

National Advisory Committee on Meat and Poultry Inspection

Briefing Paper for the Committee

Administrative Enforcement Report

Purpose:

The purpose of this briefing paper is to update and inform the Committee on the methodology for utilizing and reporting for the Administrative Enforcement Report.

Main Points:

The Administrative Enforcement Report (AER) process was implemented in the Office of Field Operations (OFO) in May 2003. The AER process is the methodology used by OFO to analyze and collect evidence associated with administrative enforcement actions taken under FSIS' Rules of Practice (ROP), and to maintain the investigative file containing evidence that forms the basis for such actions. The AER process was introduced in late April/early May 2003 to approximately 130 OFO Enforcement Investigation Analysis Officers (EIAO), Compliance Officers, District Veterinary Specialists, Deputy District Managers, and District Managers (DM) attending the Dallas training session. Since this session OFO has continued to provide AER training. (The working title of the Consumer Safety Officer (CSO) is now Enforcement Investigations and Analysis Officer to reflect new duties associated with investigation and analysis.)

The AER process requires that for each Notice of Intended Enforcement (NOIE), Suspension or Reinstatement of Suspension action issued by a DM to an establishment, there must be an accompanying investigative file or the AER. The AER contains the evidence that forms the basis for taking the action. The report must contain the accompanying exhibit documents. Typically, the exhibit documents include FSIS non-compliance records, laboratory results, comprehensive assessment reports, notes of weekly meetings held with the establishment, or other pertinent information regarding the noncompliance at issue. Establishment records collected during the course of the investigation that pertain to the enforcement matter are also included as exhibits in the investigative file. Other decision documents are also included such as the NOIE or suspension letter issued to the plant and accompanying documents which summarize how decisions were reached during the enforcement process.

Analysis is a critical component of the AER process. It is expected that all enforcement decisions completed using the AER process are based on careful review and analysis of all pertinent facts. Conclusions regarding enforcement must be supported by the facts and it is expected that the AER reflect that "critical thinking." As such, the AER case file must contain decision documents and exhibits to reflect why enforcement decisions were reached and that such decisions are in accordance with regulations and within our

statutory authorities. Such requirements are designed to ensure uniformity and consistency regarding enforcement outcomes.

If while performing comprehensive assessments, EIAOs encounter situations that warrant an enforcement action, they are expected to collect and assemble evidence for the AER. EIAOs are also utilized throughout the enforcement process. Once a NOIE or suspension is issued, the DM's utilize EIAOs to help assess the adequacy of corrective and preventive actions proffered by the plant and receive input from the Frontline Supervisor and inspection team about the plant's reply. In addition, after receiving an establishment's reply, if the decision is made to defer an enforcement decision or to hold a suspension in abeyance, based on their knowledge of technical and scientific issues, EIAOs are utilized to assist the Frontline Supervisors and inspection personnel in preparing a verification plan used by the inspection team to ensure a plant's corrective and preventive measures have been effectively implemented. EIAOs are expected to collaborate with experts in the Technical Service Center, Office of Public Health and Science or other Agency personnel regarding enforcement matters and prepare decision documents for the AER capturing additional input considered when reaching an enforcement decision.

To enhance the AER process, OFO also recently established a Case Specialist position for the District office. The Case Specialist is expected to assist the District Office in ensuring that the AER is complete. The Case Specialist is the "focal point" for assuring that evidence associated with the enforcement action is added to the AER as the enforcement action progresses. They are also expected to maintain a hard copy of the AER and assist the District Office in maintaining the AER in an electronic format for instant access if an appeal is filed or a legal proceeding, such as an administrative hearing, is scheduled.

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