Appendix L

Comprehensive Review and Determination Report

Fiscal Year 2021

Mississippi

Federal-State Audit Staff
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
U.S. Department of Agriculture
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Purpose
This report communicates the United States Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS), Office of Investigation, Enforcement and Audit (OIEA), Federal-State Audit Staff’s (FSAS) annual review results and determination for the Mississippi Meat and Poultry Inspection (MPI) program, and presents an overview of the review methodology used for determining if the State MPI program is “at least equal to” FSIS’ MPI program.

Description of Mississippi’s MPI Program
The Mississippi Department of Agriculture and Commerce, Meat Inspection Division (MDAC/MID) administers the Mississippi MPI program under authority of Mississippi Code of 1972 (Title 75, Chapter 33 and 35). The program verifies compliance and enforces regulatory requirements at 13 inspected facilities and 11 custom exempt establishments.1 In addition, MDAC/MID provides inspection at 25 facilities in the Federal-State Cooperative Agreement Inspection Program.2

Annual Determination
FSIS determined that MDAC/MID is operating a meat and poultry inspection program “at least equal to” the Federal requirements. MDAC/MID has adopted laws, regulations, and programs, and implemented them in a manner that is “at least equal to” the Federal inspection program for all review components. Since MDAC/MID was not subject to an onsite review for Components 1 through 9 during fiscal year (FY) 2021, FSIS based its annual determination on review of the self-assessment documents only. This determination is fully explained in the Review of Mississippi’s Self-Assessment Submission section. The last onsite review conducted of the MDAC/MID by FSAS was in February 2019.

Self-Assessment Review Methodology
Annually, FSAS will conduct a desk review of documentation submitted by a representative agent of each non-designated3 State demonstrating its completion of an assessment of current State laws, rules, policies, and procedures that govern the MPI program’s inspection and operation activities with those administered by FSIS and supporting the State’s determination that their MPI program meets the “at least equal to” Federal standards. A State MPI program official completes a self-assessment addressing all program inspection and operation activities using the self-assessment instruments provided by FSIS. The State agent is to submit the completed self-assessment instruments and any requested supporting documentation by November 1 of each review cycle.

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1 Custom exempt establishments are slaughter and processing establishments that are not subject to the routine inspection requirements of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), provided the specified operations meet the exemption requirements (21 U.S.C. 623 and 464).

2 Facilities operating under the Federal-State Cooperative Agreement Inspection Program (FSCIP), also known as Talmadge-Aiken establishments or cross-utilization facilities, are under Federal inspection, but operate with State inspection personnel. As a result, these facilities are not reviewed as part of the State MPI program review. However, since State inspection personnel staff these establishments, the number of these establishments is applicable to determinations on Component 4 – Staffing and Training.

3 Non-designated State is a State that operates an MPI program under a cooperative agreement with FSIS. The State MPI program must administer inspection and food safety requirements “at least equal to” those imposed under the Federal Meat Inspection Act, Poultry Products Inspection Act and Humane Methods of Slaughter Act of 1978.
The submitted information should support the non-designated State’s self-determination that its MPI program is administered in a manner that is “at least equal to” the Federal inspection program. The self-assessment submission is to include narrative describing key MPI program inspection and operations activities and explanations supporting why the described activities meet the “at least equal to” Federal standards. Additionally, the self-assessment submission is to include evidence and documentation to support that the State MPI program’s policies and procedures for carrying out the activities currently are in effect.

At the start of each Federal fiscal year, FSIS assembles a review team comprised of subject matter experts from various FSIS program areas to review the nine components of the comprehensive review process. This FSIS review team includes staffs or personnel primarily from the following Agency program areas: OIEA, the Office of Management, the Office of the Chief Financial Officer, and the Office of Public Health Science (OPHS). During the review process, the Office of Policy and Program Development and the Office of Field Operations are consulted as needed to gain context and perspective on current FSIS programs, policies, and procedures when determining whether a State MPI program meets Federal “at least equal to” standards.

