

**TEXAS DEPARTMENT OF STATE HEALTH SERVICES
MEAT SAFETY ASSURANCE
AUSTIN, TEXAS**

<h1 style="margin:0;">MSA DIRECTIVE</h1>	8010.3 Rev. 7	10/1/24
--	------------------	---------

**PROCEDURES FOR EVIDENCE COLLECTION, SAFEGUARDING AND
DISPOSAL**

CHAPTER I - GENERAL

I. PURPOSE

This directive prescribes the methodologies that authorized program employees (collectively referred to as “program employees”) are to apply when collecting, safeguarding, and disposing of evidence in the performance of surveillance, investigations, and other activities under the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), the Humane Methods of Slaughter Act (HMSA), the Texas Meat and Poultry Act (TMPIA) and related laws and regulations (collectively referred to as “the Acts”). Meat Safety Assurance (MSA) is reissuing this directive to update procedures for the collection, storage, and retention of evidence.

KEY POINTS:

- *Procedures for collecting, safeguarding, and disposal of evidence, including photographs, videos, and other electronic/digital evidence.*
- *Procedures for collecting investigative samples using the Public Health Information System (PHIS)*
- *Procedures for retention and disposal of evidence*

II. CANCELLATION

MSA Directive 8010.3, Revision 6, Procedures for Evidence Collection, Safeguarding and Disposal

III. BACKGROUND

A. The evidence collected and safeguarded during program activities is essential to the Agency mission and to support Agency decisions, regulatory actions, investigative findings, and enforcement or other legal actions. Evidence includes documents, photographs, investigative samples, items, and other facts or records collected during surveillance, investigations, FSAs, and other activities.

B. The safeguarding of evidence includes the steps needed to establish legal integrity (i.e., identification, security, handling, and chain of custody) from the

time of initial acquisition to final disposal. These steps prevent loss, unauthorized alteration, mishandling, or other actions that may affect the integrity of evidence. Failure to safeguard evidence may affect the use of that evidence to support enforcement or legal actions.

C. Chain of custody is the methodology used to maintain, track, and document control of all evidentiary items. Chain of custody includes the order of places where, and the persons with whom, evidence collected by program employees was located from the time it was collected to its disposal. Evidence disposal addresses retention, disposal requirements, and procedures.

CHAPTER II - EVIDENCE COLLECTION

I. GENERAL

A. Evidence may be used to support Agency decisions, support that a violation of law has occurred, take enforcement actions, to help obtain a ruling in a court of law, or accomplish other purposes. It is critical that evidence be preserved in the condition in which it was collected; that the established protocol for collecting, transferring, storing, and disposing of evidence be followed; and that the chain of custody be documented and maintained throughout each stage of the process. When collecting evidence, program employees are to treat every item of evidence in the manner described in this directive.

B. There are three general categories of evidence for which the procedures outlined in this directive apply. These categories are:

1. Electronic/digital evidence: documents, records, photographs, videos, audio recordings, or other evidence collected or received in an electronic or digital format.
2. Physical evidence: paper documents and records (including originals and copies), or other tangible objects received or collected as evidence; and
3. Investigative samples: physical evidence (typically meat or poultry product samples) collected by a program employee for laboratory testing as part of an investigation.

NOTE: MSA sample results are typically received and handled as electronic/digital evidence.

C. Program employees may, as necessary, develop demonstrative exhibits to illustrate, clarify, or summarize evidence (i.e., documents, records, items, photographs, or samples) collected during surveillance, investigations, FSAs, and

other activities. Demonstrative exhibits need to represent the evidence fairly and accurately. Examples of demonstrative exhibits include diagrams, flowcharts, maps, drawings, or graphs. Program employees are to include any demonstrative exhibits in the list of exhibits.

II. ELECTRONIC/DIGITAL EVIDENCE

A. The Acts provide MSA personnel broad authority to conduct inspections and examinations of the premises, facilities, inventory, records, equipment, and operations of inspected establishments and warehouses, distribution centers, and other in-commerce facilities subject to the statutes. These statutory provisions also provide program employees authority to copy certain business records. Program employees are to use photography, under these authorities and using government-issued equipment only, as a technique, where necessary, to inspect and examine premises, facilities, inventory, records, equipment, and operations and to copy business records. Permission from company management at official establishments or in-commerce facilities to take photographic evidence during surveillance, investigations, or other activities is not necessary.

