GUIDANCE DOCUMENT

CaseCompletionSubmittal

This guidance document is based on Wis. Stat. chs. 93, 95, and 173 and chapter(s) ATCP 10, 12, 16 and 17 Wis. Admin. Code. This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed.

Policy regarding case completion and submittal.

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DATE

Contributors:
BACKGROUND

Field Staff in Animal Health complete a variety of cases. These cases can be related to licensed or registered entities or a variety of non-licensed entities. However all cases are to be handled uniformly.

Case Completion and Submittal Procedure

Cases will be completed and submitted in compliance with the COMPLIANCE AND INSPECTION PROCEDURE that is attached.

Approved by: [Signature]

State Veterinarian
Robert G. Ehlenfeldt, DVM

Date: 8/31/11
COMPLIANCE AND INSPECTION PROCESS

Initiating a Case

Cases in animal health are created in different ways in the division:

1. A case may be generated in the Animal Health Case Tracking System (AHCTS) by the office and emailed to the appropriate field staff.
2. A list of actively licensed entities will be provided to field staff.
3. A field staff person may initiate a case without any contact from the office. This may occur when a field staff person notices a non licensed trucker in a market while doing a market inspection, or if they receive a direct contact from the public regarding a potential violation. In these instances field staff should verify the entities license status and/or premises registration status. This can be done by getting proof of licensure from the entity and/or by calling the Madison office. See the Animal Health Program Directory for office contact information.

Preparing for a case

Prior to taking action on a case, staff should review information available that is applicable to the entity named in the case. Information that may need to be reviewed may include but is not limited to:
- Inspection history.
- Any previously noted violations.
- Current standing of registration and licenses with in the division.
- Any safety alerts on the entity.

If the case is assigned from the office, the premises registration, and status of all applicable licenses will be reviewed prior to being sent to the field, so they can be assumed to be in good standing unless otherwise noted.

If the case is initiated by field staff, and the license status of the entity is unknown, the field staff should verify the entity’s license status by contacting the Madison office. If an entity has an active license through the division of animal health the premises registration does not need to be separately verified.

Types of Cases:

Inspection cases: There are different types of inspections that field staff do. The basic similarity is an inspection is done to educate entities on the rules and ensure compliance. Inspections are almost always performed on licensed entities. Inspection cases are completed by division inspectors.
All animal health licensed facilities that are inspected have inspection reports that are completed for the inspection. The basic process for an inspection is outlined in attachment A.

Investigation cases: An investigation case is a situation where there is an alleged violation taking place and field staff is sent out to investigate that entity and ascertain if they are in violation of the law. Initial investigations are completed by a division inspector.

Investigation cases are documented using a Case Summary Report (CSR). The basic process for the completion of an investigation is outlined in attachment B.

Compliance: Compliance cases are created when there are known violations and enforcement actions are being initiated. All compliance cases are assigned to division compliance specialists.

Inspections and investigation can result in differing levels of violations being noted. Minor violations are handled in the field by the inspector, more serious or repetitive violations require communication with the compliance supervisors and at times a referral to a compliance specialist for further action. See below for a discussion of the levels of violations.

Types of Documentation for Cases

All cases must be documented when they are completed. The documentation required is dependant on the type of case and if there are any violations noted, see types of violations below. The following documents are used, as appropriate, to document case events:

- Inspection Report (always completed if available for the type of entity) A copy is shared with responsible party¹ and owner.
- Case Summary Report (always completed for a level 2 violation; no copy shared with responsible party.) When completing a CSR only (no inspection report), an INON is completed to provide documentation of discussion to share with the responsible party and owner.
- Initial Notice of Noncompliance (This may be issued at the discretion of the field staff. INONs are particularly useful in documenting violations and discussions when there is no inspection report form for the type of entity.) A copy of the INON is always provided to the responsible party and owner.
- Warning Notice. (A warning notice is only issued after conferring with the field staff supervisor because, while serving to document violations and actions, a warning notice is also an official enforcement action.) A copy of a warning notice is always provided to the responsible party and owner.
- Evidence of violation.
- All correspondence with entity regarding case

¹ The responsible party is either the owner or a person legally in charge of the legal entity (custodian or manager). The owner must always be provided with a copy of reports or notices when a violation is noted.
Types of Tools for Cases:

The type of tools used during the course of a case depends on the level, and number of violation(s) that is noted during the inspection or investigation and the prior actions of the entity, see types of violations below. All tools used to document violations and communicate a corrective action plan must have copies distributed to the responsible party and the owner of the entity.

