

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

<h1 style="margin:0;">FSIS DIRECTIVE</h1>	9600.1 Revision 1	11/2/10
---	----------------------	---------

**ILLEGALLY IMPORTED OR SMUGGLED PRODUCTS AND REPORTING IN
THE IMPORT ALERT TRACKING SYSTEM**

I. PURPOSE

This directive provides methodologies that the employees of the Office of Program Evaluation, Enforcement and Review (OPEER), the Office of International Affairs (OIA), and the Office of Data Integration and Food Protection (ODIFP) are to employ when surveillance or investigations identify meat, poultry, or egg products from a foreign country that have been illegally imported or smuggled. This directive also explains the use of the Import Alert Tracking System (IATS).

II. CANCELLATION

FSIS Directive 9600.1, Illegally Imported or Smuggled Products and Reporting in the Import Alert Tracking System, dated 3/27/08.

III. REASON FOR REISSUANCE

FSIS is reissuing this directive to incorporate updated information regarding the IATS.

IV. REFERENCES

Federal Meat Inspection Act, Poultry Products Inspection Act, and Egg Products Inspection Act

V. BACKGROUND

A. FSIS has the legal authority to regulate the importation of meat, poultry, and egg products into the United States, as stated in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 620), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1046). These Acts state that no meat, poultry, or egg products shall be imported into the United States unless they comply with the Acts and the rules and regulations made by the Secretary to implement those Acts.

DISTRIBUTION: Electronic

OPI: OPPD

B. Under this authority, FSIS conducts surveillance and investigative activities at U.S. borders, ports of entry, food warehouses, distribution centers, retail stores, and other in-commerce businesses where imported meat, poultry, and egg products are entered, offered for entry, held, sold, offered for sale, distributed, or offered for distribution.

C. For the purposes of this directive:

1. “Illegally imported products” are products that may be accurately labeled and properly manifested but do not meet all FSIS requirements for entry into the United States (e.g., beef carcasses from an ineligible country).
2. “Smuggled products” are prohibited meat, poultry, or egg products that enter the United States by a covert or clandestine act or acts intended to conceal the prohibited products in order to avoid completely or circumvent the regulatory process of entry by fraudulent means (e.g., chicken from an ineligible country packed into boxes labeled as containing fish).
3. “Failure to present products” (FTP) are amenable products produced by foreign establishments that are properly certified by the foreign government, but are delivered into commerce or further processed in an official establishment without FSIS import reinspection as required.

D. The IATS is the FSIS automated data system that principally tracks findings of illegally imported or smuggled products into the United States. The IATS will also track incidents involving FTP, any potential food defense incident, or incidents of other concern involving imported meat, poultry, or egg products. The IATS has been designed to automate the processes of incident notifications between FSIS program areas. IATS also automates the convening of the Hazard Evaluation Committee (HEC) and the elevation of an Import Alert to an Incident Report (IR) when appropriate.

E. The IATS is accessible at <http://fims.fsis.usda.gov/iats>. E-Authentication credentials are required to access the IATS. The IATS Users Manual is available through the “Help” menu in the IATS.

VI. OPEER INVESTIGATOR AND OIA IMPORT SURVEILLANCE LIAISON OFFICER RESPONSIBILITIES

A. If an Investigator or OIA Import Surveillance Liaison Officer (ISLO), while conducting surveillance activities, discovers product that has been illegally imported or smuggled, is considered an FTP, or poses a food defense concern (see FSIS Directive 5420.3 and 5420.4), he or she is to:

1. Detain and control the product as set out in FSIS Directive 8410.1, Detention and Seizure.

NOTE: The OPEER Regional Director or OIA Regional Import Field Supervisor will advise the Investigator or ISLO of any information FSIS may need to collect or any investigation FSIS may need to undertake before permitting destruction of controlled product.

