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1. **PURPOSE**

The purpose of this procedure is to describe the process to schedule, prepare, conduct, and summarize an administrative meeting to ensure meetings are consistently implemented and performed by Compliance Unit Staff.

1. **SCOPE**

This procedure applies to administrative meetings held under Minnesota Statute (Minn. Stat.) §§ 34A.06, 25.341, 25.43 and 21 United States Code 335 authorities conducted by the Minnesota Department of Agriculture’s (MDA) Food and Feed Safety Division (FFSD).

1. **BACKGROUND**

This procedure replaces Directive 14.0 Administrative Meeting, Directive 14.1 Scheduling an Administrative Meeting, Directive 14.2 Conducting an Administrative Meeting and Directive 14.3 Follow-up for Administrative Meeting for FFSD Compliance Unit staff use.

administrative meetings are an administrative action described in Minn. Stat. § 34A.06 and are opportunities to be heard under Minn. Stat. §§ 25.341 and 25.43. A hearing held pursuant to 21 United States Code 335 is also considered an administrative meeting. These meetings must be fairly and consistently implemented. The purpose of the administrative meeting is to inform the regulated entities of the alleged violations, provide an opportunity for the regulated parties to demonstrate compliance, and gather additional investigational information when needed. The administrative meeting is used to assist in identifying an appropriate progressive enforcement action after reviewing the evidence and information presented.

The Minnesota Department of Agriculture uses administrative meetings in a variety of situations to provide a platform for evidence collection and to allow firms an opportunity in which they can present evidence. administrative meetings are part of the Progressive Enforcement Continuum and provide an opportunity to gather more information and evidence in a controlled setting in order to determine potential enforcement actions such as administrative, civil, and criminal penalties.

1. **RESPONSIBILITY**

**Program Manager** – The Program Manager will provide information as requested by the Compliance Officer and participate in the Pre-Meeting and Administrative Meeting as requested.

**Compliance Supervisor** – The Compliance Supervisor will assist the Compliance Officer in identifying meeting participants and participate in meetings as requested.

**Compliance Officer** – The Compliance Officer will schedule and coordinate the preparation of meeting; facilitate the meeting discussions; address failure to respond by the firm; and maintain documentation as needed.

**Inspector** - The Inspector will provide information and feedback and participate in the meetings as requested by the Compliance Officer. The Inspector will lead or assist in the review of information submitted by the firm/individual for compliance with orders issued as requested.

**Inspection Supervisor** - The Inspection Supervisor will provide information and feedback and participate in the meetings as requested by the Compliance Officer.

1. **DEFINITIONS**

**Administrative Meeting**: An Administrative Meeting is a meeting initiated by FFSD to inform the regulated entity of alleged violations, provide an opportunity for the regulated party to submit evidence, and gather additional information when needed.

**Tennessen Warning**: A Tennessen Warning, as required by Minnesota Statute Section 13.04 Subd. 2, is a notice given to an individual who is asked to supply private or confidential data concerning the individual which informs of: (a) the purpose and intended use of the requested data within the collecting government entity; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data.