The Division uses the following tools to obtain compliance with division regulations.

*Education Tools*
  - Inspection Report (this report contains a summary section for violations and corrective actions)
  - Initial notice of noncompliance.
  - Verbal discussion with responsible party.

*Enforcement Tools*
  - Quarantines
  - Warning Notice
  - Animal Removal Orders
  - Enforcement Conference
  - Civil Complaints and Forfeitures
  - Administrative Complaints or Special Orders\(^2\) (ie. license suspension or revocation)
  - Criminal Complaints and Penalties

Types of Violations:

The Division of Animal Health’s Uniform Enforcement Guide categorizes violations into three levels, 1, 2, and 3. These levels are based on the seriousness of the offense, number of violations, and number of repeat violations.

**Level 1: Initial level 1 violations are corrected through education.**

Goal
To communicate the occurrence of a violation to a responsible party and provide education on how to correct that violation.

A Level 1 violation is corrected through education and no enforcement actions are taken at this level. At this level inspectors provide education on how to correct the violation

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\(^2\) A special order prohibits the person named in the order from engaging in certain conduct. A special order (as distinguished from a warning letter) is an enforceable order that has the full force and effect of law. Special orders are directed to specifically named or identified parties, and take effect when served on those parties.
and bring the entity into compliance. In situations where a violation can be reasonably demonstrated as corrected (e.g. official identification is applied incorrectly), a time frame is established for the responsible party to make the correction and contact the inspector when correction is made. This does not require field staff to make a physical follow-up visit, field staff may decide to follow-up at their convenience, or they may accept other proof of correction, (such as a memo from the veterinarian reapplying the official identification stating that the problem had been corrected).

In other situations it may not be possible for correction to be demonstrated for the particular violation (e.g. failure to follow-up a phone call with written notice of a positive test for a specified disease). In these situations field staff should educate entity on how to comply with the law under the given circumstance. Discussion should be documented on an inspection report or an initial notice of noncompliance with copies provided to the responsible party. Inspection reports and INONS may be scanned and emailed to the responsible party when documentation is completed at the field staff's home office.

Staff
A level 1 action is usually performed by the inspector that conducted the inspection or investigation and does not require the creation and assignment of a compliance case.

Documentation
A level 1 violation is documented by completing a case summary report and/or an inspection report. Inspection reports are available for licensed entities and fairs and exhibitions. If there is not an inspection report form for the activity being performed, for example an investigation on an unlicensed entity, than a case summary report must be completed.

Education Tools
- Inspection Report (this report contains a summary section for violations and corrective actions)
- Initial notice of noncompliance.
- Verbal discussion with responsible party.

The basic process for the completion of a level 1 violation is in attachment C.

**Level 2:** Level 2 violations are, 1) more serious violations where both education and enforcement action are necessary or 2) level 1 violation where the corrective action plan provided has not been completed, or 3) numerous level 1 violations.

Goal
To provide and record a formal notice to responsible party that observed violations are serious in nature, or represent previously observed violations that were not corrected, and require prompt action.
Level 2 violations may be addressed in different ways: 1) Formal re-inspection. These are conducted when corrections will take longer than 30 days to demonstrate, such as record keeping violations or where there are multiple, more serious violations and correction must be verified by a physical re-inspection. 2) Corrective action within a short time frame. This is done when a violation must be corrected within a shorter time frame, such as 10 days, and the entity must contact the field staff providing proof that the violation was corrected, (such as obtaining appropriate health certificates). 3) Cease and desist activity immediately. This is used in circumstances where the only way to be in compliance is to cease the activity immediately, such as the inhumane handling of animals at a market. 4) If there are multiple and serious violations and the entity has a history of noncompliance, the violations may be elevated and pursued as a level 3 violation.

In any of the first three situations a warning notice could be used in place of an INON, or after the INON. However, warning notices are only issued under the direction of your supervisor.

**Staff**
A level 2 enforcement action is usually performed by the inspector that conducted the inspection or investigation and does not require the creation and assignment of a compliance case.

