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 8140.1 Rev, 1**	8140.1 Rev. 1	7/15/2017

NOTICE OF RECEIPT OF ADULTERATED OR MISBRANDED PRODUCT

I. PURPOSE

This directive instructs inspection program personnel (IPP) when to complete and submit VT Form MI-89, *Notice of Receipt of Adulterated or Misbranded Product*.

KEY POINTS

- *Instructs IPP on the completion and distribution of VT Form MI-89*
- *Updates instructions consistent with the current Public Health Information System (PHIS) inspection methodology*

II. BACKGROUND

A. Each inspected establishment is required to produce safe, wholesome, unadulterated, and properly labeled product. When official meat and poultry establishments learn or determine that an adulterated or misbranded product was received or originated from the official establishment, they are required to notify the office within 24 hours (9 CFR 418.2).

B. Under 9 CFR 418.2, both the receiving and producing establishments are required to report adulterated or misbranded product in commerce. However, when establishments notify IPP in the establishments that receive adulterated or misbranded product, and IPP completes and distributes VT Form MI-89, the establishment is not required to notify the office. In this situation, the establishment may either notify the office or IPP, but is not required to notify both.

C. Product that has been contaminated (e.g., with foreign material) and shipped in commerce or between official establishments meets the regulatory definition of *"adulterated"* in 9 CFR 301.2 and is subject to the procedures outlined in this directive.

III. CANCELLATION

FSIS Directive 8140.1, *Preparation and Submission of FSIS Form 8140-1*, 6/12/95

IV. VAAFM RESPONSIBILITIES

A. When an official meat or poultry establishment receives adulterated or misbranded product intended for further processing, IPP are to use VT Form MI-89 to notify IPP at the producing establishment and the office. IPP are NOT to use VT Form MI-89 if:

1. The establishment receiving the adulterated or misbranded product elects to notify the office directly as required in 9 CFR 418.2;

2. The establishment receives adulterated or misbranded product for further processing under VAAFM seal and accompanied by VT Form MI-22, Ball Seal Control Record*;* or

3. The establishment receives adulterated or misbranded product under other control measures with the intent to treat the product to make it not adulterated or misbranded (e.g., *E. coli* O157:H7 positive product received for cooking under appropriate controls).

B. When IPP become aware that an official meat or poultry establishment receives adulterated or misbranded meat or poultry products for further processing without appropriate controls, IPP are to:

Complete VT Form MI-89 as soon as the establishment provides all applicable information.

V. PROCEDURES FOR COMPLETING VT FORM MI-89 AT THE RECEIVING ESTABLISHMENT

A. When IPP are notified by an official establishment that adulterated or misbranded meat or poultry products have been received for further processing, IPP are to:

1. Complete Section A (blocks 1-8) on VT Form MI-89 using establishment records such as sales invoices and bills of lading;

2. Describe in block 9 the observations that support a finding of adulteration or misbranding of the product (e.g., the type of adulteration or misbranding, foreign material such as metal fragments, plastic, rubber, and relevant documentation such as laboratory results);

3. Describe in block 10 the establishment disposition of the product, including whether all or part of the product has been condemned, on hold, reconditioned, or returned to the supplying establishment. If the establishment has not determined how to dispose of the product, IPP are to document the location and control of the affected product (i.e., on QA hold or VTDA retain tag number) and update and resubmit the form once the establishment makes a final determination on how to dispose of the product;

4. State in block 11, the likely cause for the adulteration or misbranding (e.g., product mishandling by the carrier, non-official establishment or facility, or producing establishment) as determined by the receiving establishment. If the investigation is ongoing, IPP are to document the preliminary cause for the adulteration or misbranding and update the form once a final determination is made;

NOTE: Non-official establishments or facilities include Identification (ID) warehouses, private uninspected warehouses, and distribution centers.

5. Sign the form.

6. E-mail VT Form MI-89 to the Office and Supervisor.

B. When VT Form MI-89 is received at the Office, the Office will:

1. Forward the form to the Inspector-in-Charge (IIC) at the producing or shipping establishment(s);

2. Forward the form to the Meat Section Compliance Officer if the product came from a non-inspected facility or appears to have become adulterated during transportation.

VI. PROCEDURES FOR COMPLETING VT FORM MI-89 AT THE SUPPLYING ESTABLISHMENT

A. Upon receiving VT Form MI-89, IPP at the supplying meat or poultry establishment are to:

1. Notify the establishment management and discuss that the establishment produced and shipped adulterated or misbranded product.

2. Perform the directed HACCP Verification or General Labeling Verification task as set out in FSIS Directive 5000.1, *Verifying and Establishment's Food Safety System* for adulterated products or Directive 7000.1, *Verification of Non-Food Safety Consumer Protection Regulatory Requirements* for misbranded products to verify that the establishment has accounted for all product involved and in situations involving adulterated product has taken the appropriate corrective actions under 9 CFR 417.3.

3. Follow the instructions in Directive 5000.1 and discuss developing trends with their supervisor when IPP identify a trend of multiple instances of adulterated or misbranded product produced and shipped from the establishment. IPP are to consider that the establishment may not be able to support the decisions in the hazard analysis.

4. Verify the establishment conducts a reassessment if the establishment produced product adulterated with a hazard not addressed in its HACCP plan (9 CFR 417.3(b)(4)) and verify that the establishment can support the decision made as a result of the reassessment. If IPP have questions or concerns about this support they are to contact their supervisor.

5. Document any observed regulatory noncompliance in accordance with FSIS Directive 5000.1 or Directive 7000.1.

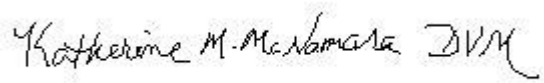
6. Describe establishment management's corrective actions in Section B of VT Form MI-89 and provide a copy to the Office, the establishment, and maintain a copy in the inspection files. If an NR is issued by IPP at the supplying establishment and an NR response is provided by establishment management, the NR response may be attached to VT Form MI-89 instead of completing Section B. If the NR response is provided in PHIS then IPP are to note the PHIS NR number in Section B.

7. Contact the Office when an official establishment notifies IPP that adulterated or misbranded product has entered commerce beyond the product identified on VT Form MI-89. The DO may implement recall procedures as outlined in FSIS Directive 8080.1, *Recall of Meat and Poultry Products*.

NOTE: Repetitive instances of an establishment producing adulterated or misbranded product will be justification for considering further enforcement action in accordance with 9 CFR Part 500, *Rules of Practice*. When determining enforcement actions, each receipt of VT Form MI-89 should be evaluated on a case-by-case basis to determine the cause and nature of the deficiency.

VII. QUESTIONS

Questions can be referred to the meat inspection office at 802-828-2426.



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