



United States
Department of
Agriculture

Food Safety
and Inspection
Service

FSIS Directive
4735.7

Revision 1

Industry Complaints Against FSIS Program Employees

INDUSTRY COMPLAINTS AGAINST FSIS PROGRAM EMPLOYEES

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

FSIS DIRECTIVE	4735.7 REVISION 1	5/25/05
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INDUSTRY COMPLAINTS AGAINST PROGRAM EMPLOYEES

PART ONE—BASIC PROVISIONS

I. PURPOSE

This directive establishes policy, and prescribes procedures for processing and resolving industry * * * complaints against program employees resulting from official duties or activities.

II. CANCELLATION

This directive cancels FSIS Directive 4735.7, dated 10/22/97. ■

III. REASON FOR REISSUANCE

This directive updates the guidelines for resolving industry * * * complaints against program employees.

IV. REFERENCES

FSIS Directive 4735.3, Employee Responsibilities and Conduct
FSIS Directive 4735.4, Revision 3, Reporting Assault, Harassment, Interference,
Intimidation or Threat

V. ABBREVIATIONS AND FORMS

The following will appear in their shortened form in this directive:

DM	District Manager
EARO	Executive Associate for Regulatory Operations, OFO
ERB	Employee Relations Branch, Labor and Employee Relations Division

 ■

DISTRIBUTION:

All Inspection Employees; Plant
Management; T/A Plant Management;
TRA; ABB

OPI:

OFO – Office of the Assistant Administrator

LERD Labor and Employee Relations Division
OFO Office of Field Operations
OIG Office of Inspector General

■

VI. POLICY

A. FSIS regulations provide establishments the opportunity to appeal, orally and in writing, an inspection finding or regulatory decision made by an FSIS employee. These appeals follow the chain of command. This directive **does not apply to industry appeals** which follow a separate process.

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B. Program employees must display professional behavior and conduct their regulatory duties in a fair, unbiased, equitable, and non-retaliatory manner.

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C. It is FSIS policy to:

1. Conduct an inquiry into all complaints * * * against program employees by industry officials.

2. Seek prompt resolution of complaints * * * against program employees by industry officials.

3. Ensure all parties receive information on the results of the inquiry, as appropriate.

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VII. DEFINITIONS

A. **Formal Complaint.** An industry official's charge of wrongdoing by a program employee. **EXAMPLES:** Assault, harassment, interference, intimidation, retaliation, threat or other misconduct. Formal complaints are generally written and may require a formal inquiry and response.

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B. **Informal Complaint.** An industry official's expression of dissatisfaction or disagreement with a program employee. Informal complaints are generally verbal and are addressed at the local level.

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C. **Assault.** An act that results in bodily harm or willful attempt to inflict bodily harm.

D. **Harassment.** An act or behavior to annoy or torment repeatedly and persistently.

E. **Industry Appeal.** An industry's appeal of a specific inspection decision or regulatory action taken by a program employee.

F. **Program Employee.** Any employee who is assigned to perform or supervise inspection, enforcement, or other program-related duties and responsibilities.

G. **Interference.** An act or behavior to hamper, hinder, block, resist, oppose or impede the actions or activities of another person. * * * Interference includes non-threatening actions intended to prevent or adversely affect the performance of official duties and responsibilities.

H. **Intimidation.** An act or behavior to compel or deter action by coercion, extortion, duress, or threat.

I. **Retaliation.** An activity perceived as an action to get even or to control a particular situation or business relationship.

J. **Threat.**
Any gesture or verbal or written expression that conveys intent to cause physical or non-physical harm to the individuals or their property.

VIII. **COVERAGE**

This directive covers the policies and procedures that apply when a regulated industry representative complains about an Agency employee. Procedures for reporting workplace violence against Agency employees, by industry employees, are covered under FSS Directive 4735.4, Revision 3, Reporting Assault, Harassment, Interference, Intimidation or Threat.

PART TWO—COMPLAINT PROCEDURE

I. COMPLAINTS

Supervisors and management officials must follow the procedures in this directive when a complaint or allegation of wrongdoing is lodged against an Agency employee by an industry official. Supervisory officials must incorporate the work relationship principles into resolutions. (See Attachment 2-1, Relationship Principles.) Resolution at the lowest possible supervisory level is desirable and encouraged.

A. **Informal Complaints.** Occasionally people disagree with one another. Disagreements may occur as a result of carrying out regulatory duties and responsibilities. Program employees must avoid unprofessional behavior. Sometimes after a heated discussion, a "cooling off" period is advisable before continuing the discussion. Supervisory officials may receive verbal complaints. When complaints are received, the supervisor, DM, or designee contacts industry officials or others and attempts to resolve the complaint.

B. **Formal Complaints.** When a plant owner or operator contacts the supervisor or DM, in writing, with specific accusations against a program employee, the following actions occur:

1. The supervisor or DM requests in writing the following information if such information is not included in a letter from the plant owner or operator. (**NOTE:** If the plant is staffed with State employees under provisions of the Talmadge-Aiken Act, the State official designated as the Coordinator receives, reviews, and attempts to resolve the complaint. Plant owners or operators may contact the DM if they are not satisfied with the disposition of the matter.)

- a. Name of complainant.
- b. Name of Agency employee(s).
- c. Statement explaining the nature and scope of the incident(s) including date(s), time(s), and names of witnesses.
- d. Explanation of prior attempts to resolve the complaint, if applicable.

