

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE  
WASHINGTON, DC

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# FSIS DIRECTIVE

8010.4,  
Revision 2

6/25/08

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## REPORT OF INVESTIGATION

### I. PURPOSE

This directive provides the methodologies that Food Safety and Inspection Service (FSIS), Office of Program Evaluation, Enforcement and Review (OPEER), Compliance and Investigations Division (CID) Investigators and other authorized Agency personnel will apply when preparing a Report of Investigation (ROI). Investigators prepare an ROI to support findings of violations of the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), the Egg Products Inspection Act (EPIA) (the Acts), and related laws and regulations. The ROI also is used to document investigations that may not result in a violation. The ROI should be prepared in a way that will allow FSIS and its managers to use the report to make informed decisions and take appropriate actions to ensure food safety, food defense, and program integrity and effectiveness.

#### Key Points Covered

- Defines an ROI and its components
- Sets out the process for the review of the ROI.

### II. CANCELLATION

FSIS Directive 8010.4, Revision 1, Report of Investigation, dated 9/4/07

### III. REASON FOR REISSUANCE

FSIS is reissuing this directive in its entirety to incorporate instructions related to the In-Commerce System (ICS).

### IV. REFERENCES

Federal Meat Inspection Act (FMIA)  
Poultry Products Inspection Act (PPIA)  
Egg Products Inspection Act (EPIA)  
Humane Methods of Slaughter Act (HMSA)  
9 CFR Part 300 to end

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**DISTRIBUTION:** Electronic

**OPI:** OPPD

FSIS Directive 8010.2, Investigative Methodology

## **V. BACKGROUND**

The purpose of the ROI is to set out findings and supporting evidence that Investigators developed in investigating apparent violations, food safety incidents, or other allegations or observations relating to the Acts, using the methodology set out in FSIS Directive 8010.2, "Investigative Methodology." The ROI provides FSIS a means to determine whether the evidence supports the findings, and whether the Agency should take action. The ROI can be used to support Agency decisions, investigative findings, and enforcement or legal actions. A well-written ROI tells a story to the reader, outlines the nature of the allegations or alleged violations and the applicable statutes and regulations, and organizes the findings and supporting evidence to allow the reader to evaluate evidence presented in the ROI and assess whether it supports the allegations or that violations occurred.

## **VI. THE ROI**

A. Investigators are to write the text of an ROI so that the reader can:

1. comprehend the facts and circumstances of the investigation; and
2. see that the investigation has been handled thoroughly and impartially, based on the findings and evidence presented.

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

C. Investigators are to consider the following questions when preparing the ROI:

1. Does the ROI contain sufficient evidence to support the validity of statements that are presented as findings?
2. Are all the exhibits complete and prepared in accordance with the procedures in this directive?
3. Are all persons and firms correctly identified throughout the ROI?
4. Has the ROI been checked for accuracy?

D. Investigators are to prepare the ROI in the following format:

1. Use uppercase letters for references to names of persons and firms when the person or firm is referenced more than once in the ROI. Example: John Smith (SMITH); ABC Company (ABC).

2. Align headings over each section on the left side of the page. Headings are to be in uppercase and underlined.

3. Title Page - prepare Report of Investigation (ROI) Title Page (FSIS Form 8500-1) in the ICS system by:

a. Office - Under Compliance and Investigations Division, the ICS system will generate the region, the city, and the state of the office completing the ROI;

b. Title Block – The title block contains the following information:

i. file number, which is generated by the ICS system;

ii. date of the violation, which is entered by the Investigator;

iii. name of the subject firm or responsible individual, his or her title, the street number, city, State, and zip code, which is generated by the ICS system; and

iv. case type and violation type, which is entered by the Investigator.

**NOTE:** If there is not adequate space in the title block or the ROI involves multiple firms or individuals, attach a continuation page (a Word document) to the ROI Title Page with the heading, "Title Continued," enter the additional information under the heading. Do not include any other information on this page.

c. The ICS system will generate the name of the Investigator completing the ROI and upon completion of the ROI, and the Investigator will date the ROI.

d. Upon his or her review of the ROI, the RM will sign and date the ROI. When a designee signs the ROI, annotate the signature block with the word "for."

