

Administrative Enforcement Reporting (AER)

EIAO Training



Objectives

Upon completion of this module, you will be able to:

- Describe the purpose of the AER system.
- Describe the primary role of the EIAO in the AER system.

Introduction to AER

- The AER system:
 - was implemented to ensure all administrative actions are fully supported.
 - provides a place to maintain accurate documentation for administrative cases.

The logo for AER consists of three large, bold, sans-serif letters: 'A', 'E', and 'R'. The letter 'A' is a gradient of red and orange. The letter 'E' is a gradient of yellow and green. The letter 'R' is a gradient of blue and purple. Each letter has a subtle drop shadow beneath it.

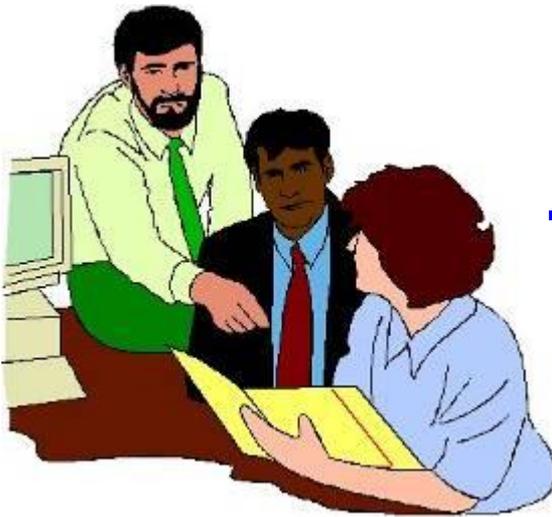
Introduction to AER

- FSIS Directive 5100.3
 - Administrative Enforcement Action Decision Making and Methodology
- FSIS Form 5400-9
 - Administrative Enforcement Report
 - The electronic 5400-9 is maintained in AssuranceNet

The logo for AER (Administrative Enforcement Report) features the letters 'A', 'E', and 'R' in a large, bold, sans-serif font. Each letter is filled with a different color: 'A' is red, 'E' is yellow, and 'R' is blue. The letters are set against a white background with a subtle shadow effect.

AER Initiation

- The AER is prepared to include the supporting documentation and evidence that was used to support the action.



**Administrative
Enforcement
Report**

AER Report and Exhibits

- Demonstrates FSIS had sound basis
 - provides an outside reader such as a judge an understanding of the key events associated with the case



Other Actions that Require an AER

- Recall effectiveness checks
- Prohibited activities as indicated FMIA Sec 610 & PPIA Sec 458-459
- Appeals to the District Manager
- Requests to withdraw custom exemption
- Requests to withdrawal of inspection services

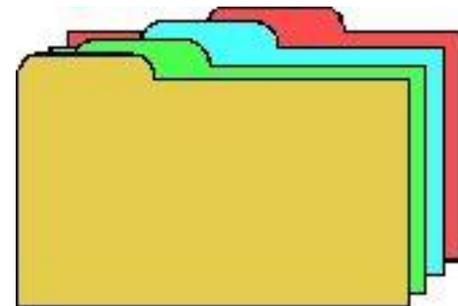
AssuranceNet

- The case management component of the AssuranceNet is used to:
 - Maintain an “electronic” copy of the AER including:
 - FSIS Form 5400-9
 - A list and description of each exhibit
 - The exhibit documents
 - Search and review of AER information



During All Phases of Enforcement

- Develop and compile supporting documents for decisions reached
 - Examples
 - Noncompliance Records
 - Food Safety Assessments
 - Establishment Records
 - Lab Reports
 - Photographs
 - Letters/MOIs