**Documentation**
A level 2 violation is documented by completing one or more of the following documents:

- Initial Notice of Noncompliance (This may be issued at the discretion of the field staff. INONs are particularly useful in documenting violations and discussions when there is no inspection report form for the type of entity.)
- Warning Notice. (A warning notice is only issued after conferring with the field staff supervisor because, while serving to document violations and actions, a warning notice is also an official enforcement action.)
- Inspection Report (always completed if available for the type of entity)
- Case Summary Report (always completed for a level 2 violation; no copy shared with responsible party.) When completing a CSR only (no inspection report), an INON is completed to provide documentation of discussion to share with the responsible party and owner.
- Evidence of violation.
- All correspondence with entity regarding case

**Enforcement Tools**
Warning Notice
Quarantines

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3 The scheduling and basic re-inspection process is detailed in attachment F
4 A quarantine is a tool that is also used to control the spread of disease when exposure is suspected, and is not always the result of a violation.
Animal Removal Order

The basic process for the completion of a level 2 violation is in attachment D.

**Level 3:** Level 3 violations are violations of our laws that are serious in nature and pose immediate threats to animal and public health. A level three violation may also be the result of the failure to correct and comply with prior corrective action plans, as directed by Animal Health personnel.

**Goal**
To obtain a written commitment to a compliance plan and promote future compliance through discussion of possible appropriate penalties or other specified actions or consequences, up through closure of a business.

**Staff**
A level 3 enforcement case is initially managed by a compliance specialist. If the level 3 violation is found during an inspection or investigation the field staff supervisor is notified and a case is created by the office and sent to a compliance specialist. This case is a child case to the initial inspection/investigation case that documented the violation.

The Program Manager and Field Services Bureau Director should be kept informed throughout a level 3 compliance process.

**Documentation**
- Initial Notice of Noncompliance. Copy shared with responsible party and owner
  - Inspection Report (always completed if available for the type of entity)
  - Case Summary Report (always completed for a level 3 violation)
  - Evidence of the violation
  - Any correspondence with the entity regarding violation(s)

**Enforcement Tools**
- Quarantines
- Warning Notice
- Animal Removal Orders
- Enforcement Conference
- Civil Complaints and Forfeitures
- Administrative Complaints or Special Orders
- Criminal Complaints and Penalties

The basic process for the completion of a level 3 violation is in attachment E.

**Closing a Case**

General case completion
Inspection and investigation cases are expected to be completed and appropriate case reports and documentation returned to the office within 60 days of the case being assigned to the field, unless other instructions accompany the case.

Any case that is not completed within the 60 days must have a documented reason for the delay.

Completion of case paperwork
Violations must be discussed with a responsible party, if present, at that time. The paperwork may be sent shortly thereafter to the owner and any on-site custodian or manager.

The field staff may use their discretion on completing the documents (such as inspection reports, INONs, and warning notices) off site and sending back to the entity. More complicated cases may benefit from completion of paperwork off site as this will provide the ability for field staff to examine all options. Reports and notices must be provided\(^5\) to the entity, within 5 working days after the activity was performed.

The case summary report, inspection report and any notices that are written during the case must be completed and submitted to the appropriate field staff supervisor within 7 working days of conducting the case activity.

Once all case documentation is sent to the appropriate field staff supervisor, the supervisor will review the case and either follow-up on questions or close in case tracking accordingly. After the case is closed in case tracking the documentation is scanned, as necessary, saved at I:\Field Data, and sent to the program for review and filing. Detail of the basic process for closing a case is in attachment G.

Submitting case documentation
All case documentation that is not provided to the legal entity at the time of the documentable event is to be emailed to the entity when possible; if the entity is unable to receive documentation electronically then it may be mailed.

All case documentation is to be emailed to the office. For documents that require signature, there are two options:

1. Documents can be printed by the field staff, signed, scanned and emailed.
2. Documents can be signed using an electronic signature\(^6\).

Inspection reports do not need to bear a written signature. Field staff may simply type their names and date in the signature area. Signatures are needed on INONs, Warning Notices and other enforcement tools.

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\(^5\) Any enforcement tools that are mailed must be mailed certified mail. Example: if a warning notice is mailed if must be mailed certified mail, return receipt.

\(^6\) An electronic signature for this purpose is a scan of your signature that can be pasted onto documents.
ATTACHMENT A

INSPECTION CASE

Inspection Activity Initiated

Schedule an inspection.

Able to schedule? No

Utilizing facility appropriate Inspection report
Inspect the facility

Violations Noted

Yes

What level of Infraction? Use Uniform Infraction Guide

Proceed to Level 1 process

Discuss with supervisor and issue a warning notice for failure to provide access.

