

**“AT LEAST EQUAL TO” GUIDELINES  
FOR STATE MEAT AND POULTRY  
COOPERATIVE INSPECTION  
PROGRAMS**

**July 2008  
Food Safety and Inspection Service  
United States Department of Agriculture**

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## **PURPOSE**

These guidelines are designed to provide information to State Cooperative Inspection Programs on the criteria that the Food Safety and Inspection Service (FSIS) uses to make its annual determination of whether State Meat and Poultry Inspection (MPI) Programs are “at least equal” to the Federal inspection program. These guidelines are intended to assist the State MPI Programs in establishing and maintaining inspection programs that are “at least equal to” the Federal Inspection Program.

These guidelines replace the current FSIS Manual for State Meat and Poultry Inspection Program Reviews and will be periodically revised to ensure they reflect current FSIS policies.

## **II. BACKGROUND**

The Federal Meat Inspection Act (FMIA) (21 USC 661) and the Poultry Products Inspection Act (PPIA) (21 USC 454) provide for FSIS to cooperate with State agencies in developing and administering their own Meat and Poultry Inspection (MPI) Programs. Individual State MPI programs are required to operate in a manner and with authorities that are “at least equal to” the ante mortem and postmortem inspection, reinspection, sanitation, record keeping, and enforcement provisions as provided for in the FMIA and PPIA. State MPI programs are also expected to ensure that livestock is treated humanely through the assurance that its methods of handling livestock are “at least equal to” those outlined in the Humane Methods of Slaughter Act of 1978 (HMSA)(7 USC 1901-1906).

The “at least equal to” standard is a concept that requires that State MPI Programs operate in a manner that is not less effective than those standards adopted for the Federal Inspection Program. The concept does not require that the States operate their MPI Programs in a manner that is the same as or identical to the FSIS program, nor does it prohibit the State MPI Programs from establishing safeguards that they believe to be more effective than those employed by FSIS.

## **III. ANNUAL SELF-ASSESSMENT**

By November 15<sup>th</sup> of each year, all State MPI Programs are to submit their self-assessments to FSIS’ Federal State Audit Branch (FSAB). For the annual self-assessment, each State MPI Program should start with a review of the prior-year self-assessment, which will be used by FSIS’ Federal State Audit Branch (FSAB) as a rolling baseline for subsequent annual reviews. Each annual self-assessment is to include a written narrative statement and documentation to support that the program continuously meets the criteria to be “at least equal to” the Federal program. The self-assessment is to document any changes in the program in the previous 12 months and is to include factual information that substantiates the state’s ability to maintain its program for the next 12 months. State MPI programs are to submit sufficient documentation to demonstrate that the program has stayed current with FSIS statutes, regulations,

applicable FSIS directives and FSIS notices, and has implemented any necessary changes to maintain “at least equal to” status.

The submission should also include a narrative that describes the internal controls that the State MPI Program uses to provide assurances and measure the effectiveness of the program under the “at least equal to” criteria; how noncompliance or deviations will be addressed by corrective actions; and how the State MPI Program will be maintained throughout the next 12 months. These mechanisms should provide an objective assessment of the State MPI Program’s operations and processes to determine whether financial and operating information is accurate and reliable; operational risks are appropriately identified and managed; applicable regulations and acceptable internal policies and procedures are followed; and the “at least equal to” standard is met.

Ultimately, State MPI Programs need to operate in a manner that protects the health and welfare of consumers by ensuring that the meat and poultry products distributed by the establishments in its program are wholesome, not adulterated, and properly marked, labeled and packaged.

In their annual self-assessment, State MPI Program Directors are to address each of the following nine program components to demonstrate that the State’s MPI Program constitutes an inspection program that is “at least equal to” the Federal Program, and how it intends to maintain this status for the following 12 months. The nine components are the following:

- Component 1. Statutory Authority and Food Safety Regulations**
- Component 2. Inspection**
- Component 3. Product Sampling**
- Component 4. Staffing and Training**
- Component 5. Humane Handling**
- Component 6. Non-Food Safety Consumer Protection**
- Component 7. Compliance**
- Component 8. Civil Rights**
- Component 9. Financial Accountability**

For each of the first seven (1-7) components, State MPI Program Directors are to provide documentation to support the self-assessment submission. Such documentation should include a narrative that describes any changes in the State MPI Program for the past 12 months. The attached Annual Certification statement with a signature should also be submitted annually.

For Component 8, FSIS form 1520-1, *Civil Rights Compliance of State-Inspection Programs*, should be completed.

For Component 9, if the State is up-to-date in financial reporting activities required throughout the fiscal year, no additional documentation is to be submitted with the self-assessment. The supporting documents listed in Component 9 are items that State

agencies should have readily available for FSIS reviewers during the on-site financial review.

FSIS routinely issues regulations and notices in the Federal Register to communicate new policies and requirements to the public. FSIS also routinely issues directives and notices to inspection program personnel that instruct them on how to address a particular inspection or enforcement activity. While State MPI Programs are not required to follow FSIS issuances per se or to issue similar documents to their inspection program personnel, they are expected to have considered the implications of each issuance and are expected to be able to explain their “at least equal to” actions (even if their decision is to do nothing) related to the activity or issue covered by the Federal issuance. By August 1<sup>st</sup> of each year, FSIS will provide State MPI Programs with an updated list of all applicable issuances issued since the previous year. FSIS will provide this information to better communicate the “at least equal to” criteria involving the intent of FSIS issuances (regulations and other Federal Register publications, directives and notices),

State MPI Programs are expected to review each issuance on the list and document in their self-assessment narratives, for the component to which the issuance most applies, how the State addressed the issuance. For each issuance, using one of the alternatives listed below, the State MPI Program should document that the state has:

- 1) determined that the issuance has no application for its program maintaining an “at least equal to” status; the state should fully explain why;
- 2) adopted essentially the same approach in its program; the state should submit documentation demonstrating implementation; or,
- 3) adopted measures in the program that the State considers to be “at least equal to” the Federal program; the state should provide the reason and justification for doing so, should explain why and how it became convinced that they are “at least equal to” the Federal program, and should submit documentation demonstrating implementation.

State MPI Program Directors are to transmit all self-assessment documents as follows:

**Components 1–7**

FSIS Office of Program Evaluation, Enforcement and Review

Federal State Audit Branch

1299 Farnam Street

Suite 300 Landmark Center

Omaha, NE 68102

e-mail: [ron.eckel@fsis.usda.gov](mailto:ron.eckel@fsis.usda.gov)

Telephone: 402-344-5018

Fax: 402-344-5104

**Component 8**

FSIS Civil Rights Division  
5601 Sunnyside Avenue, Mail Drop 5261  
Beltsville, MD 20705-5261  
E-mail: [sylvia.bourn@fsis.usda.gov](mailto:sylvia.bourn@fsis.usda.gov)  
Telephone: 301-504-7755  
Fax: 301-504-2141

**Component 9**

FSIS Financial Management Division  
Financial Review and Analysis Branch  
5601 Sunnyside Avenue, Mail Drop 5262  
Beltsville, MD 20705  
E-mail: [kevin.tarver@fsis.usda.gov](mailto:kevin.tarver@fsis.usda.gov)  
Telephone: 301-504-5759  
Fax: 301-504-5909

**Annual Certification  
“At Least Equal To” Meat and Poultry Inspection Program**

I have reviewed the attached self-assessment submission of the [*insert name of State*] State-Federal Cooperative Inspection Program. Based on current information, I certify the State Meat and Poultry Inspection Program is “at least equal to” the requirements specified in the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), the Humane Methods of Slaughter Act (HMSA) and current FSIS regulations, directives, notices and policies. The State MPI Program officials intend to maintain the program as “at least equal to” the applicable requirements specified in the FMIA, PPIA and HMSA and certify that the program is able to stay current with applicable FSIS regulations, directives, notices and policies to ensure an “at least equal to” status. If conditions change that impact this certification, I will immediately notify the Chief of the Federal/State Audit Branch.