4. Text - the text of the ROI will be completed in a Word document and attached to the ROI Title Page in the ICS system. The ROI text will include the following components as headings in uppercase, underlined, and aligned on the left:

**Example: PREDICATION**

a. Predication - Identifies when and how OPEER became aware of and involved in the issue;

b. Objective - Identifies the purpose of the investigation or inquiry;

c. Summary - Provides a brief statement of results of the investigation or inquiry to answer whether the findings sustain or do not sustain the objective;

d. Background – This section is used to provide a brief statement about the Agency's statutory and regulatory responsibilities; explain any unusual, confusing, or complex issues (e.g., SRM issue, humane handling issue); or identify relevant

background information about the subject of the investigation (e.g., nature of business operations, organization).

e. Findings - Organization and content of the findings are critical to the ROI; therefore, findings are to be organized as follows:

i. Enter a paragraph that either charges the elements of the statutory or regulatory violation or addresses a factual situation that may not involve violations.

ii. Cite the relevant section of the statute or statutes and quote or paraphrase the language of the statute (e.g., TITLE 21 UNITED STATES CODE § 610 (a) and (c)).

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

iv. Each finding is to include a specific reference to the supporting evidence in an exhibit or exhibits.

f. Compliance History – Include any known violations of the FMIA, PPIA, or EPIA; relevant administrative enforcement actions; or relevant violations of other Federal or State laws, which the subject of the ROI was involved in. When reporting past history, include the file number, type of case, closing action, and date closed. If none, state “No record of past violations.”

5. List of Exhibits - Identifies the evidence that supports the findings. The “List of Exhibits” should immediately follow the Text and should contain two columns: Exhibit Number and Description of the Exhibit. Under a heading, “Evidence Obtained but not Submitted,” include a list of evidence and any non-evidentiary materials obtained in the investigation, but not included in the ROI. Separate the “List of Exhibits” from the exhibits in the Report with a tabbed divider identified as “Exhibits.”

6. Exhibits - Each exhibit should be relevant and necessary to facilitate an understanding of the case. Exhibits supplement and support findings. Exhibits are to be legible. When a document is not legible, copy the document, make the copy legible by writing in the information, and include the legible copy with the exhibit. The ROI should include the relevant evidence under an Exhibit Cover Sheet (see paragraph E.) in an order that facilitates understanding of the case.

**Example of exhibits:**

a. a flow chart with an easy-to-follow graphic representation of the step-by-step progression of the alleged statutory or regulatory violation;

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

**NOTE:** When a signed statement is handwritten, include a verbatim, typed copy with the exhibit.

c. photographs that are relevant must be entered on FSIS Form 8000-7B, Compliance Photographic Report;

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

e. relevant Agency records (e.g., FSIS 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 the alleged violator's organization.

**NOTE:** Tab each exhibit with the exhibit number to facilitate locating documents and uniformly distribute the tabs from top to bottom on the right side of the ROI.

E. Using the ICS system, Investigators are to prepare an FSIS Form 8000-7 (Exhibit Cover Sheet) for each exhibit in the ROI and incorporate each exhibit into the ROI. Each Exhibit Cover Sheet is to include:

1. a description of the evidence;
2. name and address of the person from whom the evidence was obtained;
3. name, title and badge number of the person who obtained the evidence;
4. date the evidence was obtained;
5. location of the original evidence (e.g., generally, Investigators collect copies of documents or records; therefore, the original would be held by the person that the copy was collected from); and
6. the appropriate sequential exhibit number, (except when the ROI is referred to another Regional Office for completion, do not enter exhibit numbers.)

F. Witness List – When a case is referred for prosecution consideration, the OPEER Evaluation and Enforcement Division (EED), Office of General Counsel, or a United States Attorneys Office may request that the Investigator prepare and provide a list of all witnesses with knowledge of the case. The list is to be prepared in the following format:

1. identity of each witness (name, title);
2. residence address (if known) (street address, apt. number, city, State, zip code);
3. business address (street address, 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.

## **VII. ROI SUBMITTAL AND REVIEW**

A. Investigators are to submit the ROI in the ICS system to the Supervisory Investigator (SI).

**NOTE:** Investigators are to limit distribution of the ROI to officials responsible for taking action on the matter investigated and those having an official need to know the results of the investigation (e.g., an Assistant United States Attorney).

B. The SI is to review and evaluate the ROI to ensure it has been prepared in accordance with this directive. The SI will return the ROI to the Investigator for editing if any errors or omissions are found.

C. The SI is to submit the ROI in the ICS system to the RM with his or her recommended action.

D. Based on the findings and evidence in the ROI, the RM is to make a determination in accordance with the criteria in FSIS Directive 8010.5, "Case Referral and Disposition" (e.g., issue a Notice of Warning, refer the ROI to EED for civil or criminal prosecution consideration, or other action using the ICS system).

Direct all questions on this directive through supervisory channels.



Assistant Administrator  
Office of Policy and Program Development