No

Discuss with supervisor on options to proceed

No

Go to Level 3 process

Prepare a Subpoena for the records. (see Level 4 CID)

*If the responsible party for the entity is not available the inspection report and INON should be mailed to them and the owner.

**Documentation includes evidence of violation, inspection report, any notices provided to the entity, other correspondence.
**ATTACHMENT B**

**INVESTIGATION CASE**

- **Investigation activity initiated**
  - Schedule meeting with a responsible party for the entity.
  - Able to schedule? [Yes/No]
  - Conduct investigation based on the questionable actions cited in the case or based on alleged violation.
    - Is the entity out of compliance? [Yes/No]
      - Discuss with responsible party for the entity**. Field staff may issue an ICN as necessary. Send documentation** and case summary report to the supervisor.
      - Prepare a Case Summary Report and send with documentation of contacts to supervisor.
    - Proceed to Level 2 process.
      - Discuss with supervisor and issue a warning notice for failure to provide access.
      - Send an enforcement letter (see ICN could also be used here)
      - Send a case summary report to the supervisor.
      - Discuss with supervisor on options to proceed.
    - Proceed to Level 1 process.
      - Work with Sheriff and get an inspection warrant.
      - Go to Level 3 process.

*An appointment may need to be scheduled if an investigation involves a person that is not routinely available, and/or not available during normal work hours. For the investigation of activities where an unannounced visit is the only way to verify compliance, an appointment is not necessary (i.e., humane treatment of animals during transportation).

**If the responsible party for the entity is not available, the inspection report and ICN should be mailed to them.

**Documentation includes evidence of violation, inspection report, any notices provided to the entity, other correspondence.
ATTACHMENT C

Level 1 Enforcement

To communicate the occurrence of a violation to a responsible person and provide information on how to correct that violation

Education Tools of Level 1:
- Initial Notice of Non-compliance (INON)
- Inspection Report

If the responsible party for the entity is not available the inspection report and INON should be mailed to them.

**A copy of the case summary report is not provided to the entity. When creating a Case summary report as documentation of the case and there are violations, an INON should always be used to provide documentation to the responsible party.
ATTACHMENT D

Level 2 violation noted.

Multiple and serious level 2 violations or is there a known history of non-compliance with one entity?

No

Determine corrective action to be taken, discuss with responsible party and prepare appropriate documentation.**

Field staff sends report to supv. within 2 days of inspection or investigation.

Supervisor reviews report and documentation. Provide direction on course of action to field staff.

Yes

Entity providing proof of compliance by a specified date.*

Complete an Initial Notice of Non-compliance and/or an inspection report. Indicate a re-inspection will be scheduled

Complete a case summary report and send all case documentation to supv.

Corrective Action taken within specified time frame?

Yes

Supervisor closes case. See process for closing a case.

No

Complete a case summary report and send all case documentation to supv.

Supv decides if a warning notice should be issued for failure to correct by the date, with a second correct by date

Issue warning notice?

Yes

Supervisor closes case. See process for closing a case.

No

Open a compliance case. (child to original case)

For failure to appropriately test animals, or other potential disease risk, issue an Order of Quarantine, see policy DIS-021.

If an import violation that cannot be corrected, contact field supervisor but prepare to issue an animal removal order.

For other violations staff may choose to issue an initial notice of non compliance with what action is required of the legal entity to come into compliance.

**An initial notice of non-compliance can be issued on the spot, as determined necessary by the field staff.

***A warning notice is only issued after the field staff supervisor has been contacted and the compliance history of the entity has been reviewed.

****Documentation includes, but is not limited too, the inspection report, Initial Notice of Non-compliance, and any available documentation of violations. A CSR is always completed on a level 2 violation, even when an inspection report is completed.

Enforcement Tools Level 2:
- Warning Notice
- Quarantines
- Animal Removal Order
Level 2
Continued

A

Cease and desist action

Complete an INON or Inspection report as applicable

Complete a case summary report and send all case documentation to supv.

Supervisor reviews case. Determines if official warning notice should be issued

Issue warning notice?
  Yes
  Field staff issues Warning notice. This may be delivered in person or mailed.
  No
  Supervisor informs field staff they are closing the case. See process for closing a case.

B

Issue warning notice. This is only done with supv direction.

Field staff issues a warning notice and an inspection report if applicable.

Complete a case summary report and send all case documentation to supv.

Field staff follow-up as established in Warning notice.

C

Pursue as a level 3. Supervisor informs field staff.