If questions arise during the desk review or if additional documentation is needed to make a review determination regarding one or more components, FSIS will request clarifying information from the State MPI program. Upon completion of the desk review, FSIS makes one of the following three determinations for each component and for the non-designated State’s overall ability to maintain an MPI program “at least equal to” the Federal requirements:

1. “At Least Equal To” means the State MPI program has adopted laws, regulations, and programs, and implemented them in a manner that is “at least equal to” FSIS’ Federal inspection program for all review components.
2. “At Least Equal To” with Provisions means FSIS makes a provisional determination of the State MPI program’s “at least equal to” status provided the program takes additional action to resolve review findings.
3. Not “At Least Equal To” means the State MPI program has not adopted laws, regulations, or programs, or does not implement them in a manner that is “at least equal to” FSIS’ Federal inspection program for one or more of the review components.

Review of Mississippi’s Self-Assessment Submission
FSAS evaluated the self-assessment documents for the applicable review components to determine whether MDAC/MID constitutes an inspection program “at least equal to” the Federal program. The determination and rationale for each review component are listed below.

FSAS received MDAC/MID’s complete self-assessment submission for components 1 through 6 on January 8, 2021. FSAS sent a notification to MDAC/MID requesting additional information. MDAC/MID sent additional information clarifying their self-assessment submission and all supplementary information requested. FSAS reviewed the submitted clarification items, and accepted the requested information on August 13, 2021.
Component 1 – Statutory Authority and Food Safety Regulations
FSAS compared the submitted self-assessment and supporting documentation to the legal authority provided under the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), and the Humane Methods of Slaughter Act (HMSA), and the regulations promulgated under these laws. The supporting documentation included the Mississippi Code of 1972 (Title 75, Chapter 33 and 35) and the Mississippi Meat Regulations (Subpart 4, Chapter 7, Subchapters 1 and 2). The Mississippi Code of 1972 provides authorities for mandatory ante-mortem and post-mortem inspection, reinspection (Sections 75-35-7, 75-35-9, and 75-35-11), sanitation requirements (Section 75-35-17), record keeping requirements (Section 75-35-103), and humane methods of slaughter requirements (Section 75-35-8).

In addition, the Mississippi Code of 1972 provides authorities that are “at least equal to” the FMIA and PPIA regarding adulteration (Section 75-35-3), misbranding (Section 75-35-3), prohibited acts (Sections 75-35-21 and 75-35-23), access and examination (Sections 75-33-15, 75-35-13, and 75-35-103), and product control actions (Sections 75-35-303 and 75-35-305). It also includes sufficient authorities for criminal, civil, and administrative sanctions to address violators.

The Mississippi Code of 1972 grants the authority to promulgate rules and regulations (Sections 75-33-5 and 75-35-5) and Mississippi adopts by reference Title 9, Code of Federal Regulations (9 CFR) Chapter III, Parts 301 to 307, 309 to 320, 325, 329, 352, 354, 355, 362, 381, 412, 416, 417, 424, 430, 441, 442, and 500, which also incorporated in the Mississippi Meat Regulations (04:07:01; Section 10.01 and 04:07:02; Section 210.01).

In conclusion, MDAC/MID provided evidence showing that it operates under State laws and regulations that provide legal authority “at least equal to” that provided under the FMIA, PPIA, and HMSA, and the accompanying regulations.

Component 2 – Inspection
FSAS compared the self-assessment submission and supporting documentation regarding inspection policies and procedures and verification of establishments’ compliance to the Federal requirements. MDAC/MID uses the FSIS Public Health Information System (PHIS) to schedule inspection tasks and to collect, consolidate, and analyze inspection data. In addition, MDAC/MID reviews custom exempt operations in accordance with FSIS Directive 8160.1 Custom Exempt Review Process.