2. The accused Agency employee is advised of the written complaint or allegations pertaining to the employee within a reasonable period after receipt by the Agency, unless releasing such information is prohibited by law or relates to a pending or ongoing investigation.

3. The supervisor or DM reviews the complaint and gathers preliminary information.

4. The supervisor or DM determines, within 10 working days, whether to conduct or initiate a review of the situation or request a formal investigation. Requests for formal investigations are made in writing to the Branch Chief, ERB, LERD.

5. If a review is initiated, the supervisor or DM provides a copy of the written complaint to the employee unless prohibited as outlined under number two above. The supervisor or DM requests, in writing, a response from the accused employee, if appropriate.

6. DM determines, within 10 working days, the assignment status of the employee. The DM considers the severity of the accusation, history, and preliminary information, to determine the appropriate assignment status decision. The three options for assignment status are:

- a. No change in assignment.
- b. Detail employee to another assignment.
- c. Place employee on administrative leave.

II. MISCONDUCT ALLEGATION

When it is alleged that a program employee may have engaged in:

A. **Theft or an attempt to extort funds** through reimbursable services and overtime procedures, or other criminal activities, the employee or supervisor receiving this information immediately telephones the USDA OIG to report such activity. Attachment 2-2, Regional Offices of the Inspector General, lists the addresses, telephone numbers, and territories of OIG offices.

B. **Instances of serious misconduct**, the employee or supervisor receiving this information immediately contacts the supervisor, DM, or ERB.

III. RESOLUTION ATTEMPT

When the supervisor, DM, or designee is able to resolve the complaint, the complainant receives a letter describing the terms and basis for resolution. The District Office maintains the complaint file.

IV. DISSATISFACTION WITH THE DM RESOLUTION

If the industry official (complainant) is dissatisfied with the DM's resolution of the complaint, the industry official may refer the matter to the EARO. The EARO:

A. Requests the complete case file from the DM on receipt of the industry official's letter.

B. Determines, within 10 days, the appropriateness of the DM's response to the complaint: ■

1. If the EARO believes the case was resolved satisfactorily, the EARO sends a letter to the complainant explaining the reasons for supporting the DM's decision. ■
■

2. If the EARO believes additional action is warranted, the EARO initiates further inquiry or initiates a request for a formal investigation. Requests for formal investigations are made in writing to the Branch Chief, ERB, LERD. ■
■

3. The EARO sends the complainant a letter on the status of the accusation, with a courtesy copy to the DM. ■
■

V. **TERMINATION OF INVESTIGATION OR INQUIRY**

A. When the investigation is complete, LERD provides the findings to the EARO and determines the appropriate disciplinary action, if warranted. ■
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B. The EARO sends the complainant a letter on the outcome of the investigation or inquiry, as appropriate, with a courtesy copy to the DM. ■
■

NOTE: The Privacy Act limits sharing of personal information about individuals. ■
As a result, the letter to the complainant may not be explicit about the outcome of the investigation or inquiry if it reveals privacy-protected information about an employee. ■
■

Assistant Administrator
Office of Management

ATTACHMENTS

- 2-1 Relationship Principles
- 2-2 Regional Offices of the Inspector
General

RELATIONSHIP PRINCIPLES

The following principles help establish and foster better relationships with industry. Supervisors and non-supervisors should consider these principles and incorporate them in daily work activities.

1. **Maintain open, honest, and straightforward communication.**

Meaning and intent are conveyed by more than words alone. Voice tone, expression, listening ability, and apparent receptiveness, impact those you wish to reach. Agency employees must know, understand, and consistently apply regulatory policy to make communications effective. Agency employees must also make communications consistent with long-range Agency interests and goals.

2. **Have mutual respect.**

Give respect, get respect. As Federal employees, we must not abuse or disrespect those we regulate. Do not let your behavior cause people to question your motives.

3. **Be issue oriented; do not personalize.**

Focus on the issue being discussed and don't let personalities get in the way. If others personalize a situation, do not get hooked. Discipline yourself not to let personal problems and preferences influence your work behavior and actions.

4. **Maintain a work environment that is absent of the fear of assault, harassment, interference, intimidation, retaliation or threat.**

Our work environment permits program employees and supervisors decisions to be questioned without fear of assault, harassment, interference, intimidation, retaliation or threat. Agency employees must understand that it is the industry's right to appeal a decision. Industry officials should feel free to question program employees' decisions and actions. Some industry officials believe that inspectors and supervisors may harass, interfere, intimidate or retaliate whenever inspection or regulatory decisions and actions are questioned. The Agency must ensure that its regulatory decisions can withstand scrutiny and criticism.

5. **Understand each other's roles and responsibilities.**

Some individuals believe that industry's first commitment is to profit and secondarily to produce a safe, wholesome, and unadulterated meat, poultry, and processed egg product. Meatpackers and processors must produce safe food in order to profit and stay in business. The Agency operates under the premise that industry is responsible for producing safe, wholesome, and unadulterated meat, poultry, and processed egg products.

REGIONAL OFFICES OF THE INSPECTOR GENERAL

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Alaska, Arizona, California, Hawaii,
Idaho, New Mexico, Nevada, Oregon,
Territory of Guam, Trust Territories of
Pacific, and Washington