

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

FSIS NOTICE

23-03

6/17/03

FIREARMS IN WORK ESTABLISHMENTS

I. PURPOSE

This notice provides guidance to address concerns on the presence of firearms in federally inspected plants and other locations where FSIS employees carry out responsibilities under the law and regulations.

II. BACKGROUND

A. FSIS employees must carry out inspection and enforcement duties in a manner that upholds high standards of honesty, integrity, and impartiality. Agency inspection and compliance personnel represent USDA and must make decisions in an atmosphere free of unreasonable distractions, including distractions that pose a risk to safety and personal security.

B. This notice supplements guidance on reporting incidents of assault, threats of assault, intimidation, or interference in **FSIS Directive 4735.4, Reporting Assault, Threats, Intimidation, or Interference**.

III. POLICY

It is FSIS policy to protect employees from assaults, threats of assault, intimidation, or interference relating to the performance of their official duties.

IV. LEGAL POSSESSION

A. The presence of firearms in official establishments and other locations where FSIS employees carry out their duties is not uncommon. A wide variety of Federal, State, and local laws govern the possession of firearms.

B. The mere presence of a firearm by an individual or business regulated by FSIS does not constitute an act of intimidation or interference, under the Federal Meat Inspection Act (FMIA), Poultry Products Inspection Act (PPIA), Egg Products Inspection Act (EPIA), or Title 18 of the United States Code, Crimes and Criminal Procedures. The Agency does not have a legal basis to prohibit or restrain the possession of the firearm if:

DISTRIBUTION:

All Field Employees; All
Offices

NOTICE EXPIRES:

June 1, 2004

OPI:

LERD – Office of the Director

1. The possession of a firearm by an individual in an FSIS-inspected or regulated facility is in accordance with Federal, State, or local laws, **and**

2. The firearm is not used in a manner to intimidate or interfere with the official duties of an FSIS employee.

C. There are situations when firearms have been in official establishments for many years with the knowledge of FSIS personnel, and their presence has not been an issue. Establishments may have firearms for security reasons or for the control or downing of animals.

D. It is possible that private businesses may impose restrictions on the possession of firearms on their premises. FSIS will encourage plants or other businesses to reevaluate the need to keep firearms at their place of business and to assure that they are properly secured.

V. FIREARM VIOLATIONS

A. **Violation.** Under no circumstances are plant personnel allowed to bring firearms into the Government office of an official establishment. Possession of firearms in any USDA laboratory or office is prohibited.

B. Agency Actions.

1. FSIS determines when the presence or use of firearms may constitute a violation of the criminal provisions of our statutes and should be referred for court action or when the threat posed meets the provisions of FSIS Directive 4735.4.

2. FSIS may make appropriate case referrals through District Enforcement Operations if indiscriminate handling or storage of firearms violates FMIA, PPIA, EPIA, or Title 18.

3. Office managers (including in-plant inspection offices with one or more employees), must ensure that a Title 18 poster is hung on the entryway to each building and office that houses FSIS employees. Order the poster from the Field Supply Center, using item number GSADC-8911101946.

VI. SAFETY PROCEDURES

Exercise good judgment in determining when actions or statements constitute interference with official duties or pose a risk to safety. Supervisors and employees will be held accountable when it is found that they were aware of a potentially harmful situation and failed to take appropriate action. FSIS personnel:

A. **Must remove themselves from danger, contact local law enforcement officials immediately, and follow FSIS Directive 4735.4** if at any time there is an actual assault, threat, or other immediate danger.

B. May refuse to engage in conversations or conduct meetings with plant personnel:

1. When firearms are present or used inappropriately.
2. If an employee believes that the presence of a firearm constitutes an unreasonable risk due to past instances of carelessness or questionable indiscriminate behavior.

C. May ask plant personnel to secure or remove any firearm if:

1. It is displayed or presented in a manner that is threatening or intimidating.
2. Industry employees demonstrate signs of anger or hostility toward them.

D. May curtail normal processes and take any of the following actions if the presence of firearms gets in the way of discussing and resolving issues:

1. Discontinue discussions of non-compliance issues. If appropriate, move the discussion to another location where a firearm is not present.
2. Seek law enforcement assistance as backup.
3. Withhold the marks of inspection if the danger is unreasonable.

VII. DOCUMENTING AND REPORTING INCIDENTS

A. Documenting Incidents. Employees and immediate supervisors are to continue to follow the policy and procedures provided in FSIS Directive 4735.4 to document incidents of assault, threat, intimidation, or interference.

B. Reporting Incidents.

1. **Hostile Environment.** Careless or indiscriminate firearm handling or storage, jokes or horseplay, or belligerent or hostile exchanges are not tolerated. Report the information to the supervisor, the District Manager or Assistant District Manager for Enforcement, and the Workplace Violence Prevention and Response Coordinator. The Coordinator can be reached on the toll free, 24-hour pager, 888-894-6217.

2. **Other Incidents.** Report the information to the Workplace Violence Coordinator if you feel or are concerned that State or local laws have been violated. Information and the contact telephone numbers for the immediate reporting of incidents are in the Preventing Workplace Violence Brochure dated February 1999. Request immediate assistance from local law enforcement and the Office of the Inspector General.

VIII. **WITHHOLDING AND SUSPENDING INSPECTIONS**

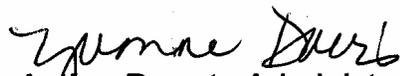
A. FSIS may withhold the marks of inspection and suspend the assignment of inspectors when Agency employees are not able to carry out their responsibilities without fear or intimidation because of the actions by plant personnel. These actions must be coordinated through the district manager.

B. These actions are not designed to punish wrongdoers, but to protect employees. Withholdings or suspensions are lifted when FSIS determines that plants have taken steps that assure that FSIS employees are safe and can apply unimpeded critical food safety judgments.

IX. **CRIMINAL PENALTIES**

A. The FMIA, PPIA, and EPIA each provide criminal penalties for violations.

B. Assault or threats to Government officials may also violate the provisions of Title 18 of the United States Criminal Code. Criminal penalties are imposed through the United States District courts.


Acting Deputy Administrator
Office of Management