Name of Responsible State Official \_\_\_\_\_

Title of Responsible State Official \_\_\_\_\_

Signature of Responsible State Official \_\_\_\_\_

Date \_\_\_\_\_

State \_\_\_\_\_

Contact Telephone Number \_\_\_\_\_

Contact E-Mail \_\_\_\_\_

Contact Fax Number \_\_\_\_\_

#### **IV. On-Site Review**

In addition to the annual self-assessment submission, State MPI Programs are subject to an on-site review at a minimum frequency of once every three years to verify the accuracy and implementation of the self-assessment submissions. In the year that a State MPI Program is scheduled for an on-site review, FSIS' annual determination of whether the State Program is "at least equal to" the Federal program will be based on both a review of the annual self-assessment submission and the onsite review.

The purpose of the on-site review is to verify that the State MPI Program has implemented and can maintain its inspection system in accordance with its submitted self-assessment and to determine whether the State MPI Program is "at least equal to" the Federal requirements. FSIS will begin the onsite review with a thorough understanding of the most current self-assessment. Then, FSIS will review selected establishments' records and observe the State MPI Program's implementation, oversight and management controls.

Each October, FSIS will announce the State MPI Programs scheduled for on-site reviews in the upcoming fiscal year. FSIS will send a written notification to these State MPI Programs at least 30 days prior to the start of the on-site review process. The on-site review begins with a teleconference serving as the entrance meeting between FSIS and State MPI Program officials. The State MPI Program officials will be asked to supply information to FSIS within 10 working days after the conclusion of the entrance meeting. At a minimum, the following should be submitted:

- An updated list of inspected establishments and custom exempt facilities including the supervisory boundaries; and,
- Examples of the internal evaluations and management controls for components 2–7 for the previous 12 months.

After FSIS receives the requested information, the agency will review it. Based on a careful review of all relevant material FSIS will select a statistically representative number of establishments under the State MPI Program's jurisdiction. Of these, FSIS will select one or more establishments reviewed by the State MPI Program to review on site. FSIS will also select for on site review some of the establishments that the State MPI Program did not review. The State MPI Program officials are to designate person(s) to work with FSIS during the on-site reviews.

At least one week prior to the scheduled on-site review, FSIS will notify the State MPI Program of the establishments chosen for the onsite review. FSIS will travel to the selected establishments and follow the on-site review protocol. An electronic or printed draft report of individual establishment findings will be provided to the State MPI Program officials on the following working day. At the end of each establishment visit,



an exit meeting will be held by the State MPI Program personnel after a short correlation with FSIS.

When all on-site reviews are completed, the FSIS reviewers will return to their duty station and within 10 working days will coordinate with State MPI Program officials to schedule a time for an exit meeting teleconference. Prior to the exit meeting, a summary report identifying system findings and final individual establishment findings will be transmitted to the State MPI Program officials. The State MPI Program has 10 working days after the teleconference, where all findings were discussed, to provide FSIS with corrective action plans. As soon as FSIS receives the corrective action plans, the submissions will be reviewed, and a determination will be made. It is important to note that FSIS may request clarification on specific items, and in certain cases, a follow-up review may be required. If all corrective actions are adequately addressed, FSIS will issue a determination memorandum to the State Director.

A follow-up review is conducted when FSIS determines there is a public health concern, and State MPI Program officials have indicated they want to maintain their program. A follow-up review verifies the implementation of the State MPI Program's corrective action plan. Because the State MPI Program was found to have system findings on the initial review, the level of confidence expected to achieve an "at least equal to" determination will be elevated on a follow-up review.

The *Annual Review and Determination Report* will summarize the results of the FSIS review of the self-assessment submission, the Federal on-site review process within the State MPI Program (including the results of the follow-up review, if one is performed), and the review team's determination about the "at least equal to" status of the States MPI Program. The report will include the rationale for the determination, findings, and individual component determinations.

## **V. Determination Process**

When FSIS finishes its analysis of the self-assessment and on-site review, when applicable (including all findings and corrective actions), a determination is made. The possible determinations are (1) “at least equal to” (2) “not at least equal to” or (3) “deferred.” If the determination of the self-assessment or the on-site review is “at least equal to,” the State MPI Program official will promptly be notified in writing of the status. If FSIS needs additional clarification to reach a determination, the State MPI Program official will be asked to provide supplemental information. In the event a corrective action plan can not be immediately implemented, but the State is committed to making the corrections and has the resources to support the changes, then FSIS will defer designation instead of making a “not at least equal to” determination. When its analysis of all findings, clarifications, and corrective actions from the self-assessment or the on-site review leads it to conclude that a State MPI Program can not support “at least equal to” determination, FSIS will make a recommendation to the Secretary of Agriculture (or designee) that the State MPI Program should be designated.<sup>1</sup>

If the State MPI Program is unable or unwilling to continue on an “at least equal to” basis, the Secretary of Agriculture will notify the Governor of the State that the State does not have an “at least equal to” MPI Program (before the Secretary takes such actions, FSIS and the State agency will have conferred and have tried to remedy the deficiencies in the State MPI Program.) Further, the Secretary will designate the State as not having an “at least equal to” MPI Program by publishing this designation in the Federal Register and, after the expiration of thirty days of such publication, the official State establishments will be subject to Federal inspection.

## **VI. Appeal Process**

State officials have the right to appeal any determination. The appeal process follows the Office of Program Evaluation, Enforcement and Review (OPEER) chain of command. The chain of command ensures that Agency employees most familiar with the appeal facts evaluate the appeal first to minimize response time. The chain of command also allows State Officials to appeal to the next highest level if unsatisfied with an appeal outcome. The OPEER chain of command is:

- 1) Program employee who made the finding (e.g., Program Auditor)
- 2) FSAB Supervisory Team Leader
- 3) FSAB Branch Chief
- 4) Director Internal Control Staff (ICS)
- 5) OPEER Deputy Assistant Administrator
- 6) OPEER Assistant Administrator
- 7) FSIS Administrator

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<sup>1</sup> Directive 5710.1, Designation of States for Federal Meat or Poultry Inspection, outlines the procedures for designation of States for Federal meat or poultry inspection.

## **VII. FSIS Reports**

When FSIS makes a determination on the self-assessment or the on-site review, a State MPI Program official will be notified in writing. There also will be an individual end-of-year report sent to each State MPI Program that summarizes findings of its program. And there will be an overall end-of-year summary report that encompasses the findings and final determinations for all State MPI Programs. The individual State reports and summary report will be posted on the FSIS Web site.

## VIII. Nine Program Components

### 1. Statutory Authority and Food Safety Regulations

#### Criteria for “at least equal to” determination

State MPI Programs are to have meat and poultry inspection laws and regulations that impose mandatory ante mortem and post mortem inspection, reinspection, sanitation requirements, and enforcement authorities that are “at least equal to” those prescribed by the FMIA<sup>2</sup> (21 USC 601, et seq.) and PPIA<sup>3</sup> (21 USC 451 et seq.). State MPI programs are to also enforce requirements that are “at least equal to” those imposed under the Humane Methods of Slaughter Act of 1978 (HMSA)<sup>4</sup> (7 USC 1901, et seq.).

State MPI programs are to also be in compliance with Federal Civil Rights laws: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200(d)); Section 504 of the Rehabilitation Act of 1973, as Amended (29 U.S.C. 794); Age Discrimination Act of 1990 (42 U.S.C. 12101, et seq.); and applicable USDA Civil Rights regulations, and Financial Accountability requirements pursuant to the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (7 CFR Part 3016) (previously known as the Common Rule); and the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (7 CFR Part 3016), (previously know as the Common Rule): and FSIS Directive 3300.1, Rev. 2, “*Fiscal Guidelines for Cooperative Meat and Poultry Inspection Programs*.”

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<sup>2</sup> The Federal Meat Inspection Act (21 U.S.C 601, et seq.). It is the law that governs the slaughtering of livestock and the processing and distribution of meat products in the United States. Passed by Congress in March 1907, the FMIA authorizes the Secretary of Agriculture to make rules and regulations setting national standards for meat inspection. The FMIA was amended in the Wholesome Meat Act of 1967. The amended law grants the Secretary of Agriculture the authority to authorize each State to develop its own meat inspection Program if their requirements are “at least equal to” federal requirements. The amended FMIA was to assure uniformity in regulation of products shipped interstate, intrastate, and in foreign commerce.