2. Notify the appropriate Area Veterinarian-in-Charge (AVIC) or Smuggling Interdiction Trade Compliance (SITC) officer of the Animal and Plant Health Inspection Service (APHIS) to determine whether there is an animal health concern before destruction. Identified products deemed to be of animal health concern will be disposed of per APHIS requirements.
3. Determine whether an Import Alert already exists in IATS. The IATS Home Page has three search fields, which are identified as Search Summaries; Search Import Alert #; and Search Import Alert Dates. Each of these search fields contains a drop-down box that allows the user to search either All, Open, or Closed alerts. The following describes each field:
 - a. Search Summaries: The Search Summaries function scans all words in the Action Section (written narrative section) of all existing types of alerts selected (All, Open, or Closed). The function does not search outside of the Action Section; hence, information that is not entered into the narrative Action Section will not be detected by the search. FSIS personnel are encouraged to consider this limitation when including information in the Action Section of alerts. Example: If a product name such as Pork Skins is entered in the Product Information data field only, and is not included again in the Action Section of the IATS, the Search Summary will not find the alert for Pork Skins.
 - b. Search Import Alert #: The Search Import Alert # function searches Import Alerts by any portion of the Import Alert number entered.
 - c. Search Import Alert Dates: The Search Import Alert Dates function searches alerts by any date range selected.
4. Complete any new Import Alerts to the maximum extent possible with the information that is known at the time, and update existing alerts as soon as information becomes available.
5. Determine whether the product may have been shipped to other entities (“trace-forward” activities), or whether product came from other entities where it still may be present (“trace-back” activities).
6. Work with the product owner or owner’s agent to obtain voluntary destruction or other appropriate product disposition. Products that are found in official establishments are to be retained by Agency personnel.

B. Investigators and ISLOs are to conduct trace-forward and trace-back activities to determine the scope of the incident and to determine the extent of detention actions necessary to control adulterated or misbranded product. These activities may occur simultaneously at multiple locations in multiple areas. Investigators and ISLOs are to coordinate related activities to ensure that they are done in a manner that will preserve the integrity of the inquiry. They are also to collect associated records and any other relevant documentation. Once all available information has been obtained, they are to update the Import Alert.

C. If the owner or owner's agent does not agree to an appropriate disposition of the identified products, the OPEER Regional Director or the OIA Regional Import Field Supervisor are to determine whether there is a need for Investigators or ISLOs to conduct surveillance activities to ensure that the product is not moved illegally. The need for surveillance is based on such factors as:

1. Type of product;
2. Amount of product;
3. Location of the product;
4. Potential for foreign animal diseases;
5. Ability of the owner or owner's agent to control the product pending disposition; and
6. Compliance history or other relevant information related to the owner or owner's agent.

D. Investigators and ISLOs are to initiate a petition for seizure as set out in FSIS Directive 8410.1, Revision 5, Detentions and Seizures if product disposition is not achieved.

E. Investigators and ISLOs are to terminate the detention as set out in FSIS Directive 8410.1, Revision 5, Detentions and Seizures after appropriate disposition of the product has been made.

VII. OPEER REGIONAL DIRECTOR RESPONSIBILITIES

A. The OPEER Regional Director is to decide whether to refer the information obtained concerning the illegally imported or smuggled product to the Office of the Inspector General (OIG) for investigation, using the criteria in the Memorandum of Agreement (MOA) with OIG. OIG will determine whether to investigate (e.g., open a case memorandum). If appropriate, OIG will notify Federal, State, or local law enforcement officials or other authorities. Referrals to OIG also may be reported through the FSIS Incident Management System (FIMS) in accordance with FSIS Directive 5500.2, Significant Incident Response.

NOTE: If the case is under OIG investigation, the IATS is to be updated by OPEER to reflect the OIG contacts on page 4 of the alert, and the Import Alert in IATS is then to be closed by OPEER.

B. If OIG declines to investigate, or if the Regional Director determines that referral to OIG is not required under the MOA, the Regional Director is to:

1. Initiate an FSIS investigation;

2. Determine whether a HEC needs to be convened based on the evidence collected during the investigation or on information gained during his or her own inquiry into the hazards that may be presented by the illegally imported or smuggled meat, poultry, or egg products;
3. If information or evidence indicates that there is a risk to public health from the illegally imported or smuggled meat, poultry, or egg products, assemble the HEC, through the automated process in IATS, to assess the public health risk associated with the product that has been illegally imported or smuggled into the United States; and
4. Ensure that the Import Alert in IATS is updated to reflect the OIG position; the initiation of an FSIS investigation or the decision not to investigate; and either the recommendations of the HEC or the justification for why it was not convened.

VIII. HAZARD EVALUATION COMMITTEE

A. The HEC is a committee of representatives from OPEER, OIA, ODIFP, the Office of Public Science (OPHS), and the Office of Policy and Program Development (OPPD). The HEC is to be convened by an OPEER Regional Director to assess public health or food defense risk associated with product that has been illegally imported or that has been smuggled into the United States. The IATS automates the process of convening the HEC. A list of FSIS representatives is maintained in IATS, and an automatic notification is sent when the HEC is to be convened. Program area representatives who are not “users” of the IATS (e.g., OPPD or OPHS) are granted administrative functions in IATS that allow designated personnel to maintain their respective HEC participation.