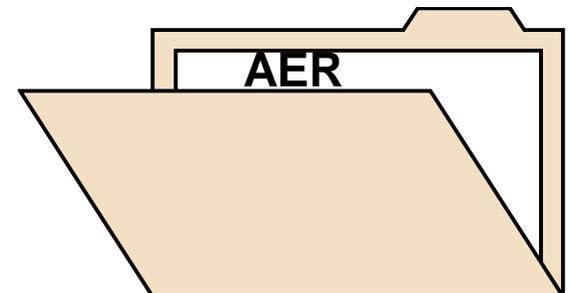
Supporting Documents

- Described in the AER system in a way that make the facts of the case clear
 - Who
 - What
 - When
 - Where
 - and How of the alleged violation
- For enforcement actions, the documents are to link the alleged violations with FSIS statutory and regulatory requirements



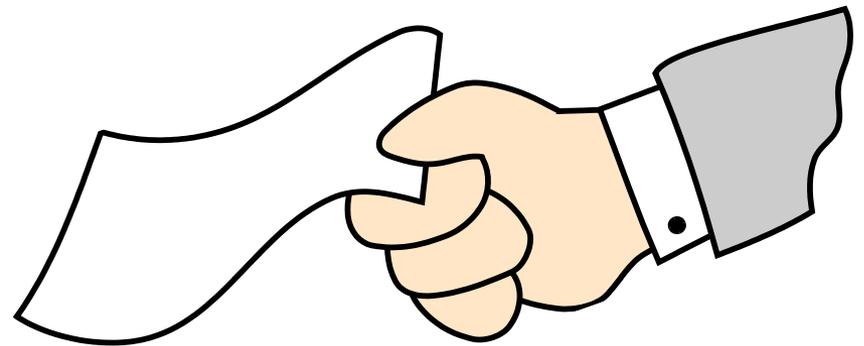
AER Case File

- For each administrative action:
 - One “hardcopy” is prepared and maintained in the District Office including:
 - Signed copies of Agency enforcement letters
 - Other FSIS letters pertaining to action
 - Any responses from establishment officials
 - Any responses to the establishment



Appeals

- If an establishment appeals
 - Decision will be made based on the appeal and the AER in support of the action/decision
 - A copy of decision to deny or sustain the appeal along with supporting documentation must be included as an exhibit in the AER



District Case Specialist

- DCS has primary responsibility to ensure:
 - All AER information is entered in AssuranceNet
 - Official hardcopy of the report is maintained



Entering the AER in AssuranceNet

- The procedure for entering information into AssuranceNet may vary.
 - If an EIAO has the necessary computer equipment and internet access, they may enter AER information directly into the system.
 - Other times, it may be more efficient for the DCS to enter the information into the system in the District Office .

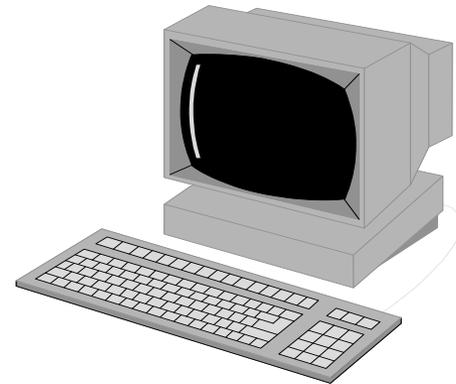
Entering the AER in AssuranceNet

- The DCS will discuss with you the method used in your District for entering cases into AssuranceNet.



Time Frames for Entry

- FSAs that result in enforcement action should be entered into AssuranceNet within 48 hours of the exit conference.
- As new information is gathered; this information should be added to keep the AER up to date



AER Numbering System

- Numbered by Report Type
- Examples
 - NOIE AER

- 80-16-N003

District **FY** **NOIE**

3rd NOIE that
was created
nationally
during the FY

AER Report Types

- N NOIE 80-16-N003
- S Suspension 80-16-S001
- R Reinstatement 80-16-R001
- A Appeals to DM
- REC Recall Effectiveness Checks

AER Report

NOIE

Suspension

Reinstatement

EIAO Role – Perform FSA

- Performs PHREs, FSAs, investigations, and administrative activities, analyzes and documents findings
- Recommends appropriate enforcement action
- Collects all relevant information and evidence to support the AER