<sup>3</sup> The Poultry Products Inspection Act (21 U.S.C. 451, et seq.). It is the law that governs the slaughtering, processing, and distribution of poultry products in the United States. Passed by Congress in August 1957, the PPIA authorizes the Secretary of Agriculture to make rules and regulations setting national standards for poultry inspection. The PPIA was amended in the Wholesome Poultry Products Act of 1968. The amended law grants the Secretary of Agriculture the authority to authorize each State to develop its own poultry inspection Program if their requirements are “at least equal to” federal requirements. The amended PPIA was to assure uniformity in regulation of products shipped interstate, intrastate, and in foreign commerce.

<sup>4</sup> The Humane Methods of Slaughter Act (7 U.S.C. 1901 et seq.). It is the law that governs the humane treatment of animals at official establishments. Passed by Congress in 1978, the HMSA authorizes the Secretary of Agriculture to make rules and regulations setting national standards for livestock inspection. The HMSA prevents needless suffering of animals, produces safer and better working conditions, brings about improvement of products and economies, and produces other benefits for producers, processors and consumers. Nothing in the HMSA shall be construed to prohibit, abridge, or in any other way hinder the religious freedom of any person or group.

To ensure that States are in compliance with the statutory and regulatory requirements detailed above, State MPI Programs are to either:

- Adopt by reference the FMIA, the PPIA, the HMSA and implementing regulations; or
- Explain how the State's laws, regulations, and other issuances provide a level of protection that is "at least equal to" that imposed by FMIA, PPIA, HMSA and implementing regulations.

FSIS will allow time for the States' rulemaking process when necessary, because there are States in which the legislatures do not always meet yearly. The State MPI Program are to ensure that there are measures in place to verify compliance and take enforcement actions for non-compliant findings until the final rulemaking process has been completed. The State MPI Program is also to have the authority to expedite the rulemaking process "at least equal to" that provided in the Administrative Procedure Act, 5 U.S.C. §553 in the event of an emergency.

If a State MPI Program has elected to enact its own comparable statutes and regulations that are "at least equal to" those governing the Federal inspection program, it must ensure that the statutes and regulations establish requirements that establishments maintain sanitary conditions and operate in a manner that includes evaluating hazards, taking steps to control hazards, and routinely verifying that product is safe, wholesome, and unadulterated.

The States must also ensure that their statutes and regulations adequately address, in an "at least equal to" manner, mandatory ante-mortem and post-mortem inspection, re-inspection, sanitation requirements, recordkeeping requirements, compliance provisions, and enforcement authorities to ensure that product is wholesome and not adulterated. In addition, State regulations must address the humane treatment of animals at establishments under inspection.

### Outcome

The expected outcome is a set of laws and implementing regulations that, when objectively reviewed by FSIS, are determined to be "at least equal to" the Federal laws and regulations.

### Expectations

State MPI Program officials need to stay current with and be able to explain how their programs are equal to applicable FSIS regulations, FSIS Directives, FSIS Notices and other policies. Officials also need to be able to provide the rationale for their "at least equal to" determination and describe how the State MPI Program will stay current with FSIS regulations, FSIS Directives, FSIS Notices, and other policies. Their explanation should include a narrative that describes any changes in the State MPI Program over

the past 12 months and a description of the techniques and means used to convey existing and new information to State MPI Program personnel.

Examples of documentation for supporting an “at least equal to” State MPI Program

The list is not intended to be all inclusive.

- a. Copy of the State Code, Acts, or Regulations with specific cross-references to 9 CFR.
- b. If you consider other species amenable, so identify and reference the Code, Act, Regulation or State statutory authority that applies.

## Component 2. Inspection

### Criteria for “at least equal to” determination

Inspection procedures and guidelines provided for under a State MPI Program must be “at least equal to” the policy provided under the Federal system. The State MPI Program is to verify that official State establishments are complying with applicable laws and regulations, and have the capability to correct any deviations from regulatory requirements that may affect its program being “at least equal to” the Federal program. State Program officials are expected to verify that establishments have developed, implemented, and maintained SSOPs and are in compliance with sanitation performance standards. State MPI Program officials also must verify a HACCP or equivalent system that evaluates hazards, takes steps to address hazards, and routinely verifies that product is safe, wholesome, unadulterated, and properly labeled.

The State MPI Program should at a minimum:

- Have procedures for how inspections are assigned and performed, how management controls are implemented, and how supervisory oversight provides direction to in-plant inspectors on how they are to protect public health by properly verifying establishment compliance with State statutes and regulations. For this component, the supporting documentation is to show that inspectors perform ongoing verification procedures, recognize and document establishment noncompliance, and are initiating appropriate regulatory actions when needed.
- Have developed a system to review and analyze all food safety and non-food safety activities conducted by the establishments. Examples of food safety activities include the design and validity of the establishment’s hazard analyses, HACCP plans, SSOPs, pre-requisite programs, testing programs and any other programs that are part of the establishment’s HACCP systems. Examples of non-food safety activities include the formulation of products, labeling requirements, and humane handling procedures.
- Have developed a system to carry out administrative actions when establishments are not meeting the provisions of “at least equal to” the FMIA, PPIA, and HMSA.
- Have provisions for immediate administrative enforcement actions when public health safety is imminently threatened.
- Have a reporting system in place that documents facts for all administrative actions, that ensures that all administrative actions are fully supported and based on relevant facts, and that properly maintains documents produced related to various administrative actions.

**NOTE:** FSIS develops, maintains, and coordinates activities to prevent, prepare for, respond to, and recover from emergencies resulting from intentional contamination or deliberate acts of terrorism affecting meat, poultry, and egg products. FSIS directives that provide information about homeland security are available on the FSIS web page.

### Outcome

The outcome is an inspection system that, when objectively reviewed by FSIS, is “at least equal to” that of the Federal system that ensures safe, wholesome, unadulterated, and properly labeled meat and poultry products.

### Expectations

State MPI Program officials need to stay current with and be able to explain applicable FSIS regulations, FSIS Directives, FSIS Notices, and other policies. Officials also need to be able to provide the rationale for their “at least equal to” determination and describe how the State MPI Program stays current with FSIS regulations, FSIS Directives, FSIS Notices, and other policies. Their explanation should include a narrative that describes any changes in the State MPI Program over the past 12 months and a description of the techniques and medium used to convey existing and new information to State MPI Program personnel.

The State MPI Programs should implement a management control system to evaluate and document the effectiveness of its inspection program and provide documentation that supports this control system. State MPI officials should provide a narrative that explains how the MPI Program meets the “at least equal to” criteria and continually achieves the outcome. State MPI Programs are expected to provide completed examples of documentation verifying program compliance (e.g., program records, such as management reports or reports that demonstrate that the State MPI Program is documenting, tracking, and resolving non-compliance findings). These examples also should include documentation supervisory oversight.

State MPI Programs are to submit supporting documentation to show that these programs, as described in the narrative, have been implemented, are functioning as intended, and include controls to ensure that the State MPI program remains “at least equal to” over the next 12 months.

### Examples of documentation for supporting an “at least equal to” State MPI Program

The list is not intended to be all inclusive.