MDAC/MID verifies that establishments develop, implement, and maintain Sanitation Standard Operating Procedures (SOP) and Hazard Analysis and Critical Control Point (HACCP) systems. In addition to the inspectors’ ongoing verification activities, MDAC/MID routinely schedules and performs a comprehensive food safety assessment (FSA) at each inspected establishment at least once every four years. These FSAs examine the design and validity of establishments’ food safety systems, which include hazard analyses, supporting documents, HACCP plans, Sanitation SOPs, prerequisite programs, sampling programs, and any other programs that constitute the establishments’ HACCP systems. The noncompliance records, FSA records, notices of intended enforcement, and verification plans support the conclusion that State inspection personnel recognize and document noncompliance, and that they initiate appropriate regulatory actions.
MDAC/MID addressed new issuances published by FSIS as part of FSAS’ quarterly new issuance program and met “at least equal to” expectations in addressing how the new policies and instructions are incorporated into their inspection program.

MDAC/MID verifies establishment compliance with the non-food safety (i.e., labeling) consumer protection regulatory requirements. MDAC/MID uses applicable FSIS directives to instruct inspection personnel and uses PHIS to schedule ongoing verifications and document noncompliance. A thorough review of the PHIS data for a 12-month period supports the conclusion that MDAC/MID inspectors correctly apply the inspection methodology and document noncompliance.

MDAC/MID maintains a label approval policy and process to verify that labels are accurate and meet regulatory requirements. Prior to applying a label, mark, or device to an inspected meat or poultry product, an establishment representative must submit a completed application for label approval and a label sketch to obtain MDAC/MID approval for multi-ingredient products that do not have a standard of identity. As part of its management control system, MDAC/MID monitors inspection task results and economic product sampling performance.

MDAC/MID enforces the Mississippi Meat Regulations (Subpart 4, Chapter 7, Subchapters 1 and 2), which adopts by reference 9 CFR Part 500, Rules of Practice, when establishments do not comply with State authorities that are “at least equal to” the FMIA and PPIA. MDAC/MID maintains procedures to document relevant facts of administrative actions and ensure that administrative actions are legally supportable and based on relevant facts.

The submitted documents support the conclusion that MDAC/MID:

- Performs inspection and regulatory verification procedures to confirm that State-inspected establishments comply with applicable regulations;
- Maintains a system to carry out administrative enforcement actions when establishments do not comply with State authorities that are “at least equal to” the FMIA and PPIA;
- Conducts inspection activities “at least equal to” the Federal requirements; and
- Monitors these activities through control measures to verify that the inspection system functions as intended.

Component 3 – Sampling Programs
FSIS compared MDAC/MID’s sampling protocols, procedures, and results to Federal policies and procedures.

MDAC/MID provided documentation to demonstrate that it maintains sampling programs, based on sound rationale and goals, for the following:

- \textit{Escherichia coli} (E. coli) O157:H7 and \textit{Salmonella} in raw non-intact beef products and raw ground beef components;
- \textit{Listeria monocytogenes} (L. monocytogenes) and \textit{Salmonella} in ready-to-eat products; and
- Other consumer protection standards.
The sampling plans include procedures for sample collection, sample integrity, and laboratory analysis. MDAC/MID developed policies to respond to positive results. These policies include actions to prevent adulterated product from entering commerce. MDAC/MID participates in the FSIS National Residue Program and collects inspector-generated samples for violative drug residues.

In conclusion, a detailed review of the sampling protocols, procedures, and results confirmed that MDAC/MID maintains verification testing to address adulterants, other measures of properly operating food safety systems, and other consumer protection standards “at least equal to” the Federal requirements and has control measures in effect to confirm that its product sampling system functions as intended.

Component 4 – Staffing, Training, and Supervision
MDAC/MID developed methods to determine staffing requirements. The requirements consider each inspector’s workload and the number of inspectors required to provide daily inspection coverage in each establishment on days when the establishment produces products bearing the State mark of inspection. Procedures are in effect to document staffing in each establishment, identify failures to meet staffing requirements, and correct staffing deficiencies. MDAC/MID uses two criteria for staffing. The first criterion is the types of establishment processes and production volume, and the second criterion is geographic location. MDAC/MID assigns a full-time relief inspector to each of the four supervisory areas to fill staffing shortages. Supervisors may work in the assignments if no other resources are available. Inspectors complete and submit weekly activity reports. Supervisors review the inspectors’ weekly activity reports, PHIS data, and travel reports to monitor daily inspection coverage achievement.