1. **PROCEDURES**
   1. **Schedule Administrative Meeting – Compliance Officer**
      1. Upon receiving approval to conduct an administrative meeting, select a meeting date, location and identify necessary staff for attendance.
         1. Take into account scheduling conflicts, room usage, and evidence load when determining how far in advance to schedule.
         2. Select a date that provides the firm a minimum of ten (10) business days’ notice for the meeting (unless otherwise directed by management).
         3. Determine which staff will need to be included in the meeting, which may include the Inspector, Inspection Supervisor, Program Manager, and/or Compliance Supervisor. Confer will the Compliance Supervisor regarding the addition of the Case Administrator, additional Inspectors or Compliance Officers, Assistant Division Director or Division Director, and/or Department Counsel.
      2. Arrange for an interpreter and/or security if needed and available.
      3. Complete an Outlook Calendar appointment with the subject “Administrative Meeting” and “private” setting. Include the following details:
         1. Link to Enforcement Case Summary
         2. Roles and Responsibilities of MDA attendees
         3. Attendees expected from the firm (when available).
      4. Secure a meeting room in the Freeman building. Other government buildings may be utilized if they are more convenient for all staff to attend.
      5. Update the Outlook appointment as need if additional people will be attending, time or location changes, etc.
   2. **Notify the Firm of the Administrative Meeting – Compliance Officer**
      1. Write a *Notice of Administrative Meeting letter* to notify the firm of the MDA’s intent to hold an administrative meeting. Use the *Notice of Administrative Meeting Letter Template* (Appendix 14.1A) as a basis.
         1. At least fifteen (15) business days before the meeting, send notification letter via certified and first class mail to the firm detailing meeting date and location. In addition to the certified and first class letter, an email can be sent. Other staff can assist when available.
         2. The notification letter may be sent less than fifteen (15) business days before the meeting if a prior arrangement has been made with the firm.
      2. Address scheduling conflicts when identified by the firm.
         1. Evaluate all requests to reschedule the administrative meeting from the firm for reasonableness and staff availability.
         2. When rescheduling is appropriate, send written confirmation by certified mail to the firm confirming the new meeting time. An email can be sent in addition to the certified letter.
         3. Update the Outlook Calendar appointment as necessary.
   3. **Prepare for the Administrative Meeting – Compliance Officer**
      1. Organize the evidence and facts collected to support possible Statute(s) or Rule(s) violation(s). Sources may include USA Food Safety (USAFS), OneNote files, paper files, and SharePoint files.
      2. If clarifications and additional documentation(s) are needed, consult with inspectors and supervisors.
      3. Using violations and case details, identify missing or unclear information and formulate questions for the firm to address.
      4. Set an agenda for the administrative meeting using the *Administrative Meeting Agenda Template* (Appendix 14.2A). Add the agenda to the Outlook Calendar appointment and the case file on SharePoint.
   4. **Conduct a Pre-Meeting**

Compliance Officer

* + 1. Using Outlook Calendar, schedule a pre-meeting with necessary MDA staff..
       1. Hold the pre-meetings at least two (2) business days in advance of the administrative meeting.
       2. Pre-meetings can be held virtually rather than in person when appropriate.
    2. Lead and facilitate the Pre-Meeting discussion by reviewing the firm’s history and the current alleged violations as supported by the submitted evidence.
    3. Discuss the roles of the MDA staff attending the administrative meeting during this call.
       1. Identify if additional staff resources are necessary, ie, support staff to make copies.
       2. Assign an MDA staff member to take notes during the administrative meeting.
    4. Allow time for additional meeting attendees to provide any additional information and input to support the administrative meeting.
    5. Finalize the planned agenda for the administrative meeting to include the specific role of all participants and email to all MDA participants at the conclusion of this meeting.
    6. Print copies of the agenda and relevant regulations, inspection reports and documentation to support the discussion for all meeting participants. Other staff can assist when available.

Inspection Staff

* + 1. The Inspector will provide information and participate in the Pre-Meeting if requested by the Compliance Officer to ensure all factual information and existing evidence is accurate.
    2. The Inspection Supervisor will provide information and participate in the Pre-Meeting if requested by the Compliance Officer.
  1. **Conduct the Administrative Meeting**

Compliance Officer

* + 1. Lead and facilitate the administrative meeting discussion.
    2. Provide each of the meeting participants with the Administrative Meeting Agenda and copies of the relevant regulations, inspection reports or other applicable documentation.
    3. Open the meeting by leading introductions of all staff participating in the meeting.
    4. Inform the firm/individual they are free to leave at any time.
    5. Read the tennessen warning to the entity or individual(s) at the meeting (Appendix 14.2D). If necessary, request their signature on a written copy. If the entity or individual refuses to sign, note that on a copy of the tennessen warning.
    6. Inform the participants that MDA is not recording the meeting and ask if any person(s) are recording the meeting.
       1. If the person(s) chooses to record the meeting, arrange for an MDA recording to occur using phone, computer or other available devices.
       2. Follow the applicable Digital Media work instruction to handle the recording*.*
       3. Document the occurrence in meeting notes.
    7. Present the case as prepared during the Pre-Meeting as documented in the Administrative Meeting Agenda – include Inspection Staff as necessary.
    8. Allow the firm/person(s) an opportunity to respond to the evidence and alleged violations presented.
    9. Allow each MDA staff member participating to ask questions of the firm/person(s) for the purpose of providing clarification on statements made.
    10. Answer questions that the firm/person(s) has regarding the case, violations or methods to achieve compliance to the extent possible (without sharing private data) or direct the question to the inspection staff as appropriate.
    11. Conclude by informing the firm or person(s) that formal communication regarding next actions will occur within ten (10) business days.
    12. Escort the firm/person(s) from the building or assign such duties to another MDA staff member.