B. Photographs are one of the most effective and useful forms of evidence. Photographs and video (when appropriate and in consultation with supervisors), can provide visual evidence to demonstrate violative conditions or products, insanitary conditions or practices that are likely to render products injurious to health, or other observations. Photography and digital scanning are used to capture business records and other documents and should be used in place of collecting or reproducing hard copies whenever possible.

C. Examples of conditions or practices effectively documented by photography include:

1. Evidence of rodents, insect infestation, other insanitary conditions, or facility construction or maintenance problems that contribute to insanitary conditions.
2. Routes or pathways of contamination, as well as actual contamination of raw materials or finished products.
3. Condition of raw materials or finished products.
4. Insanitary conditions or equipment contributing to contamination or to violative condition of raw materials or finished products; or
5. Employee practices contributing to contamination or to violative condition of

raw materials or finished products.

D. Examples of evidentiary documents that may be collected or received in electronic/digital format (e.g., scanning, photography, e-mail) include:

1. Sales invoices (as a means of identifying the seller or buyer; the amount, type, price, or date of the sale; or purchase or receipt of the product).
2. Receiving and storage records (as a means of identifying dates relevant to product storage, product condition or temperature, or storage temperature).
3. Product labels and other labeling.
4. Transportation records (as a means of identifying the transporter, the location the product was shipped from, or the location to which the product was shipped).
5. Rodent and pest control service records.
6. Contracts, agreements, or similar transactional documents.
7. E-mails received from firm or individual (when proffered).
8. In-commerce forms or official establishment records, including records showing errors, substitutions, penciled changes in procedure, or faulty practices.
9. Sanitation Standard Operating Procedures (Sanitation SOPs) records and Hazard Analysis and Critical Control Point (HACCP) records.
10. Production records (e.g., establishment production dates, lot numbers, pre-shipment review conducted).
11. Laboratory analysis records of product (analysis requested by a manufacturer, custodian, or owner).
12. Records or reports documented by Federal, State, or local authorities of noncompliance, violations, or other issues.
13. Statements (signed and unsigned) documenting an interview.
14. Memoranda of Interview (MOI).
15. Diagrams, maps, charts, or graphs collected from a subject or witness

during an investigation.

16. Photographs, videos, or other items collected from a subject or witness during an investigation; and
17. Other relevant materials (e.g., information from a company website or social media page).

E. When necessary, program employees are to work with the Central Office (CO), through supervisory channels, to obtain guidance or support to enforce the law, address violations, or to gain access to and examination, including the use of photography, of the facility, inventory, and records. These situations include:

1. When official establishment or in-commerce facility personnel refuse to allow program employees to take photographic evidence, program employees are to explain the statutory authority cited above, and that the camera is a tool used in the examination of facilities and inventories and for copying business records. Refusal to allow program employees to take photographic evidence under these authorities may constitute interference in violation of the statutes and may be addressed, as appropriate, through enforcement measures.

NOTE: In an official establishment, the refusal to allow program employees to take photographic evidence may provide the basis for a withholding action or suspension without prior notification in accordance with [9 CFR 500.3\(a\)\(6\)](#).

2. Official establishment or in-commerce facility personnel may take companion photographs or video for their records, provided it is not done in a manner that opposes, impedes, intimidates, or interferes with any program employees while engaged in or on account of the performance of his or her official duties under the Acts. Program employees who believe that establishment or facility personnel are photographing or videoing them in a manner that is intended to oppose, impede, intimidate, or interfere with the execution of his or her official duties are to notify their supervisors.

NOTE: Program employees are not to surrender any government-issued equipment (e.g., smartphones, tablets, cameras), or evidence collected using government-issued equipment, to official establishment or in-commerce facility personnel. Program employees are to advise the establishment or facility that it can seek to obtain copies of photographs or other digital images collected under the Freedom of Information Act (FOIA).

