

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

FSIS DIRECTIVE	9600.1	3/27/08
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**ILLEGALLY IMPORTED OR SMUGGLED PRODUCTS AND REPORTING
IN THE IMPORT ALERT TRACKING SYSTEM**

I. PURPOSE

This directive provides methodologies that the employees of the Office of Program Evaluation, Enforcement and Review (OPEER) and the Office of International Affairs (OIA), and the Office of Food Defense and Emergency Response are to apply when surveillance or investigations identify meat, poultry, or egg products from a foreign country that have been illegally imported or smuggled, or are intended to be illegally imported or smuggled into the United States (U.S.). This directive also introduces the use of the Import Alert Tracking System (IATS).

II. CANCELLATION

FSIS Notice 59-06, Illegally Imported or Smuggled Product, dated 9/13/06

III. [RESERVED]

IV. REFERENCES

Federal Meat Inspection Act; Poultry Products Inspection Act; and Egg Products Inspection Act

III. BACKGROUND

A. FSIS has the legal authority to regulate the importation of meat, poultry, and egg products into the U.S., as stated in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 620), the Poultry Products Inspection Acts (PPIA) (21 U.S.C. 466), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1046). These Acts state that no meat, poultry, or egg products shall be imported into the U.S. unless they comply with the rules and regulations made by the Secretary to ensure that imported products comply with the Acts.

B. Under this authority, FSIS conducts surveillance and investigative activities at U.S. borders and ports of entry and at food warehouses, distribution centers, retail stores, and other in-commerce businesses where imported meat, poultry, and egg products are entered, offered for entry, held, sold, offered for sale, distributed or offered for distribution. Uncertified products produced in an unapproved country or establishment,

C. For purposes of this directive:

1. “Illegally imported products” are products that may be accurately labeled and properly manifested at the border but do not meet all FSIS requirements for entry into the U.S. (e.g., beef carcasses from an ineligible country).

2. “Smuggled products” are prohibited meat, poultry, or egg products that enter the U.S. by a covert or clandestine act or acts intended to conceal the prohibited products in order to avoid completely or circumvent the regulatory process of entry by fraudulent means (e.g., chicken from an ineligible country packed into boxes labeled as containing fish).

3. “Failure to present products (FTPs)” are products produced by foreign establishments that are properly certified by the foreign government but are delivered into commerce or further processed in an official establishment without FSIS import reinspection as required.

D. The IATS is the FSIS automated data system that principally tracks findings of illegally imported or smuggled products into the United States. The IATS will also track incidents involving Failure to Present (FTP), and any potential incidents of a food defense or of other concern involving imported meat, poultry, or egg products. The IATS has been designed to automate the processes of incident notifications between FSIS program areas. IATS also automates the convening of the Hazard Evaluation Committee (HEC) and creation of a Non-Routine Incident Report (NRIR) when appropriate.

E. The IATS is accessible at: <http://nrims.fsis.usda.gov/iats>. E-Authentication credentials are required to access the IATS. The IATS Users Manual is available through the “Help” menu in the IATS.

IV. OPEER Investigator and OIA Import Surveillance Liaison Officer (ISLO) Responsibilities

A. If an Investigator or ISLO, while conducting surveillance activities, discovers product that has been illegally imported, smuggled, is considered an FTP, or poses a food defense concern (see FSIS Directive 5420.3 and 5420.4), he or she is to:

1. detain and control the product as set out in FSIS Directive 8410.1, Detentions and Seizures.

NOTE: The OPEER Regional Manager or OIA Regional Import Field Supervisor will advise the investigator or ISLO of any further information or investigation FSIS may need to undertake prior to permitting destruction of controlled product.

2. notify the appropriate Area Veterinarian-in-Charge (AVIC) or Smuggling Interdiction Trade Compliance (SITC) officer, of the Animal and Plant Health Inspection Service (APHIS), to determine whether there is an animal health concern prior to destruction. Identified products deemed to be of an animal health concern will have a disposition made per APHIS requirements.

3. issue an Import Alert through the Import Alert Tracking System. Import alerts should be initiated the same day the product is discovered.

4. FSIS program personnel will work with the product owner or their agent to obtain voluntary destruction or other appropriate product disposition. Products that are found in official establishments will be retained by Agency personnel.

B. When the owner or owner's agent does not immediately destroy the product, the OPEER Regional Manager or the OIA Regional Import Field Supervisor will determine whether and, if so, how frequently Investigators or ISLOs need to conduct surveillance activities until the owner or owner's agent arranges the destruction of the product. The need for surveillance is based on factors, including, but not limited to:

1. the type of product;
2. the amount of product;
3. the location of the product;
4. the potential for foreign animal diseases;
5. the ability of the owner or owner's agent to control the product pending disposition; and
6. compliance history or other relevant information related to the owner or owner's agent.

C. Initiate petition for seizure procedures through supervisory channels if product disposition is not achieved.

D. Terminate the detention by completing an FSIS Form 8400-1, after appropriate disposition of the product has been made.

NOTE: Updates (amendments) should be made to the import alert in IATS when relevant information is received or changes in incident status occur.

