

FSIS NOTICE

14-98

4-20-98

INSPECTION DECISION APPEALS

This notice explains FSIS policy regarding the appeal of inspection findings and decisions. It also establishes the Inspection Appeals Tracking System (IATS) report. This notice supersedes any other correspondence related to the appeals of inspection findings and decisions.

FSIS regulations provide establishments with the opportunity to appeal, orally or in writing, an inspection finding or decision made by any program employee. Such appeals should be directed to the immediate supervisor. The following outlines the chain-of-command for inspection decisions:

1. Program employee, including the Inspector-in-Charge (IIC), who made the determination
2. Circuit Supervisor
3. District Manager
4. Assistant Deputy Administrator for District Inspection Operations
5. Deputy Administrator for Office of Field Operations

Prior to appealing, the establishment may request that the program employee or IIC reconsider his or her finding or decision. The program employee or IIC who made the finding or decision should evaluate and consider any factual information the establishment provides. Program employees should encourage establishment management officials who indicate that they may appeal a decision or finding to do so as soon as possible. Timely appeals will help ensure that the relevant information is provided to subsequent decision makers promptly and that facts and observations can be verified. Timely appeals also avoid the implication that the establishment does not contest the inspection finding or decision.

When an appeal reaches any FSIS program employee, there are several points to keep in mind in order to address it in the most appropriate manner:

- 1) Act on each appeal promptly and professionally,
- 2) Obtain all relevant factual information,

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3) Objectively evaluate the inspection findings and decisions made by inspection personnel and the information provided by the establishment,

4) Thoroughly analyze all supporting documentation, including Program Deficiency Reports (PDR), Noncompliance Records (NR), and the establishment's written or oral statements in support of its appeal,

5) Contact the Technical Service Center for scientific or technical advice (if necessary),

6) Make a decision regarding the appeal, document your determination, and provide necessary information for the IATS report (described below). If modifying or reversing a previous appeal decision, document the change and attach it to the subject PDR or NR,

and

7) Communicate the decision orally or in writing to establishment management officials and other FSIS program employees involved with that appeal.

The IATS report is being established to track appeals and ensure that they are processed in a timely and effective manner. The IATS report includes the name and address of the establishment and establishment management official making the appeal, the level and status of the appeal in FSIS, the date the appeal was made, and the related PDR or NR number and description of the finding or decision. Attachment 1 describes what each block of the IATS report should contain and Attachment 2 is a sample IATS report. The District Offices will submit the report to headquarters on a weekly basis. Until it is automated, the IATS report should be faxed to (202) 720-6050, Office of the Deputy Administrator for District Inspection Operations.

An FSIS program employee making decisions concerning appeals should recognize that his or her decision may also be appealed. Some appeals will be sustained and some will be modified or reversed, by supervisory personnel. A modification or reversal by a supervisor should not be seen as a lack of support by the supervisor.

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Margaret O'K. Glavin

Deputy Administrator
Office Policy, Program Development
and Evaluation

**INSTRUCTIONS FOR COMPLETING
THE INSPECTION APPEALS TRACKING SYSTEM (IATS) REPORT**

Block	Contents

Establishment Name and Number	Establishment name, address, and establishment number.
Person Making Appeal	The name and title of the establishment official making the appeal.
Level and Status	The level of the appeal (i.e., IIC, CS or DM.) The status of the appeal.
Date Appeal Made	The date the appeal was made to each level.
PDR/NR Number and Description	First, the PDR and NR number. Second, a statement describing exactly what decision or action the establishment is appealing.
Closure	The closure date, explanation of the resolution, and the disposition of the appeal as either "denied" or "granted."

See Attachment 2 for an example.

THE INSPECTION APPEALS TRACKING SYSTEM (IATS) REPORT

District: _____

Reporting Period: _____

Establishment	Person Making Appeal	Level and Status	Date Appeal Made	PDR/NR Number and Description	Closure
ABC Packing Co. 123 Main Street Any town, USA xxxxx Est No. xxxxxx	Bob Jones, VP	Circuit Level -- Securing a copy of the PDR in question.	3/25/98 -- IIC level. 3/30/98 -- Circuit level.	PDR # 47568 -- Plant does not believe the deficiency classification made by the inspector should have been marked as "critical."	Closed at the circuit level on 4/2/98 after providing explanation to Mr. Jones. Appeal denied.
ABC Packing Co. 123 Main Street Any town, USA xxxxx Est No. xxxxxx	Bob Jones, VP	District Level --- In the progress of evaluating the appeal.	3/26/98 -- IIC level. 3/30/98 -- Circuit level. 4/3/98 -- District level.	NR #98876 -- Plant disagrees with the description of the noncompliance and believes that the inspector failed to consider all relevant information.	Closed at the district level on 4/6/98 after reviewing the specifics of the appeal and evaluating the facts. Spoke to Mr. Jones and advised him as to why the description was correct. Appeal denied.

Note: List establishments in alphabetical order. This table was preparing using the WordPerfect table feature. Preparers may use another format, but each of the above elements must be included and presented as described in Attachment 1.