F. To collect photographic evidence on a government-issued camera, smartphone,

or tablet, program employees are to use the following procedures:

1. Ensure all external photo-sharing options are turned off before using a government-issued smartphone, tablet, or computer for photographic evidence collection. On an iPhone, go to Settings, select Apple ID, select iCloud, and turn off the appropriate sharing options, including Photos (iCloud Photos), iCloud Backup, and any other auto-syncing applications.
2. Prevent the disturbance of the scene until the necessary images are collected. Once the images have been taken, the investigation or other activity may continue.
3. Capture the scene in a comprehensive logical sequence, whenever possible. The sequence should provide an overview of the entire area, a medium eye-view angle, close-up, and extreme close-up images of the subject. Avoid deleting any images in the sequence, even if poorly exposed.
4. Ensure conclusive photographic or videographic identification of the location, as appropriate, in both the exterior and interior sections of the facility (e.g., include an identifiable landmark, such as a street sign, in a photograph of the exterior of the facility); and
5. Depict scale of the subject of a photograph/video, when scale is important, using a ruler or similar item strategically placed in the close-up images of the subject.

G. ANet is the official repository for evidence collected by MSA. Program employees are to:

1. Transfer the files (unaltered and in their original format at the time of collection) into a MSA *Photographic Report*.
2. Upload the MSA *Photographic Report* into the Evidence section of ANet.
3. Promptly delete the photographs/videos/files from all devices after successful transfer is verified.

III. PHYSICAL EVIDENCE

A. To the maximum extent possible, program employees should collect evidentiary documents and records in an electronic/digital format. However, program employees may encounter rare situations in which there is no alternative to collecting or receiving evidentiary documents, records, or other items in the form of physical evidence.

B. When collecting or receiving records, documents, and other items in the form of physical evidence, program employees are to use the following procedures:

1. Collect appropriate records, documents, or items.
2. Complete Section 1 of MSA Form 8110.1, *Evidence Receipt and Transfer*, print a hard copy, sign it, and maintain the hard copy with the original evidence in a secure location.
3. Initial and date the back of each document or record that is obtained as a copy collected (e.g., initials mm/dd/yy). There are occasions when a single piece of documentary evidence may consist of hundreds of sheets of paper, which may or may not be bound or sequentially numbered (e.g., page 6 of 10). In these instances, program employees may use an abbreviated method to initial and date these documents. If the program employee ensures that all pages are accounted for, the program employee may initial and date the first and last page and identify the number of pages (e.g., page 1 of 500 on the first sheet and page 500 of 500 on the last sheet).
4. Once fully completed make a copy of the MSA Form 8110.1, *Evidence Receipt and Transfer*, for the owner or custodian when a source record, document, or item is obtained *in lieu* of a copy. Source documents are considered personal property. Personal property is to be returned to the owner or custodian in the same condition as received; therefore, program employees are to ensure these records, documents, or items are not altered in any way.

IV. INVESTIGATIVE SAMPLES

A. Investigative samples are samples that are collected by Program employees as evidence to support a violation, usually during a criminal investigation. Investigative sample collection is an important component of evidence collection. It includes the sampling of inventory from persons or firms engaged in preparation, distribution, or storage of meat, poultry products. It also includes collection and analysis of other materials, as necessary. The FMIA (21 U.S.C.

642) and PPIA (21 U.S.C. 460) provide authority that includes the sampling of inventory, upon payment of fair market value, from persons or firms engaged in the preparation, distribution, or storage of meat and poultry. When samples are collected, program employees need to collect and submit samples for laboratory analysis in a manner that safeguards the integrity of the evidentiary material, so that it is reliable as evidence.

B. Investigative samples are a type of evidence that requires collection of products, substances, debris, trace matter, or unidentified material for scientific testing to determine characteristics of the collected item; these characteristics may include species identification, microbiological determinations, fecal identification, chemical analysis, residue testing, and many others.

C. When official establishment or in-commerce facility personnel refuse to allow program employees to obtain samples of inventory, Program employees are to explain the statutory authority cited above, and that reasonable samples of the inventory can be taken upon payment of fair market value.

D. Program employees are to contact the MSA Sampling Coordinator to discuss the specific sampling and testing requirements (e.g., number/type of samples to collect, appropriate analyses for the sample) and determine the appropriate laboratory to submit their investigative samples.