- a. Establishment HACCP Summary
- b. List of all procedure codes used and explanation if different than FSIS procedure codes
- c. Method used for scheduling inspection procedures if other than FSIS procedures



- d. Noncompliance Records (NRs), 30 day letters, Notice of Intended Enforcement Action Letters (NOIEs)
- e. Food Safety Assessments (FSAs)
- f. State directives that are different than those issued by FSIS
- g. Procedures for grant approval process, suspensions and withdrawal
- h. Evidence that State MPI Programs use to assure themselves their program is effectively implemented and is being effectively executed

### Component 3. Product Sampling

#### Criteria for “at least equal to” determination

State MPI Programs are to have a verification testing program, with laboratory capacity, to address adulterants and provide other measures of properly operating food safety systems for meat and poultry products. This verification testing program must define, at a minimum:

- Selection criteria for targeting products and processes, including detailed sampling plans for raw products and ready-to-eat product. The plans are to include the thought process in determining the scope of sampling, including frequency of scheduled samples on an average basis per year across all applicable establishments.
- Means for tracking variables that may affect the effectiveness of the program (e.g., expected response rate related to the number of samples requested and the number of samples analyzed).
- Plans of Action in response to positive results, including actions taken by the State MPI Program to prevent adulterated product from entering commerce and recall of product (See Component 7).

**Note:** FSIS will communicate with States on an on-going basis to provide updated guidance for scheduling sample collection and analyzing samples for pathogens.

At a minimum, State MPI Programs need to analyze the following product classes and types for the following pathogens:

#### (1) Raw product

- Adulterant
  - *E. coli* O157:H7 in non-intact beef or intact product used to produce non-intact beef
  - violative drug residues
- Measure of properly operating food safety system
  - *Salmonella* in meat and poultry classes and products
  -

#### (2) Ready-to-eat (RTE) product

- Adulterant
  - *E. coli* O157:H7 in fully cooked meat patties and semi dry and dry fermented sausages
  - *Salmonella* in meat and poultry products
  - *Listeria monocytogenes* in meat and poultry products

In addition, State MPI Programs need to have the capacity to conduct the following analyses for the given product classes and types on a case-by-case basis and by a competent authority under contract or agreement with the State MPI Program:

#### Raw and ready-to-eat (RTE) product

- Adulterant
  - unexpected biological, chemical, or physical hazards sufficient to cause illness (e.g., allergens, species)
- Misbranding
  - significant nutrition labeling deviations
  - central nervous system type tissue in boneless meat derived from advanced meat recovery systems

#### Ready-to-eat (RTE) product

- Adulterant or indicator of contamination potential
  - *Listeria monocytogenes* as an adulterant on food contact surfaces, and as a potential for contaminating product from the environment associated with meat and poultry products

**NOTE:** It is not expected that the State Programs have a special laboratory for atypical analyses, but rather, that the State Program be able to procure atypical analyses when needed.

Laboratories conducting official analyses for State MPI Programs need not be accredited laboratories under 9 CFR 318.21 and 381.153, but are to operate in accord with those requirements. Laboratories conducting analyses for State MPI Programs should have procedures to ensure that samples are not compromised within the laboratory, including a documented chain of custody, and be able to defend the quality of their analyses in a court of law (e.g., be able to take enforcement action based on the test results).

State MPI Programs are to provide an explanation and are to demonstrate (through submitted documentation) how the measures above are met.

States are also to demonstrate that the State:

1. Obtains at least one microbiological testing result for each plant each year;
2. For high risk products (e.g., raw beef; 9 CFR 430 RTE hot dogs and deli meats), obtains multiple micro testing results for each plant each year;
3. Factors tradeoffs between retail sampling and sampling at plants, especially if higher risk practices occur at retail;
4. Assesses % positive rate for changes each quarter and each year; and
5. Reacts to adverse trend in the % positive rate for pathogens (e.g., increases inspection activity, including micro testing and food safety assessments) .

Specifically related to RTE and raw beef producing establishments, State MPI Programs should strive to achieve the following within their testing programs:

1. For RTE product plants

- A. 9 CFR 430 product plants
    - i. Product – States try to obtain at least one sample for both *Lm* and *Salmonella* per plant per quarter.
    - ii. Non-product – States try to obtain at least one food contact surface and environmental sample for *Lm* per plant per year.
  - B. RTE product not subject to 9 CFR 430, States try to obtain at least one sample for both *Lm* and *Salmonella* per plant per year.
  - C. For *Salmonella* and *Lm* results, States quantitate positives and obtain serotype and PFGE/MDR patterns (partner with FSIS).
2. For raw product plants
- A. States sample for both *E. coli* O157:H7 and *Salmonella* – states test the same sample (see FSIS Notice 12-08 for additional information).
    - i. States try to obtain at least one sample per plant per quarter.
    - ii. If retail sampling is the State focus, states relate retail sampling and testing results back to plant(s).
  - B. For all other classes of product, States sample for *Salmonella*.
    - i. If production is sporadic (e.g., not at least 3 out of 5 days in a week), States try to obtain at least one sample per plant per quarter.
    - ii. If product is not sporadic, States try to complete an appropriate *Salmonella* set.
  - C. States are to quantitate *Salmonella* positives and obtain serotype and PFGE/MDR patterns (partner with FSIS)

Additionally, FSIS will provide State MPI Programs, by August 1<sup>st</sup> of each year, guidance on minimum testing frequencies for small and very small establishments.

### Outcome

When objectively reviewed by FSIS, the State MPI Program is determined to be “at least equal to” that of the Federal system.

- (1) Pathogenic bacteria and violative residues in products are prevented from reaching the public through reliable, timely laboratory analyses of samples.
- (2) Laboratory services are qualified to accurately find and identify organisms, substances, and other conditions of regulatory and public health concern.
- (3) The quality of laboratory analysis is known and defensible in a court of law.

### Expectations

The State MPI Programs should implement internal control systems to evaluate and document the effectiveness of their testing and sampling programs. State MPI officials are to provide a narrative that explains how the MPI Program meets the “at least equal to” criteria and achieves the outcome. The outcome should be supported by completed examples of documentation verifying program compliance (e.g., program records,

management reports, enforcement activities or reports that demonstrate that the State MPI Program is achieving proper documentation, tracking, and resolution of non-compliance findings). These examples also should include documentation to demonstrate that supervisory oversight is being applied and that the supervisory process ensures that State MPI Program personnel are adequately carrying out the State MPI Program's responsibilities.

The State MPI Programs are to submit any supporting documentation (preferably completed reports and documents) to show that these programs, as described in the narrative, have been implemented, are functioning as intended, and include controls to ensure that the State MPI Program remains "at least equal to" over the next 12 months. Documentation is to be submitted in an easy-to-read format.

State MPI Program officials are to complete and sign the Annual Statement of Defensible Laboratory Results. This document must be signed by a responsible State official and submitted annually with the annual self-assessment.

#### Examples of documentation for supporting an "at least equal to" State MPI Program

Examples of verification of State MPI Program compliance are records that demonstrate that the State MPI Program is meeting product sampling criteria (e.g., sampling protocol for each adulterant).

The list is not intended to be all inclusive.

- a. Scheduling of samples and frequency (both microbiological and chemical)
- b. Sample protocol for each adulterant
- c. Lab results (completed lab forms)
- d. Documentation indicating that sample integrity is maintained
- e. Directed residue sampling and results
- f. Procedures for follow-up actions to positive results

## Annual Statement of Defensible Laboratory Results

Laboratories conducting official analyses for State MPI Programs need not be accredited laboratories under 9 CFR 318.21 and 381.153, but are expected to operate in accord with those requirements. Laboratories conducting analyses for State MPI Programs should have procedures to ensure that samples are not compromised within the laboratory, including a documented chain of custody, and be able to defend the quality of their analyses in a court of law, e.g., be able to take enforcement action based on the test results.

NAME OF RESPONSIBLE STATE OFFICIAL \_\_\_\_\_

TITLE OF RESPONSIBLE STATE OFFICIAL \_\_\_\_\_

SIGNATURE OF RESPONSIBLE STATE OFFICIAL \_\_\_\_\_

DATE \_\_\_\_\_

STATE \_\_\_\_\_

CONTACT TELEPHONE NUMBER \_\_\_\_\_

CONTACT E-MAIL \_\_\_\_\_

CONTACT FAX NUMBER \_\_\_\_\_

Complete the State Laboratory Activity Table on the next page or provide the same information in an easy-to-read format. The information you provide will be used to help assess whether the State product sampling program is “at least equal to” the Federal Program.