At the start of the FY 2020 review cycle MDAC/MID indicated they employed 1 director, 5 supervisors, 20 inspectors, 4 relief inspectors, 1 veterinary medical officer, 1 compliance manager, and 2 compliance officers.

MDAC/MID continues to implement a training program for new entry-level inspection personnel. The training covers basic slaughter techniques and all inspection techniques required to perform slaughter duties, including basic Sanitation SOPs and HACCP procedures. Each new employee receives administrative orientation followed by additional supervised on-the-job training. The training subjects include livestock inspection, slaughter inspection, processing inspection, HACCP, Sanitation SOPs, and sanitation performance standards. MDAC/MID also provides employees with inspection methods training. MDAC/MID maintains a record keeping system to track participation and completion of training.

MDAC/MID administers an employee performance-appraisal system that is mandated for State employees. This performance-appraisal system includes performance reviews, feedback, and performance improvement plans. Area supervisors evaluate each new employee at six and twelve months during the first year of employment. Thereafter, area supervisors evaluate employees annually. MDAC/MID branch supervisors and managers examine employee evaluations to determine if these appraisals are complete, accurate, and effective.
After thorough review of the submitted documents, FSAS concluded that MDAC/MID has sufficient resources to provide the required inspection coverage at State-inspected establishments to ensure that only safe, wholesome, unadulterated, and properly labeled meat and poultry products receive the State mark of inspection. The information supports the conclusion that inspection personnel have the education and training needed to apply MDAC/MID’s inspection methodology, to document findings, and to initiate regulatory actions, when necessary. Control measures are in effect to confirm that the staffing and training systems function as intended.

Component 5 – Humane Handling
MDAC/MID schedules and performs regulatory verification procedures to assess whether establishment personnel humanely handle all livestock throughout the time the livestock are on official establishment premises, and it takes appropriate regulatory action in response to noncompliance.

MDAC/MID uses FSIS Directive 6900.2, Humane Handling and Slaughter of Livestock, to communicate instructions to inspection personnel. Inspectors perform humane handling verification tasks each day the establishments slaughter livestock and document humane handling verifications in PHIS. The supervisors verify humane handling during routine visits and sign the humane handling reports to document these verifications. The veterinary medical officer also visits slaughter establishments annually to verify that establishment personnel appropriately apply humane handling procedures at slaughter facilities in accordance with FSIS Directive 6910.1, District Veterinary Medical Specialist (DVMS) – Work Methods.

In conclusion, the information supports the fact that MDAC/MID verifies compliance with the humane handling requirements and takes regulatory action “at least equal to” the Federal program. Control measures are in effect to confirm that the humane handling verification system functions as intended.

Component 6 – Compliance
MDAC/MID personnel conduct in-commerce surveillance of persons or firms that prepare, transport, sell, or offer for sale meat and poultry products in intrastate commerce to verify compliance with State statutory and regulatory requirements, and to verify that meat and poultry products in intrastate commerce are wholesome, correctly packaged and labeled, and secure from threats or intentional acts of contamination.

MDAC/MID investigates alleged or actual statutory or regulatory violations; controls products when there is reason to believe that the products are adulterated, misbranded or otherwise in violation of the Mississippi Code of 1972; and takes enforcement action, when needed, up to and including prosecution of individuals or firms that have violated the Mississippi Code of 1972. MDAC/MID has procedures to maintain and preserve the legal integrity of documentary and other evidence to support legal action, and to report transportation accidents that involve State-inspected and passed meat and poultry products.

MDAC/MID management reviews all compliance reports for correctness, extracts pertinent information for reporting purposes, enters this information in a database, and files the hard
copies. The program director reviews all violations and relevant evidence, and then determines the appropriate case disposition and course of action.