Field staff may issue an INON if they feel necessary. Send on documentation and case summary report to supv & area compliance staff.

Supervisor reviews and closes case (see closing a case process)

Go to Level 3.
ATTACHMENT E

Level 3

* Program manager and Field Service Bureau Director must be made aware of any Level 3 compliance actions being initiated, and must be kept informed of the progress and the resolution of these cases.

Enforcement Tools of Level 3:
- Enforcement Conference
- Civil Complaints and Forfeitures
- Administrative Complaints or Special Orders
- Criminal Complaints and Penalties

Level 2 violations noted

Level 3 violation or failure to correct prior level violation

If case is a result of another case create as a child and include all documentation. If a level 3 violation is found in the field without a case the field supervisor needs to be immediately notified and an official case generated.

Supervisor generates a compliance case

Compliance Specialist reviews case, reviews information

More info needed?

No

Complete Case summary report with recommended action

Go Level 3 cont.

Yes

Compliance works with inspector to gather missing, or additional information

Is the alleged violator cooperative when providing info?

Yes

Consult with office to issue a special order (CID, Subpoena, etc.)

Review information

Compliance specialist along with supervisor determines if sufficient information obtained?

Yes

Complete Case summary report with recommended action

Go Level 3 cont.

No

Investigate further

Go Level 3 cont.
A civil forfeiture requires a complaint document. For example, see the Department Compliance Manual at N:\Legal\Compliance Manual.
**Formal Re-inspection**

- **Re-inspection case received from the office**
  - Prepare a Case Summary Report and send with documentation of contacts to Supv.
  - Work with Sherriff and get an inspection warrant.
  - Discuss with supervisor on options to proceed
  - **Able to Schedule?**
    - No → Discuss with supervisor and issue a warning notice for failure to provide access.
    - Yes → Able to schedule?
      - No → Discuss schedule?
      - Yes → Send an failure to contact letter (an INON could also be used here)
        - Able to Schedule?
          - No → Discuss with supervisor and issue a warning notice for failure to provide access.
          - Yes → Schedule re-inspection. Ensure violations have been corrected
            - Violation corrected?
              - No → Discuss continued violation with responsible party.
              - Yes → Field staff Supv will review entity history and violations and determine if warning notice, and second re-inspection acceptable.
                - Field staff will be directed to send an official warning notice scheduling another re-inspection. This warning notice, for failure to correct by the specified time frame, and should not include the violation that were not corrected.
                  - Field staff will be directed to conduct re-inspection. This warning notice, for failure to correct by the specified time frame, and should not include the violation that were not corrected.
                    - Conduct 2nd re-inspection
                      - Violation corrected?
                        - No → Close re-inspection
                        - Yes → Go to Level 3 process
                          - Close re-inspection case. See process to close case.
                            - Supervision reviews report. Submit to Supv. within 2 days.
                              - Prepare case summary report. Submit to Supv. within 2 days.
                                - Prepare a subpoena for the records. (see Level 3 CID/ Subpoena process)

*What a warning notice is issued for should be specific violations, they do not need to address every violation. For example a warning notice issued after a re-inspection should be issued for failure to correct within the specified time frame, and should not include the violation that were not corrected.

**Discussion, or mailing, will make it clear that if these violations are NOT corrected by the time of the second re-inspection, further legal action will be taken.*
Closing a Case

1. **Existing case in case tracking?**
   - Yes: Compliance inspection supervisor makes sure all necessary documents have been provided and reviewed.
   - No: Enter case in case tracking.

2. **Supervisor approves?**
   - Yes: Send follow-up questions to field staff.
   - No: Field staff follows up with questions and files an amended report.

3. **Re-inspection required?**
   - Yes: Open a compliance case. Case created is a child to the initiating case.
   - No: Supervisors closes case and send to PA for scanning.

4. ** ^(a) Is a new compliance action required?**
   - Yes: PA scans in case information and saves on I drive.
   - No: PA sends complete case documentation to program manager.

5. **Program manager reviews** and files in 'heredity' file.

6. **Close the original case. Use 'closed referred to compliance' as status.**

7. **Conduct re-inspection, complete an inspection report (note re-inspection); if no inspection report, complete a CSR.**

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*For more detail on how to close a case, see the case tracking user manual.

**If the program manager has questions or concerns with the case at this point, they should address them with the field supervisor and decide the best course to get them addressed (discuss with field staff who handled case, new case issued, etc.)