# State Laboratory Activity Table

SUGGESTED FORMAT

State \_\_\_\_\_ Dates Covered \_\_\_\_\_

| Microbial and Residue Sampling  | # Establishments | Average # Samples per Year | # Samples Requested | # Viable Samples Analyzed | # Confirmed Positives |
|---|------------------|----------------------------|---------------------|---------------------------|-----------------------|
| <i>E. coli</i> O157:H7 Ground Beef  |                  |                            |                     |                           |                       |
| <i>E. coli</i> O157:H7 Beef Trim  |                  |                            |                     |                           |                       |
| <i>E. coli</i> O157:H7 Other Raw Ground Beef Components   |                  |                            |                     |                           |                       |
| <i>E. coli</i> O157:H7 in RTE product (fully cooked meat patties, semi dry and dry fermented sausages)        |                  |                            |                     |                           |                       |
| <i>Listeria monocytogenes</i> in RTE products--ALL RTE (random, not due to risk)                              |                  |                            |                     |                           |                       |
| <i>Listeria monocytogenes</i> in RTE products-- Risk (9 CFR 430 Specific)                                     |                  |                            |                     |                           |                       |
| Environmental Testing<br><i>Listeria monocytogenes</i><br>Food Contact Surfaces Risk (9 CFR 430 Specific)     |                  |                            |                     |                           |                       |
| Environmental Testing<br><i>Listeria monocytogenes</i><br>Non-Food Contact Surfaces Risk (9 CFR 430 Specific) |                  |                            |                     |                           |                       |
| <i>Salmonella</i> in RTE products   |                  |                            |                     |                           |                       |
| <i>Salmonella</i> Performance Standards in raw classes of products  |                  |                            |                     |                           |                       |
| Residue   |                  |                            |                     |                           |                       |
| Other   |                  |                            |                     |                           |                       |

Names and addresses of all laboratories used: (attach additional sheets if needed)

(1) Name \_\_\_\_\_ (2) Name \_\_\_\_\_

Address \_\_\_\_\_ Address \_\_\_\_\_

Phone number \_\_\_\_\_ Phone number \_\_\_\_\_

## **Component 4. Staffing and Training**

### Criteria for “at least equal to” determination

State MPI Programs need to be “at least equal to” the Federal inspection system in their staffing and training of inspection program personnel. The State MPI Programs are to provide documentation that, at a minimum, supports that the State MPI Program has an adequate number of inspectors to provide a level of inspection coverage that is and will be maintained for the next 12 months in a manner that is “at least equal to” that provided by FSIS for its federal inspection program.

State MPI Programs should be able to provide documentation that supports that they maintain inspection coverage of each shift at each establishment on days that products are produced requiring inspection, and that persons performing meat and poultry inspection or enforcement duties have the knowledge, skills, and ability to carry out a meat and poultry inspection program that is “at least equal to” the Federal requirements.

### Outcome

When objectively reviewed by FSIS, the State MPI Program is determined to be “at least equal to” that of the Federal system.

- There is daily inspection coverage at meat and poultry establishments to ensure that only safe, wholesome, unadulterated, and properly labeled meat and poultry products receive the State mark of inspection.
- All personnel have the education and training needed to apply the State MPI Program’s inspection methodology according to laws, regulations and directives, make decisions based upon the correct application of inspection methodology, document findings, and implement regulatory actions.
- The State MPI Program has procedures in place to identify and investigate instances of employee misconduct, and take appropriate actions based upon investigation results.

### Expectations

State MPI Program officials need to stay current with and be able to explain how their program is “at least equal to” applicable FSIS regulations, as well as equivalent to FSIS Directives, FSIS Notices, and other policies. Officials also need to be able to provide the rationale for their “at least equal to” determination and describe how the State MPI Program stays current with FSIS regulations, FSIS Directives, FSIS Notices and other policies. The explanation should include a narrative that describes any changes in the



State MPI Program over the past 12 months and a description of the techniques and medium used to convey existing and new information to State MPI Program personnel.

State MPI Programs should implement a management control system to evaluate and document the effectiveness of its personnel and training programs. State MPI officials should provide a narrative that explains how the MPI Program meets the “at least equal to” criteria and continually achieves the outcome. State MPI Programs are expected to provide completed examples of documentation verifying program compliance (e.g., program records, management reports, enforcement activities or reports that demonstrate that the State MPI Program is achieving proper documentation, tracking, and resolution of findings). These examples also should include documentation of supervisory oversight.

State MPI Programs are to submit supporting documentation (preferably completed reports and documents) to show that the program, as described in the narrative, has been implemented, is functioning as intended, and includes controls to ensure that the State MPI Program remains “at least equal to “ over the next 12 months. FSIS recommends that the State MPI program complete the attached forms or provide the information collected on the forms in another format.

To document that the State MPI Program’s staffing and training is “at least equal” to that of the Federal program, the State MPI Program should:

- Provide a detailed description and implementation methodology used to determine staffing criteria for daily coverage of establishments producing product under the mark of inspection, including an adequate number of relief personnel.
- Provide a description of the procedures for providing relief inspection during scheduled and emergency leave situations and what controls exist to ensure compliance.
- Provide a description of the procedures used to verify daily inspection coverage. Include an explanation of how State MPI Program management analyzes if staffing requirements are met; identifies failures to meet staffing requirements; corrects staffing deficiencies; and what controls exist to ensure ongoing compliance with the program’s requirements.
- Provide a list of state establishments with supervisory control boundaries (such as circuits) to aid in the selection of establishments for on-site review. Include establishment number, name, address, phone number, and whether the establishment is under inspection or custom-exempt.
- Provide the information in an easy-to-read format.
  - Total Number of Establishments Inspected by State
  - State Assignment and Employment Report
- Answer the following training program questions:
  - How do you evaluate inspection personnel during and after their probationary period on their performance of inspections to determine practical application of inspection skills?
  - What are training policies/plans? Please describe fully.

- How do you track training of employees?
- How do you provide current policies to inspection personnel so they have up-to-date information to accurately carry out the State MPI Program's inspection responsibilities?

Examples of documentation for supporting an "at least equal to" State MPI Program

The list is not intended to be all inclusive.

- b. Criteria used for assigning work
- c. Evidence of daily coverage to all inspected facilities
- d. Inspection procedure reports
- e. Employee evaluation forms and policy
- f. Copy of training plan/policies for all inspection program personnel
- g. Method of tracking training
- h. NRs to demonstrate adequate training concerning documentation

**Total Number of Establishments Inspected by State** – The form below is a Word document of FRAB form 5720-4. (Federal-State Cooperative Inspection Program (FSCIP), also known as Talmadge-Aiken plants or cross-utilization plants. FSCIP and Cross Utilization establishments are Federal establishments and are not reviewed as part of the State MPI Program. Since these establishments are staffed by State inspection personnel, the number of these establishments is applicable to Component 4 determinations.

FY 2007 REQUEST  
 U.S. DEPARTMENT OF AGRICULTURE  
 FOOD SAFETY AND INSPECTION SERVICE  
 FIELD OPERATIONS

**STATE ESTABLISHMENT PROFILE – Suggested Format**

|  |              |                           |            |             |       |
|--|--------------|---------------------------|------------|-------------|-------|
| STATE:   |              | AS OF: (Month, Day, Year) |            |             |       |
| <b>I.<br/>NUMBER OF<br/>OFFICIAL<br/>PLANTS<br/>UNDER<br/>INSPECTION</b> | TYPE         | SLAUGHTER                 | PROCESSING | COMBINATION | TOTAL |
|  | Meat         |                           |            |             |       |
|  | Poultry      |                           |            |             |       |
|  | Combination  |                           |            |             |       |
|  | <b>TOTAL</b> | 0                         | 0          | 0           | 0     |
| <b>II.<br/>NUMBER OF<br/>EXEMPT<br/>PLANTS</b>                           | Meat         |                           |            |             |       |
|  | Poultry      |                           |            |             |       |
|  | Combination  |                           |            |             |       |
|  | <b>TOTAL</b> | 0                         | 0          | 0           | 0     |
| <b>III.<br/>NUMBER OF<br/>FSCIP<br/>PLANTS</b>                           | Meat         |                           |            |             |       |
|  | Poultry      |                           |            |             |       |
|  | Combination  |                           |            |             |       |
|  | <b>TOTAL</b> | 0                         | 0          | 0           | 0     |
| REMARKS  |              |                           |            |             |       |
| SIGNATURE  |              |                           | DATE       |             |       |

STATE Assignment and employment report – The form below is a Word document of FRAB form 5720-5.