E. Examples of items that may be collected for analysis are:

1. Raw, in-process, or finished meat and poultry.
2. Ingredients used in raw, in-process, or finished meat or poultry products.
3. Product packaging.
4. Rodent excreta, insects, apparent nesting, or vermin-gnawed material; or
5. Extraneous materials (e.g., metal, plastic).

F. Sample Types

1. Intact sampling: Obtain a sample of an unopened packaged product. Collecting intact samples, if possible, is preferred; however, if intact sampling is not possible, non-intact samples may be collected; and
2. Non-intact sampling: At times, intact sampling may not be practical because of the volume of product involved or the product's unpackaged state.

G. Sample Selection

1. Program employees are to submit one sample per each type of analysis requested.
2. Samples collected for laboratory analysis are to be collected from the location where the violative condition of the product is known or suspected to exist. Select the portions that will demonstrate the violative nature of the product.
3. There may be times when additional sampling is necessary to gain information or otherwise protect public health. In these situations, obtain guidance from an appropriate source regarding specific techniques, sampling plans, and policy.
4. Program employees are to maintain the integrity of the sample and not cause contamination during sampling. If microbiological analyses will be requested, Program employees are to use aseptic techniques when collecting samples from non-intact samples (opened package), and to the extent necessary when collecting samples from intact (unopened package).

CHAPTER III – SAFEGUARDING, TRANSFERRING, RETAINING, AND DISPOSING OF EVIDENCE

I. SAFEGUARDING EVIDENCE

A. To the maximum extent possible, program employees are to use government issued equipment (e.g., smartphones, tablets, cameras, scanners) to collect evidence in a digital format and upload it in its original, unaltered form into ANet. In situations where it is necessary to collect physical evidence, program employees are to follow the instructions below to ensure its appropriate safeguarding, transfer, retention, and disposal.

B. Physical evidence is to be maintained under security and have a documented and continuous chain of custody showing the order of the places where, and the persons with whom, evidence collected was located, from the time of collection until the time it is admitted into court, or the case is resolved, and the evidence is no longer needed.

C. Security of physical evidence is to be initiated and maintained as follows:

1. Keep the number of people involved in handling evidence to a minimum (e.g., persons associated with the investigation); and

2. Secure and maintain evidence in a secure, controlled-access area (e.g., a locked room, a locked steel file cabinet, or other suitably locked enclosure), accessible only to designated personnel.

D. Chain of custody is to be initiated and maintained as follows:

1. Ensure that the transfer of evidence from one person to another is documented on MSA Form 8110.1, *Evidence Receipt and Transfer*.
2. Ensure that evidence is always accompanied with a signed, hard copy MSA Form 8110.1, *Evidence Receipt and Transfer* to provide identification and the continuous chain of custody; and
3. Ensure that MSA Form 8110.1, *Evidence Receipt and Transfer* is filled out in a legible manner and signed with permanent ink.

II. TRANSFERRING AND RECEIVING PHYSICAL EVIDENCE

A. Transferring Evidence

1. To preserve the chain of custody when evidence is transferred in person, program employees are to:
 - a. Sign MSA Form 8110.1, *Evidence Receipt and Transfer* as the person releasing the evidence and identify the purpose of the change in custody; and
 - b. Sign the evidence when received.
2. To preserve the chain of custody when evidence is transferred using the Agency-approved service for express and ground delivery or using Registered Mail, program employees are to:
 - a. Sign MSA Form 8110.1, *Evidence Receipt and Transfer*, as the person releasing the evidence and identify the purpose of the change in custody.
 - b. Enclose the evidence and MSA Form 8110.1, *Evidence Receipt and Transfer* in a suitable envelope or container marked to show that the contents are evidence, and that it is to be opened only by the identified recipient.
 - c. Seal the envelope or container, write the word "Sealed" on the outside of the envelope or container, and initial and date the envelope or container.

