority, and if applicable, the regulatory requirements, if the case is more complex or may be referred to EOS in accordance with VT Directive 8010.5, *Case Referral and Disposition;*

5. Findings – Organization and content of the findings are critical to the ROI. Under this heading, Investigators are to:

a. Include a paragraph that identifies the elements of the statutory, and, if applicable, regulatory violations, for each violator;

NOTE: In some cases, a ROI is necessary to show a completed inquiry, but the ROI may not involve violations (e.g., Office of the Attorneys General (AAG) Hotline Complaint with no violation).

b. Cite the relevant section of the statutes and, if applicable, the regulations; quote or paraphrase the relevant language (e.g., Title 6 Vermont Statutes Annotated Chapter 204 § 3302(1)(A)), TITLE 21 UNITED STATES CODE § 610 (a) and (c)), and link to the appropriate violator;

c. Present the findings and evidence collected for each element of the violation or factual situation. For example, if the Investigator identified violations of 6 V.S.A § 3308 (B), then the findings and evidence are to support each element charged in 6 V.S.A. § 3308 (B) (e.g., individual support for the sale, transportation, offer for sale, and offer for transportation);

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d. Provide a specific reference to the supporting evidence in exhibits for each finding; and

e. Relate the findings back to the objective;

6. Product Disposition – A brief, specific statement of the product's disposition, if applicable, including whether the Investigator witnessed the disposition actions; and

7. Compliance History – The relevant compliance history for the subjects of the ROI, to include any known violations of the VT Statutes, FMIA, PPIA, EPIA, or HMSA; administrative enforcement actions; or violations of other Federal or 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."

NOTE: 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.

A. G. List of Exhibits – The "List of Exhibits" is the list of evidence included as exhibits in the ROI. Investigators are to include in the "List of Exhibits" all evidence that supports the investigative findings in the ROI and other evidence relevant to disposition decisions, including any enforcement actions that may be taken based on the investigation, the ROI, and the case evidence.

1. The list of exhibits is auto-populated with information entered by the Investigator into ANet and is generated by and printed from ANet;

2. 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);

3. All exhibits used in the ROI are to have an evidence collection date, as required by VT Directive 8010.3, *Procedures for Evidence Collection, Safeguarding and Disposal*. The evidence collection date is the date the Investigator obtained the evidence. For organizational structures, 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

4. 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 violation;

    b. Memorandum of Interview, a statement, or a Shipper's or Receiver's Certification (MI-CE-5) from the subject of the investigation;

    c. Relevant photographs, which are to be entered on MI-C&E-24E *Photographic Report*, and MI-C&E-35E *Photographic Log* (see VT Directive 8010.3);

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

    e. Relevant Agency records (e.g., Laboratory Sample Forms, Notice of Detention, Termination of Detention, voluntary disposition forms, Grant of Inspection, 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, limited liability company (LLC)), 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.

G. List of Exhibits Not Included – A list of evidence and any non-evidentiary materials obtained in the investigation but not included as exhibits in the ROI.

H. 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, VT Form MI-C&E-27E.

2. Each Exhibit Cover Sheet is to include:

a. A description of the evidence;

b. Name and address of the person, entity, or place (e.g., where digital photographs were taken) from whom or from which the evidence was obtained;

c. Name, title, and badge number of the program employee who obtained the evidence (or took the photographs);

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, or Shipper's or Receiver's Certification, is handwritten, the program employee is to include a verbatim, typed copy with the exhibit.

I. Witness List – A witness list only needs to be compiled when a case is referred for prosecution consideration. When requested, the witness list of all witnesses with knowledge of the case 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 transfer a ROI to federal counterparts for completion or refer a completed ROI to another authority (e.g., State Meat and Poultry Inspection (MPI) program).

B. When the ROI is referred to another authority, the Meat Safety Compliance Enforcement Specialist is to:

1. Complete a referral letter as described in VT Directive 8010.5, and attach the letter to the investigative record in the secure compliance case folder on the MIS Sharepoint; and

2. Refer the ROI along with scanned copies of relevant case documents to the appropriate parties via secure email for further investigation or enforcement. When secure email is not practical, an Agency approved service for express ground deliver (e.g. FedEx), Certified Mail or hand delivery can be used.

VIII. ROI SUBMITTAL AND REVIEW

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

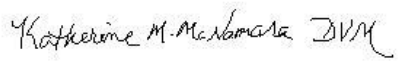
1. Program employees are to submit the ROI to his or her supervisor within 10 business days of the last piece of evidence being collected.

2. The supervisor is to review and evaluate the ROI, as necessary, tto 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 Meat Safety Compliance and Enforcement Specialist is to consult with the Director regarding recommended actions.

4. Based on the findings and evidence in the ROI, the Director or designee, is to make a determination (e.g., issue a Notice of Warning, refer the ROI to another authority; refer for administrative or civil or criminal prosecution consideration, or close with no action) in accordance with the criteria in VT Directive 8010.5, “Case Referral and Disposition,”.

Refer questions through supervisory channels.



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