**FY 2007 REQUEST**

**STATE ASSIGNMENT AND EMPLOYMENT REPORT – Suggested Format**

| NAME OF STATE AND AGENCY  |                                     |                      |                             | AS OF DATE: (Month/Day/Year) |           |                 |
|---|-------------------------------------|----------------------|-----------------------------|------------------------------|-----------|-----------------|
|   | DESCRIPTION                         | AUTHORIZED POSITIONS |                             | NUMBER OF EMPLOYEES          |           | FTE STAFF YEARS |
|   |                                     | FULL TIME            | PART TIME                   | FULL TIME                    | PART TIME |                 |
| <b>HEAD-<br/>QUARTERS<br/>(a)</b>   | VET. MEDICAL OFFICERS (VMOs)        |                      |                             |                              |           |                 |
|   | FOOD INSPECTORS                     |                      |                             |                              |           |                 |
|   | COMPLIANCE PERSONNEL                |                      |                             |                              |           |                 |
|   | LABORATORY PERSONNEL                |                      |                             |                              |           |                 |
|   | ADMINISTRATIVE/CLERICAL             |                      |                             |                              |           |                 |
|   | OTHER                               |                      |                             |                              |           |                 |
|   | SUBTOTAL                            | 0                    | 0                           | 0                            | 0         | 0               |
|   |                                     |                      |                             |                              |           |                 |
| <b>REGIONAL /<br/>AREA /<br/>DISTRICT /<br/>CIRCUIT<br/>OFFICES<br/>(b)</b> | VET. MEDICAL OFFICERS (VMOs)        |                      |                             |                              |           |                 |
|   | FOOD INSPECTORS                     |                      |                             |                              |           |                 |
|   | COMPLIANCE PERSONNEL                |                      |                             |                              |           |                 |
|   | LABORATORY PERSONNEL                |                      |                             |                              |           |                 |
|   | ADMINISTRATIVE/CLERICAL             |                      |                             |                              |           |                 |
|   | OTHER                               |                      |                             |                              |           |                 |
|   | SUBTOTAL                            | 0                    | 0                           | 0                            | 0         | 0               |
|   |                                     |                      |                             |                              |           |                 |
| <b>INPLANT<br/>(STATE<br/>PLANTS)<br/>(c)</b>                               | VET. MEDICAL OFFICERS (VMOs)        |                      |                             |                              |           |                 |
|   | FOOD INSPECTORS (Cross Utilization) |                      |                             |                              |           |                 |
|   | OTHER                               |                      |                             |                              |           |                 |
|   | SUBTOTAL                            | 0                    | 0                           | 0                            | 0         | 0               |
|   |                                     |                      |                             |                              |           |                 |
| <b>INPLANT<br/>(FEDERAL<br/>PLANTS)</b>                                     | VET. MEDICAL OFFICERS (VMOs)        |                      |                             |                              |           |                 |
|   | FOOD INSPECTORS (Cross Utilization) |                      |                             |                              |           |                 |
|   | FOOD INSPECTORS (Base Time T/A)     |                      |                             |                              |           |                 |
|   | OTHER                               |                      |                             |                              |           |                 |
|   | SUBTOTAL                            | 0                    | 0                           | 0                            | 0         | 0               |
| <b>TOTAL (Headquarters and Field)</b>                                       |                                     | 0                    | 0                           | 0                            | 0         | 0               |
| <b>TOTAL TALMADGE/AIKEN Overtime Hours</b>                                  |                                     |                      |                             |                              |           |                 |
| COMMENTS  |                                     |                      |                             |                              |           |                 |
| PRINT NAME OF STATE DIRECTOR  |                                     |                      | SIGNATURE OF STATE DIRECTOR |                              |           | DATE            |

## **INSTRUCTIONS FOR THE Word Document format that matches FSIS FORM 5720-5.**

### **General Instructions**

This form is designed to provide information on the staffing pattern for a Cooperative State Meat and Poultry Inspection Program.

### **Authorized Positions**

Authorized Positions refers to the approved budget positions for the Cooperative State Inspection Program. In general, authorized positions should only appear in section (a) HEADQUARTERS, (b) REGIONAL/AREA/DISTRICT/CIRCUIT OFFICES, and (c) INPLANT – STATE PLANTS, since it is assumed that the positions have been created for the State program to inspect State plants.

### **Number Employees**

The number employees refer to those employees hired by the State agency to participate in the Cooperative State Inspection Program. Generally, the employees' numbers should appear only in section (a), (b), and (c), unless the employee has been hired to work exclusively in a Federal plant.

### **FTE Staff Years**

The amount of time the employees work in each activity should be shown in these columns. Thus, if an employee works fulltime, but spend 50 percent of his time inspecting State plants and the other 50 percent of his time in Federal plants, his time should be considered as 0.50 in each section.

### **Talmadge-Aiken Overtime Hours**

If the State has a Talmadge-Aiken program, indicate the estimated number of overtime hours utilized.

## **Component 5. Humane Handling**

### Criteria for “at least equal to” determination

The State MPI Program has “at least equal to” humane handling laws and regulations, and other issuances to ensure that animals are humanely handled and maintained under appropriate conditions.

The State MPI Program performs verification procedures to ensure establishment compliance with humane handling rules and regulations.

The State MPI Program takes appropriate regulatory actions in response to observed noncompliances, including taking immediate control actions when noncompliance results in injury or inhumane treatment of animals. The State MPI Program takes action against any persons found to be engaging in inhumane methods of slaughter at meat establishments (§1901-1907 of the Humane Methods of Livestock slaughter Act). Under the Poultry Products Inspection Act (PPIA) and Agency regulations, live poultry must be handled in a manner that is consistent with good commercial practices, which means they should be treated humanely (21 U.S.C. 453(g)(5)). The PPIA and FSIS regulations (9 CFR 381.90) provide that carcasses of poultry showing evidence of having died from causes other than slaughter are considered adulterated and condemned. The regulations also require that poultry be slaughtered in accordance with good commercial practices, in a manner that results in thorough bleeding of the poultry carcass, and ensures that breathing has stopped before scalding so that the birds do not drown (9 CFR 381.65(b)).

### Outcome

When objectively reviewed by FSIS, the State MPI Program is determined to be “at least equal to” that of the Federal system.

All livestock presented for slaughter are humanely handled throughout the time they are on establishment premises. Examples of documentation verifying program compliance are records that demonstrate the establishments are:

- Maintaining livestock pens, driveways, and ramps that do not cause injury to animals;
- Meeting requirements for feed and water;
- Using acceptable methods of stunning;
- Using acceptable driving methods; and
- Requirements for moving non-ambulatory or disabled.

## Expectations

State MPI Program officials need to stay current with and be able to explain applicable FSIS regulations, FSIS Directives, FSIS Notices and other policies. Officials also need to be able to provide the rationale for their “at least equal to” determination and describe how the State MPI Program stays current with FSIS regulations, FSIS Directives, FSIS Notices, and other policies. The explanation should include a narrative that describes any changes in the State MPI Program over the past 12 months and a description of the techniques and medium used to convey existing and new information to State MPI Program personnel.

The State MPI Programs should implement a management control system to evaluate and document the effectiveness of its programs and provide a narrative that explains how the MPI Program meets the “at least equal to” criteria and achieves the outcome.

The outcome is to be supported by completed examples of documentation verifying program compliance (e.g., program records, management reports, enforcement activities or reports that demonstrate that the State MPI Program is achieving proper documentation, tracking, and resolving non-compliance findings). These examples also should include documentation of supervisory oversight.