B. If the HEC determines that there is a public health or food defense risk, and that follow-up action is required (e.g., product sampling, product recall, or a news release), the Regional Director is to elevate the Import Alert within IATS to an IR as set forth in FSIS Directive 5500.2. If a product recall is warranted, the Regional Director is to contact the Recall Management Staff as set out in FSIS Directive 8080.1.

NOTE: Import Alerts that are elevated to an IR are to be migrated from the IATS to the FIMS. The incident is to be closed in IATS and updated in FIMS by the office that migrated the alert into FIMS. The ODIFP Senior Executive Duty Officer (SEDO) is also available for consultation on migration or updating issues. The IATS supports the automation of Import Alerts to IRs.

C. Following consultation between the SEDO and the originator of the IR, the IR is to be updated by the office that created the IR, and a decision is to be made regarding possible activation of the EMC as set forth in FSIS Directive 5500.2, Significant Incident Response. If the EMC is activated, the EMC is to determine what actions, such as consulting with other Federal, State, and territorial health officials; notifying the public via a public health alert; product sampling; or an investigative or public health response, are necessary. OPEER management will notify the Regional Director of any further actions he or she is to take. OPEER is to complete the investigative inquiry and make the case disposition.

D. If a HEC determines that there is no public health or food defense risk (e.g., product sampling or public notification is not warranted), it is to inform the OPEER Regional Director. The OPEER Regional Director or his or her designee is to complete the investigative inquiry, make a case disposition, update the Import Alert in IATS, and notify the appropriate State, local, or territorial health officials that there is no public health or food defense risk.

IX. WOF (WATCH OUT FOR) NOTIFICATION

A. The IATS supports the ability of users with certain role delegations to issue a Watch Out For (WOF) notification. The WOF notification provides a focused version of the alert information and can be disseminated within FSIS or outside of FSIS with supervisory approval. The Issue WOF page in IATS allows users to enter details from the Import Alert, designate recipients, attach photographs, and issue the WOF.

B. Once the WOF is created, an automated notification can be sent to one or all of the following:

1. OIA Import Inspection Division (IID) Regional Import Field Supervisors;
2. OPEER Regional Directors;
3. OIA IID and OPEER Compliance and Investigations Division (CID) Deputy Directors of Operations;
4. Investigators; and
5. ISLOs

C. An “Add E-Mail Address” field is also available with which to send WOFs to other individuals not included in the above distribution. Distribution outside of FSIS requires supervisory approval before dissemination.

NOTE: One importation may generate multiple WOFs, but it is to generate only one Import Alert. Should additional products from the same importation be observed in commerce after the Import Alert has been created, the existing Import Alert is to be amended or updated to reflect the additional products and information.

X. CLOSING IMPORT ALERTS IN THE IATS

A. OIA and OPEER are to work cooperatively on incidents in which imported meat, poultry, or egg products are found to be in violation of the FMIA, PPIA, or EPIA.

B. The program area that initiates the Import Alert in IATS is responsible for managing the alert, including the coordination of cooperative actions with other program areas.

C. Import Alerts remain “open” in the IATS until closed by the ISLO or Investigator.

D. Import Alerts that are cross-managed between OPEER and OIA are to have closure from both program areas.

E. OPEER is to classify, via IATS, any Import Alerts that are designated as “further investigated by OIG.” This action will close the Import Alert in IATS.

F. OIA or OPEER may elevate, through an IATS automated process, import alerts that are considered non-routine incidents to FIMS. This action will close the alert in IATS.

XI. DATA ANALYSIS

On a quarterly basis, OIA and ODIFP are to produce a routine report that identifies trends in data reported in IATS and tracks illegally imported, smuggled, or FTP products into the United States. Trends in country of origin, volume of shipment, product type, and type of alert are to be assessed, along with other statistical measures, if necessary. ODIFP’s report is to include a closure evaluation to determine whether all Import Alerts for the period of interest have been closed and whether all identified product has been successfully removed from commerce. In the event that ODIFP’s closure evaluation indicates that action is needed to close alerts or to remove product from commerce, OIA and OPEER are to undertake the required actions, in accordance with Section X of this Directive. Additionally, OPEER and ODIFP are to collaborate with OIA when further analyses are needed.

Refer questions through supervisory channels.

A handwritten signature in black ink, appearing to read "David Joseph". The signature is written in a cursive, flowing style.

Assistant Administrator
Office of Policy and Program Development