V. FSIS National Targeting Center for Cargo (NTC-C) Liaison Responsibilities

A. The FSIS NTC-C Liaison will use targeting technologies and strategies at the NTC-C and will work in collaboration with the OIA, IID, Deputy Director of Operations (DD) or his or her designee to review shipments of initial interest (e.g., targeting scores). The FSIS NTC-C Liaison will initiate an Import Alert into the IATS with the concurrence of the DDO for shipments that remain of interest after such collaboration.

VI. OPEER Regional Manager Responsibilities

A. The Regional Manager will determine whether he or she should refer the information obtained concerning the illegally imported or smuggled product to the Office of the Inspector General (OIG) for investigation, using the criteria in the Memorandum of Understanding (MOU) with OIG. The OIG will determine whether to investigate (e.g., open a case memorandum) and, if appropriate, notify Federal, State, or local law enforcement officials or other authorities. Referrals to OIG also will be reported through the Non-Routine Incident Management System in accordance with FSIS Directive 5500.2 Non-Routine Incident Response.

NOTE: If the case is under OIG investigation, the IATS should be updated to reflect the OIG contacts on Page 4 of the alert and the import alert in IATS should then be closed.

B. If OIG declines to investigate or if the Regional Manager determines that referral to the OIG is not required under the MOU, he or she is to:

1. initiate an FSIS investigation,
2. assemble a Hazard Evaluation Committee (HEC), through the automated process in IATS, that will assess the public health risk associated with the product that has been illegally imported or smuggled into the U.S. and,
3. ensure the import alert in IATS is updated to reflect the initiation of an FSIS investigation, the OIG decline, and the recommendations of the HEC.

VII. Hazard Evaluation Committee

A. The HEC is a committee of representatives from OPEER, OIA, OFDER, the Office of Public Science (OPHS), and the Office of Policy and Program Development (OPPD) that may be convened by an OPEER Regional Manager to assess public health or food defense risk associated with product that has been illegally imported or smuggled into the U.S. The IATS automates the process of convening the HEC. FSIS program representatives are maintained in IATS and an automatic notification is sent when the HEC is to be convened. Program area representatives that are not “users” of the IATS (OPPD, OPHS) are granted administrative functions in IATS that allow designated personnel to maintain their respective HEC participation.

B. If the HEC determines that there is a significant public health or food defense risk, and that some follow-up action is required (e.g., product sampling, product recall, or a press release), the Regional Manager will “promote” the Import Alert within IATS to a NRIR as set out in FSIS Directive 5500.2.

NOTE: Import Alerts that are elevated to a Non-Routine Incident are migrated from the IATS to the Non-Routine Incident Management System (NRIMS). The incident will be tracked in NRIMS and closed in the IATS. The IATS supports the automation of Import Alerts to NRIRs.

C. The EMC will determine what actions, such as consulting with other federal, state and territorial health officials, notifying the public via a public health alert, product sampling, or an investigative or public health response, are necessary. OPEER management will notify the Regional Manager of any further actions he or she should take. OPEER will complete the investigative inquiry and make case disposition.

D. If a HEC determines that there is no significant public health or food defense risk (e.g., product sampling or public notification not required), it will inform the Regional Manager. The Regional Manager will complete the investigative inquiry, make a case disposition, update the import alert in IATS, and contact the appropriate state, local or territorial health officials.

VIII. WOF (Watch Out For)

A. The IATS supports the ability for users with certain role delegations to issue a Watch Our For (WOF) notification. The Issue Watch Out For page in IATS allows users to enter details from the Import Alert, designate recipients, attach photographs, and issue the WOF.

B. Once the WOF is created, an automated notification can be sent to one or all of the following distribution options:

- a. OIA Regional Import Field Supervisors
- b. Regional Managers
- c. OIA and OPEER Deputy Directors of Operations
- d. Investigators
- e. ISLOs

C. An “Add E-Mail Address” field is also available to send WOFs to other individuals not included in the above distribution.

IX. Closing Import Alerts in the IATS

A. OIA and OPEER are to work cooperatively on incidents where imported meat, poultry, and egg products are found to be in violation of the FMIA, PPIA, or EPIA. The program area that initiates the import alert in IATS is responsible for managing the alert including the coordination of cooperative actions with other program areas. OIA is to coordinate with other agencies concerning imported products, while OPEER CID is to conduct the investigative inquiries related to illegally imported products.

B. Import alerts remain “open” in the IATS until closed by the ISLO or investigator.

Note: Import alerts that are cross-managed between OPEER and OIA are to have closure from **both** program areas.

1. OPEER is to classify, via IATS, any import alerts that are designated as “further investigated by OIG.” This action will close the alert in IATS.

2. OIA or OPEER may elevate, through an IATS automated process, import alerts that are considered non-routine incidents to NRIMS. This action will close the alert in IATS.

X. Analysis of Data

OIA will analyze the data reported in IATS that tracks illegally imported, smuggle, or FTP products into the United States. This analysis will be completed periodically and will include a summary of countries from which originating product was entered into IATS. The analysis will include confirmation that all alerts are closed and that all identified product has been successfully removed from commerce (disposed of through destruction or re-export). The analysis also will include volume of product associated with incident notices in IATS. OPEER and OFDER will collaborate with OIA when further analyses are needed.

Refer questions through supervisory channels.



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