

Government of Jammu & Kashmir
Office of the Commissioner Food & Drug Administration
Drugs & Food Control Organization, J&K Civil Secretariat, Jammu/Srinagar

Subject: Recommendation for Prosecution Sanction regarding Unsafe Cases.

CIRCULAR
Dated: 31.10.2025

Section 42(3) of FSS Act, 2006 mandates that *"The Designated Officer after scrutiny of the report of Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendations within fourteen days to the Commissioner of Food Safety for sanctioning prosecution"*.

Upon scrutiny of the unsafe cases received from the Designated Officers, for accord of prosecution sanction from the competent authority, it has been observed that;

- a. Recommendations are being received from the Designated Officers after weeks and months from the date of receipt of Analysis Report from the Food Analysts or Analysis Certificate of Director Referral Laboratories notified by FSSAI.
- b. Recommendations are not bring explicitly made against the accused Food Business Operators in terms of Subsections of Section 59, of FSS Act, 2006.
- c. All the accused Persons (Persons In-Charge of Operations) and Food Business Operators (FBOs) Partners are not being incorporated in the prosecution recommendations.
- d. Most cases are not only deficient in necessary documents and testimonials, resulting in inordinate delay in the disposal of cases, which are otherwise time bound.

Food Safety and Standards Authority of India vide communication No. 4(16)/2017/JK/RCD/FSSAI dated 06.08.2020, has clarified that Designated Officers may give remark in the recommendation that *"the recommendation is subject to the outcome of appeal, if preferred by the Food Business Operator (FBO), as envisaged under Section 46(4) of FSS Act, 2006"*

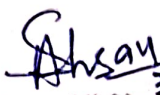
Now therefore, in order to avoid inordinate delay and wastage of time for unnecessary interim correspondences, all the Designated Officers are directed to furnish the recommendations for accord of prosecution sanction to the Competent Authority in a time bound manner as with strict adherence to the Section 42(3) of FSS Act, 2006, completer in all respects. It is further instructed that henceforth, all the prosecution recommendations shall be appended with necessary documents/testimonials as given in **Annexure-A**, failing which action as warranted under Rule shall be initiated against the erring Designated Officers.

Sd/-
(Smita Sethi) JKAS
Commissioner,
Food & Drugs Administration, J&K
Dated: 31.10.2025

No:- FADA-Acc/54/2025-01

Copy to the:

1. Secretary to Government Law and parliamentary Affairs, for kind information.
2. Director Litigation, Jammu/Kashmir, for kind information.
3. Deputy Commissioner, Food Safety Jammu/ Kashmir for information.
4. Designated Officer, Food Safety (All) for information & strict compliance.
5. Private Secretary to Secretary to Government, Health & Medical Education Department for favor of kind information of the Secretary.
6. State Nodal Officer, FDA, J&K, for information.
7. Record File.


(Syed Ahsan Ul Haq)
Dy. Legal Remembrance/ (Nodal Coordinating Officer),
Food & Drugs Administration, J&K.

Annexure-A
Duly Signed Documents/ Testimonials to be attached with the Unsafe Cases for grant of Prosecution Sanction

1. Detailed Chronological Report of the Case with clear and complete list of accused (Proprietor/Partner/Person Incharge of Operations as per Form IX) etc. (as applicable)
2. Interim communications and reminders (as applicable)
3. Form of Notice to the FBO (Form VA).
4. Notice Under Section 47(1)C(iii) of FSS, Act 2006.
5. Cash Memo/Bill or Credit Note for sample taken.
6. Label Form.
7. Memorandum to Food Analyst (Form VI) and Director, Referral Lab.
8. Sample receipt Acknowledgement from Food Analyst/ Designated Officer.
9. Analytical Report of Food Analyst and Referral Lab Report (if recommended by the D.O or FBO).
10. A copy of Communication received from Food Analyst for delay in sending report after 14 days alongwith communication made with Food Analyst, in case no reason for delay /report received from FA within prescribed time period. (as applicable)
11. FBO Appeal Form and Application in case Referral of Rule 2.4.2 (as applicable)
12. Complete Constitution of Firm of FBO(s).
13. Copy of License/Registration of all accused*.
14. Details of Demand Draft (in case of reanalysis sent by the D.O or FBO)
15. Inspection Checklist reported by the FSO concerned (as applicable)
16. Seizure Memo, (Form-II), Form of Order of Seizure, (Form-III) and Form of Surety Bond, (Form -IV), (as applicable)
17. Any other testimonial the recommending authority (Designated Officers) may deem necessary, relevant to the particular complaint/case.

****In case the state license is of the FBO outside the UT of J&K or central licensee, the number may be shared with the State Nodal Officer through email request for retrieving the License Copy and its Nominees before recommending case to the CFS.***