EIAO Role – Communicate Findings

- Communicates findings to the IPP, FLS, SEIAO, District Case Specialist, DDM/DM, and establishment
 - Information used to support enforcement must be documented in one of the following:
 - PHRE
 - FSA Report
 - MOI
 - Other documents

EIAO Role – Seek Expert Advice

- For clarification of scientific or technical issues prior to recommendation
 - Contact OPPD or OPHS, use “Ask FSIS”
 - Document guidance and include in AER
- For expedited help in any unusual cases contact the District Office



EIAO Role – Draft Letters

- Draft NOIE and Suspension letters or other documents associated with an AER



EIAO Role – Verification Plan

- Develop a Verification Plan when a deferral or abeyance decision is made
- Discuss the VP with the DCS, FLS, IPP, and establishment

EIAO Role – Follow-up Visits

- Conduct follow-up visits at 30, 60, and 90 day intervals
 - Evaluate generated data
 - Determine if corrective actions are effective
 - Provide recommendations and decide next steps

District Case Specialist

- The DCS takes the lead in developing the AER strategy and assuring that the AER has all documents to support enforcement or other action
- The DCS communicates with EIAOs as AER cases are in progress

District Case Specialist

- Serves as the designed Evidence Officer and maintains AER system
- Ensures the integrity of all documentation
- Reviews PHRE and FSA and ensures recommendations are supportable
- Responsible for the final AER

District Case Specialist

- Ensures proper distribution of the enforcement letters
- Includes all relevant documents are in AER case file



District Manager

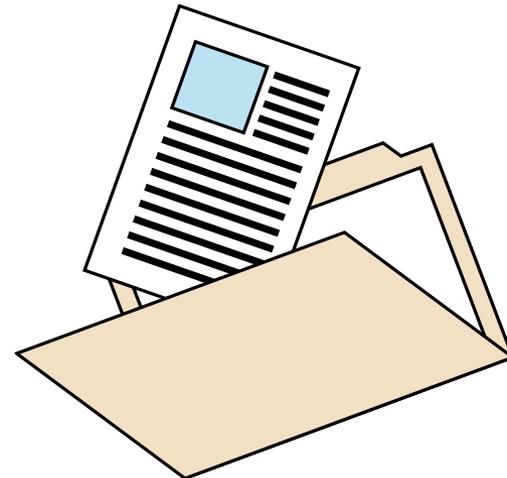
- Ensures administrative enforcement actions are consistent with policy
- Communicates with the DCS and EIAO about case strategy
- Correlates with the OFO AERO
- Refers the case to ELD/CID for violations that require administrative enforcement action, seizure, or other issues as needed

Exhibit Examples

- FSIS Form 5400-9 and accompanying exhibit list
- FSA Report
- Copies of HACCP, SSOP, prerequisite records
- Decision documents, MOIs
- Guidance from OPHS, OPPD or AskFSIS
- Lab results
- Relevant photographs
- Establishment responses to agency letters
- Communications regarding actions
- Any document that supports decisions

Order of Exhibits

- First exhibit should be the letter to establishment notifying them of the action or intended action
- Last exhibit should be the document closing out the action



Example NOIE AER

- Initial Exhibit - NOIE letter
- Final Exhibit
 - Letter of Warning
 - Notice of Suspension



Example Suspension AER

- Initial Exhibit – Notice of Suspension
- Final Exhibit
 - Letter of Warning
 - Notice of Reinstatement of Suspension
 - Referral Letter
 - Voluntary Withdrawal of Inspection Letter



Evidence Procedures

- EIAOs must collect, maintain, and safeguard evidence.
- Follow FSIS Directive 8010.3, Procedures for Evidence Collection, Safeguarding and Disposal, when sending evidence you collect that is associated with an AER to the District Office/ District Case Specialist.

Workshop – Directive 5100.3

1. List types of enforcement letters
EIAOs may draft
2. Describe the exhibits that may
close a Reinstatement AER

Questions