- d. Prepare a transmittal letter or memorandum to include date, file number, description of the evidence, method of transportation, and tracking number.
- e. E-mail or fax a copy of the transmittal letter or memorandum separately to the recipient to advise them of the transfer.
- f. Place the sealed envelope or container and transmittal letter in a larger envelope or container addressed to the recipient.
- g. Use the Agency-approved service for express and ground delivery to transfer evidence when possible and always request tracking and signature confirmation.
- h. Print a tracking receipt from the Agency-approved service's website and maintain with the evidence; and
- i. If Certified Mail is used, always request a Return Receipt for signature confirmation.

B. Receiving Evidence

1. To preserve the chain of custody when evidence is received in person program employees are to:
 - a. Sign MSA Form 8110.1, *Evidence Receipt and Transfer*, as the person receiving the evidence; and
 - b. Maintain the signed MSA Form 8110.1, *Evidence Receipt and Transfer* under security with the evidence.
2. To preserve the chain of custody as the receiver when evidence is received using the Agency- approved service for express and ground delivery or using Certified Mail, program employees are to:
 - a. Sign MSA Form 8110.1, *Evidence Receipt and Transfer*, as the person receiving the evidence.
 - b. Write the word "Opened," the initials of the employee who opened the envelope or container, and the date the envelope or container is opened on the inner envelope or container; and
 - c. Maintain the original initialed envelope or shipping package with the original evidence to provide proof of the chain of custody.

III. RETENTION AND DISPOSAL OF EVIDENCE

A. MSA has established records schedules that govern the creation, maintenance, and disposition of MSA records and documentary materials.

B. These records schedules apply to official MSA records, regardless of type or media (e.g., paper files, digital files), created and/or maintained in official electronic information systems (e.g., ANet, PHIS, e-mail system) or created and/or maintained in formats other than official electronic information systems (e.g., evidence cabinets, paper file systems, electronic file folders).

C. Surveillance records, inspection records, investigative plans, signed statements, MOI, business correspondence, Report of Investigation (ROI) and other evidence (including documentary, photographic, physical, and digital evidence), created, collected, or maintained as part of investigations, enforcement cases, and other activities covered by this directive are official MSA records and are to be retained and disposed of according to approved MSA records schedules.

NOTE: When evidence, including, but not limited to, e-mail messages, text messages, voicemail messages, inspection records, and sample forms, are created, collected, or maintained in an electronic or digital format, such as in PHIS, or on an approved government device (e.g., smartphone), program employees are to download or copy these records for inclusion in the investigative record or case file (i.e., in ANet). These records are then managed (i.e., retained, disposed of) under the applicable, approved MSA records schedule.

CHAPTER IV - RESPONSIBILITIES

I. PROGRAM EMPLOYEES

The program employee who collects evidence is to:

1. Ensure the proper application of methods and procedures for collection, safeguarding, and disposal of evidence in accordance with this directive during surveillance, investigative, or other activities to prevent evidence from loss, unauthorized alteration, mishandling, or other actions that may affect its integrity.
2. Initial and date the back of all evidentiary documents, records, or items for physical evidence authentication, except original property, as previously defined in this directive.

3. Establish and maintain identity of investigative samples from the time of collection until receipt at the laboratory in accordance with this directive.
4. Upon collection of all evidentiary items, prepare MSA Form 8110.1, *Evidence Receipt and Transfer* to establish identification of the evidence, initiate the chain of custody, and provide for evidence authentication.
5. When personal property is collected as evidence, complete MSA Form 8110.1, *Evidence Receipt and Transfer* and provide the owner or custodian of the property with a copy.
6. When an evidentiary item is such that MSA Form 8110.1, *Evidence Receipt and Transfer* cannot easily accompany or be attached to the item, maintain MSA Form 8110.1, *Evidence Receipt and Transfer* with the case evidence.
7. Document transfers of evidence in MSA Form 8110.1, *Evidence Receipt and Transfer* to maintain the chain of custody; and
8. Ensure that the methods and procedures set forth in this directive are followed during liaison activities with other Federal, State, and local law enforcement agencies in the collection, safeguarding, and disposal of evidence, as applicable.

II. QUESTIONS

Refer questions through supervisory channels.



James R. Dillon, DVM, MPH
Director, Texas State Meat and Poultry Inspection Program
Department of State Health Services