Other Department Staff

* + 1. Provide information and participate in the administrative meeting as requested by the Compliance Officer to ensure all factual information is accurate.
    2. Ask questions of the firm/person(s) for the purpose of providing clarification on statements made.
    3. Review documents or other submitted information from the firm/person(s) when provided to establish compliance with orders issued. If additional time is needed to complete assessment of materials, identify the timeframe necessary for completion and a method that will be used to provide communication.
  1. **Address failure to respond or attend by the firm – Compliance Officer**
     1. If the firm or person(s) fails to appear for a scheduled Administrative Meeting, write a letter using *Administrative Meeting Failure to Appear* (Appendix 14.1B) that:

1. Outlines the facts surrounding the missed Administrative Meeting;
2. Documents the attempts to reach the firm or person(s);
3. Instructs the firm or person(s) to respond in writing with a deadline of no less than ten (10) business days for doing so; and
4. States that MDA will proceed with the regulatory enforcement process if no response is received.
   * 1. Send the letter by certified mail within two (2) business days of the scheduled administrative meeting date. Other staff may assist with this task when available.
   1. **Conduct a Post-Meeting**

Compliance Officer

* + 1. Hold the post-meetings with MDA Staff associated with the case no later than three (3) business days after the administrative meeting. Post-meetings can be held virtually rather than in person when necessary and/or may occur immediately after the administrative meeting.
    2. Lead and facilitate the Post-Meeting discussion by reviewing the information provided by the firm/person as it relates the current alleged violations and any potential additional violations.
    3. Allow time for MDA Staff associated with the case to provide any additional information from the review of submitted documents or concerns with the statements from the firm/person.
    4. In consultation with inspection staff, assess if a Reinspection and related fees are necessary as authorized in Minn. Stat. § 28A.085 subd. 1 (2) or if other inspection based follow-up actions are needed.
    5. Request other MDA administrative meeting participants to add updates to the administrative meeting notes prior to finalizing.

Other Department Staff

* + 1. Review any materials submitted by the firm/person during the administrative meeting to assess compliance with orders issued.
    2. Provide assessment of materials to Compliance Officer.
    3. Identify any logistical plans needed for completion of Reinspections or other inspection based follow-up actions that are needed.
  1. **Enforcement Case Update – Compliance Officer**
     1. Update the Case Summary with pertinent details from the administrative meeting.
     2. Attached the finalized administrative meeting notes to the compliance case file in SharePoint.
     3. Using the findings of the administrative meeting, (new evidence or information, evidence of compliance or ongoing non-compliance) continue with further case review as described in *FOOD.60.02 - Enforcement Case Review and Monitoring SOP* for assessment of evidence and recommendation of enforcement actions.
  2. **Maintain Documentation – Compliance Officer**
     1. Maintain all documentation for the administrative meeting in USAFS, SharePoint and/or OneNote per program procedure.

1. **RELATED DOCUMENTS (includes References, Attachments)**

14.1A Notice of Administrative Meeting Letter Template

14.2A Administrative Meeting Agenda Template

14.2D Tennessen Warning

14.1B Administrative Meeting Failure to Appear

14.2C Administrative Meeting Summary Letter Template

FOOD.60.02 - Enforcement Case Review and Monitoring SOP

Feed Enforcement Case Review and Monitoring SOP

1. **EQUIPMENT/MATERIALS NEEDED**

N/A

1. **SAFETY**

If you have any reason to believe that a threat may exist prior to an Administrative Meeting, discuss the situation with your supervisor to determine the appropriate course of action (security or police presence, etc). If a physical or verbal assault (threat) occurs, discontinue the Administrative Meeting and leave the location immediately. Receive medical attention if necessary then call your supervisor as soon as possible and report the incident.

1. **CIRCULATION**

This policy will be circulated to the following groups: Compliance Unit, FFSD Inspectors, FFSD Inspection Supervisors, FFSD Program Management, and the Division Director. The current version will be stored electronically on the FFSD document control site.