State MPI Programs are to submit supporting documentation (preferably completed reports and documents) to show that these programs, as described in the narrative, have been implemented, are functioning as intended and that controls exist to ensure efforts to maintain the State MPI Programs over the next 12 months.

## Examples of documentation for supporting an “at least equal to” State MPI Program

The list is not intended to be all inclusive.

- a. Assessment reports/supervisory visits
- b. NRs
- c. Procedures/instructions for handling inhumane handling situations
- d. Inspection procedure reports
- e. Any database concerning inhumane handling situations

## **Component 6. Non-Food Safety Consumer Protection<sup>5</sup>**

### Criteria for “at least equal to” determination

The State MPI Program protects consumers from meat and poultry products that are unwholesome, economically adulterated, or not truthfully labeled. The State MPI Program needs to ensure that the regulatory regime is “at least equal to” the Federal non-food safety requirements for labeling and product standards. The State MPI Program has a label approval policy and verification procedures to ensure that labels are not false or misleading.

### Outcome

When objectively reviewed by FSIS, the program is determined to be “at least equal to” that of the Federal system.

Consumers are protected from meat and poultry products that are unwholesome, economically adulterated, or not truthfully labeled. Examples of documentation verifying program compliance are records that demonstrate the State MPI Program has ongoing verification of labeling and product standards and other non-food safety requirements applicable to product being produced.

### Expectations

State MPI Program officials need to stay current with and be able to explain applicable FSIS regulations, FSIS Directives, FSIS Notices, and other policies. Officials also need to be able to provide the rationale for their “at least equal to” determination and describe how the State MPI Program stays current with FSIS regulations, FSIS Directives, FSIS Notices, and other policies. The explanation should include a narrative that describes any changes in the State MPI Program over the past 12 months and a description of the techniques and medium used to convey existing and new information to State MPI Program personnel.

The State MPI Programs should implement a management control system to evaluate and document the effectiveness of its programs. State MPI officials are to provide a narrative that explains how the MPI Program meets the “at least equal to” criteria and achieves the outcome. State MPI Programs are expected to provide completed examples of documentation verifying program compliance (e.g., program records, management reports, enforcement activities and/or reports that demonstrate that the State MPI Program is documenting, tracking, and resolving non-compliance findings). These examples also should include documentation of supervisory oversight.

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<sup>5</sup> “Non-food safety consumer protection” refers to consumer protection activities other than those focused directly on food safety and public health. Under the FMIA and the PPIA, FSIS is responsible for ensuring that products are wholesome; are properly marked, labeled, and packaged; and are not economically adulterated or do not contain components that, while not actually unsafe, are undesirable.



State MPI programs are to submit supporting documentation (preferably completed reports and documents) to show that these programs, as described in the narrative, have been implemented, are functioning as intended, and that controls exist to ensure efforts to maintain the State MPI Programs over the next 12 months.

Examples of documentation for supporting an “at least equal to” State MPI Program

This list is not intended to be all inclusive

- a. Process for approving labels
- b. NRs
- c. Inspection procedure schedules and reports

## **Component 7. Compliance**

### Criteria for “at least equal to” determination

The State MPI Program is “at least equal to” the Federal requirements if it enforces all applicable laws, regulations, and FSIS policies and takes appropriate enforcement action in the event of non-compliance or potentially unsafe product entering commerce.

The State MPI Programs:

- Take action against any persons found to be engaging in any prohibited acts associated with the safety, wholesomeness, or labeling of product or the integrity of the inspection program (§ 10, 11, and 22 of the FMIA [21 U.S.C. 610, 611, and 622] and § 9 and 10 of the PPIA [21 U.S.C. 458 and 459], by identifying violators and imposing appropriate sanctions (§ 401, 405 and 406 of the FMIA, and § 12, 13, and 18 of the PPIA).
- Take appropriate control of product in intrastate commerce that appears to be adulterated or misbranded, or has not been inspected (§ 402 of the FMIA; § 19 of the PPIA), and ensures proper disposition of such product, including detention, seizure, condemnation, and destruction where appropriate (§ 403 of the FMIA and § 20 of the PPIA).
- Engage in surveillance to ensure that animal carcasses, carcass parts, or their products not intended for use as human food are not diverted to human food uses (§ 201, 202, 203 of the FMIA; § 11 of the PPIA).
- Document findings in a manner necessary to support enforcement action.
- Take action to remove or have removed adulterated or misbranded product that has entered commerce.
- Has laws to prosecute any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of their official duties.

### Outcome

When objectively reviewed by FSIS, is determined to be “at least equal to” that of the Federal system.

The State MPI Program provides assurance to the public that affected businesses are complying with regulatory requirements, and has procedures in place to monitor meat and poultry products and handling of these products, as they are distributed in intrastate commerce. Examples of documentation verifying State MPI Program compliance are records that demonstrate the State MPI Program is achieving surveillance and enforcement activities, including sample collection, and taking regulatory action when needed, up to and including prosecution of individuals or firms that have violated the State’s laws.

## Expectations

State MPI Program officials need to stay current with and be able to explain applicable FSIS regulations, FSIS Directives, FSIS Notices, and other policies. Officials also need to be able to have the ability to provide the rationale for their “at least equal to” determination. The explanation should include a narrative that describes any changes in the State MPI Program over the past 12 months and a description of the techniques and medium used to convey existing and new information to State MPI Program personnel.

The State MPI Programs should implement a management control system to evaluate and document the effectiveness of its programs. The Programs should provide a narrative that explains how the MPI Program meets the “at least equal to” criteria and achieves the outcome.

The outcome should be supported by examples of completed documentation verifying program compliance. Include descriptions of the following:

- The State MPI Program’s Planned Compliance Program;
- The methods for reporting compliance activities;
- Procedures for recall of meat and poultry products; and
- Procedures for obtaining, and preserving legal integrity of documentary and other evidence, in order to support legal action.

State MPI Programs are to submit supporting documentation (preferably completed reports and documents) to show that the State MPI Programs, as described in the narrative, have been implemented, are functioning as intended, and that controls exist to ensure efforts to maintain the State MPI Program over the next 12 months.

### Examples of documentation for supporting an “at least equal to” State MPI Program

The list is not intended to be all inclusive.

- a. Forms and guidelines followed for reporting violations to your code/act/statutes
- b. Recall procedures and effectiveness checks
- c. Evidence preservation and chain of custody policies and procedures
- d. Compliance protocol for collecting samples and maintaining sample integrity
- e. Describe procedures for detention and seizure of product

State MPI Program Officials are to provide a report on compliance activities in an easy-to-read format. The following activities should be included in the submission:

## COMPLIANCE ACTIVITY REPORT

### SUGGESTED FORMAT

State Name \_\_\_\_\_

Time Period \_\_\_\_\_

|   |                  |                   |        |
|---|------------------|-------------------|--------|
| COMPLIANCE ACTIVITIES   |                  |                   |        |
| Risk-based Reviews  |                  |                   |        |
| Consumer Complaint Follow-Ups   |                  |                   |        |
| Management Control Audits   |                  |                   |        |
| Letters of Warning  |                  |                   |        |
| Hearings  |                  |                   |        |
| Court Actions/Prosecutions  |                  |                   |        |
| FMIA/PPIA/HMSA Violation Cases  |                  |                   |        |
| Registrations of Meat and or Poultry Handlers                               |                  |                   |        |
| Miscellaneous Actions/Special Projects / Personal Contacts (Please itemize) |                  |                   |        |
|   |                  |                   |        |
|   |                  |                   |        |
|   |                  |                   |        |
| DETENTIONS  | NUMBER/OR POUNDS | LABORATORY        | NUMBER |
| Detentions  |                  | Samples           |        |
| Product Detained  |                  | Determinations    |        |
| Product Released  |                  | Out of Compliance |        |
| Product Condemned   |                  |                   |        |
| Product Voluntarily Destroyed   |                  |                   |        |
| SIGNATURE OF STATE DIRECTOR   |                  |                   | DATE   |

**Note:** One sample can have multiple determinations and a multiple number out of compliance.

## **Component 8. Civil Rights**

### Criteria for review determination

The State MPI Programs are to provide accurate documentation to demonstrate that they are operating and will continue to operate in a manner that is “at least equal to” the Federal requirements for the next 12 months

The State MPI Program:

- Adheres to Federal civil rights laws;
- Adheres to USDA civil rights regulations; and
- Achieves the intended outcome.

### Outcome

State MPI Programs are conducted in a manner that respects civil rights, ensures a non-discriminatory environment, and complies with the laws and regulations cited below.

### Instructions

The State MPI Programs are to comply with the civil rights laws, regulations, and policies listed below. State MPI Programs are to download and complete FSIS Form 1520-1, Civil Rights Compliance of State-Inspected Programs, at [http://www.fsis.usda.gov/Forms/PDF/Form\\_1520-1.pdf](http://www.fsis.usda.gov/Forms/PDF/Form_1520-1.pdf).

- Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d
- Section 504 of the Rehabilitation Act of 1973, as Amended, 29 U.S.C. 794
- Age Discrimination Act of 1975, 42 U.S.C. 6103 et seq.
- Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.
- 7 CFR 15 Subpart A, Nondiscrimination in Federally Assisted Programs of the Department or Agriculture
- 7 CFR 15 Part b, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance
- Department Regulation 4330-2, dated March 3, 1999, Non-discrimination in Programs and Activities Receiving Federal Financial Assistance from USDA
- Departmental Regulation 4300-3, dated November 16, 1999, Equal Opportunity Public Notification Policy
- FSIS Directive 1520.1, Civil Rights Compliance and Enforcement (currently being updated and revised)
- FSIS Directive 1510.1, Equal Opportunity Notification of Material for the Public dated January 25, 2001

PART A, Public Notification Process, and PART C, Discrimination Complaints, are to be completed by the State Director. PART B, Civil Rights Training, and PART D, Program

Accessibility, are to be completed by the State's Civil Rights Office or Human Resources Office – whichever has designated responsibility.

The self-assessment Form 1520-1 is to be signed by the designated State Official such as a Commissioner, Director or Secretary who would be deemed appropriate and responsible for signing the State-Federal Cooperative agreement and the annual application for Federal financial assistance, ensuring that the State's MPI Program will be conducted in compliance with all Federal statutes relating to nondiscrimination. The completed form must be mailed (hard copy), with an original signature.

## **Component 9: Financial Accountability.**

The State MPI Programs are to ensure their conformance with 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (previously know as the Common Rule). The State agency must follow FSIS Directive 3300.1, Rev. 2, "*Fiscal Guidelines for Cooperative Meat and Poultry Inspection Programs.*"

### Criteria for review determination -- Certification for Component 9

The following actions are necessary to complete the Component 9 certification:

- (1) Timely submission of annual budget to FSIS; submission of all data requested.
- (2) Timely submission of annual indirect cost proposal to the cognizant Federal Agency (due within six months after close of State fiscal year).
- (3) Timely submission of Financial Status Reports (SF-269As) to FSIS. Quarterly Reports are due within thirty days after the close of each quarter (e.g., 4<sup>th</sup> Quarter SF-269A Report is due by October 30). The final report is due within 90 days of the end of the Federal Fiscal Year (e.g., by December 30).
- (4) Timely resolution of all financial findings pursuant to the on-site fiscal review.

### Documentation Needed For On-site Financial Review

- State's centralized accounting reports containing the State MPI Program's expenditures
- Worksheets or schedules that were used to reconcile the centralized accounting reports to the SF-269As.
- Documentation for any other FSIS cooperative agreements (e.g. Public Health Data Communication Information Systems (PHDCIS), Talmadge-Aiken Overtime, Cross Utilization)
- Single or departmental audit reports
- Detailed organizational chart with employee names
- Equipment inventory list as defined by State requirements
- Contractual agreements
- Procedures for the "Preparation and Review of the SF-269A report"
- List of employee retirements/terminations by quarter (e.g. April-June) with disposition of annual and sick leave balances (Only if State MPI Program claims indirect costs AND the State's centralized accounting reports do not have object codes for terminal leave payments).

The above documents are items that State agencies are to have *on hand* for examination by FSIS auditors during an on-site financial review.

### Instructions for Self-Assessment

FRAB will verify the State MPI Programs compliance to financial reporting activities throughout the Federal fiscal year. Financial reporting compliance will be determined by

FRAB as outlined in this section entitled “Criteria for review determination – Certification for Component 9.” If the State agency has satisfied the elements outlined in this section, the State agency only needs to do the following:

Sign the attached certification statement (see Attachment III) entitled “Certification Statement for Component 9” and submit the signed certification statement to the appropriate contacts in the FRAB in order to completely satisfy self-assessment for Component 9. No additional work is required for the self-assessment.

If the State has not satisfied the elements in this section, the State agency needs to complete the following:

- (1) Submit any outstanding documents for component 9 certification to FRAB. For a list of required documents for component 9 certification see this directive within the section entitled “Criteria for review determination – Certification for Component 9”.
- (2) Submit a letter to FRAB indicating the reasons(s) for the State program’s delinquency.
- (3) Lastly, after the State agency has completed steps (1) and (2), sign the certification statement at the end of this section, entitled “Certification Statement for Component 9” and submit the signed certification statement to the appropriate contacts in the FRAB in order to completely satisfy self-assessment for Component 9.

### Guidance

FSIS Directive 3300.1, Rev. 2, Fiscal Guidelines for Cooperative Meat and Poultry Inspection Programs, contains instructions for the preparation and submission of both the annual budget and SF-269As. Additional guidance for the submission of SF-269A, Financial Status Reports is contained in 7 CFR Part 3016.40 (b1). State agency grantees are required to maintain supporting documentation for their final SF-269A, Financial Status Reports for three years after submission (7 CFR Part 3016.42).

Additional guidance for the analysis of budget submissions is contained in the FSIS document, titled “A Guide for the Preparation of the Cooperative State Meat and Poultry Inspection Program Budget Submissions, dated September 2004.” Guidelines for the preparation and submission of indirect cost proposals are contained in OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, Revised 5/10/04.

### Annual Assurance Statements

Regarding Component 9, FMD/Financial Reviews and Analysis Branch (FRAB) and RMPS/Financial Management Unit (FMU), will provide annual assurance statements to the OPEER Federal/State Audit Branch by February 1<sup>st</sup> that the State agencies are current in the financial reporting activities that are required throughout the Federal fiscal



year. FMU will review and report regarding the submission of annual budgets. FRAB will review and report regarding the submission of annual indirect cost proposals, submission of Quarterly and Final SF-269A, Financial Status Reports, and timely responses to financial review findings.

Sign the certification statement on the next page and submit the signed certification statement to the appropriate contacts in the FRAB in order to completely satisfy self-assessment for Component 9.

## CERTIFICATION STATEMENT FOR COMPONENT 9

**We the State agency entitled:**

**State agency name:** \_\_\_\_\_

**For the calendar year ending:** \_\_\_\_\_

**understand that self-certification for Component 9 entails compliance with the following:**

- Timely submission of annual budget to FSIS; submission of all data requested.
- Timely submission of annual indirect cost proposal to the cognizant Federal Agency (due within six months after close of State fiscal year).
- Timely submission of Financial Status Reports (SF-269As) to FSIS. Quarterly Reports are due within thirty days after the close of each quarter (e.g., 4<sup>th</sup> Quarter SF-269A Report is due by October 30). The final report is due within 90 days of the end of the Federal Fiscal Year (e.g., by December 30).
- Timely resolution of all financial findings pursuant to the on-site fiscal review.

**I certify to the best of my knowledge and belief that the aforementioned State agency has complied with the applicable directives and guidelines set forward by the Food Safety and Inspection Service Agency for successful and complete self-certification for Component 9, and certify that we are compliant with all Component 9 requirements for our State agency.**

|   |   |
|---|---|
| Typed or Printed Name & Title               | Telephone (area code, Number and extension) |
| Signature of Authorized Certifying Official | Date of Submission                          |