MDAC/MID maintains procedures for the recall of meat and poultry products subject to its jurisdiction that are “at least equal to” the procedures described in FSIS Directive 8080.1, Recall of Meat and Poultry Products. These procedures include health hazard evaluation, recall classification, public notification, effectiveness checks, and closure. Firms are to notify MDAC/MID within 24 hours of initiating a recall. MDAC/MID oversees the recall activities, coordinates actions to determine whether adulterated product was removed from commerce, and issues news releases as necessary to serve the interest of public health.

MDAC/MID established methods to record, triage, analyze, and track consumer complaints related to State-regulated meat or poultry products. Compliance personnel either investigate these complaints or refer them to the local health authority. The investigative methods include initiating procedures to collect and safeguard evidence, conduct interviews, submit product samples to the laboratory, initiate recall procedures and/or regulatory and enforcement actions, and report potential food safety threats.

The submitted documents support the conclusion that MDAC/MID maintains a system to verify compliance of meat and poultry products in intrastate commerce and takes appropriate enforcement actions in the event that adulterated or misbranded products enter intrastate commerce. Control measures are in effect to confirm that the compliance program functions as intended.

Component 7 – Laboratory Methods and Quality Assurance Program
An off-site records review of Mississippi State Chemical Laboratory (MSCL) and Contract Laboratory L were performed during FY21 to evaluate laboratory quality assurance programs and method equivalence under the State MPI Program.

Contract Laboratory L conducts microbiology testing on Mississippi’s behalf to include *Salmonella*, *L. monocytogenes*, *E. coli* O157:H7 and non-O157 Shiga-toxin producing *E. coli* (non-O157 STEC). MSCL conducts food chemistry testing for the measurement of moisture, protein, fat, and salt. USDA/FSIS/ Eastern Laboratory (EL) also conducts food chemistry on MSCL’s behalf to include the measurement of moisture, protein, fat, and salt.

FSIS compared the MSCL and Contract Laboratory L Laboratory Quality Assurance Programs to the State Meat and Poultry Inspection (MPI) Program Laboratory Quality Management System Checklist and evidence of laboratory proficiency and analyst training was evaluated. Based on their self-assessment, MSCL met all Laboratory QA requirements including analysts’ training and related proficiency testing (PT). Contract Laboratory L met all Laboratory QA requirements based on the self-assessment provided by the laboratory.

MSCL and EL have demonstrated adequate food chemistry capability for the measurement of moisture, protein, fat, and salt. Contract Laboratory L has demonstrated adequate microbiological capabilities for detection of *Salmonella*, *L. monocytogenes*, *E. coli* O157:H7 and non-O157 STEC.
Based on the Component 7 methods and quality assurance program review, Mississippi may be eligible to perform inspection:

- At beef establishments producing raw ground beef and bench trim, and at beef slaughter establishments producing manufactured trim, provided the State collects and submits the appropriate number of samples that are tested for *Salmonella*, *E. coli* O157:H7, and non-O157 STEC.

- At “ready-to-eat” meat and poultry establishments, provided the state collects and submits the appropriate number of samples that are tested for *Salmonella* and *L. monocytogenes*.

- At poultry slaughter establishments, provided the state collects and submits the appropriate number of samples that are tested for *Salmonella* and *Campylobacter*. MPI states with no participating facilities slaughtering at least 20,000 chickens and/or 20,000 turkeys per year are not required to test raw product for *Salmonella* and *Campylobacter* since it is not required at similar federally inspected plants. However, states should consider testing at a risk hierarchy that is commensurate with their establishment sizes and production volumes. Note: Analytical methods for *Salmonella* and *Campylobacter* in raw poultry products were not evaluated as Mississippi is not currently inspecting MPI program poultry establishments slaughtering at least 20,000 chickens and/or turkeys per year.

**Component 8 – Civil Rights**

MDAC/MID submitted the required FSIS Form 1520-1, Civil Rights Compliance of State Inspection Programs, to demonstrate adherence to Federal civil rights laws and USDA’s civil rights regulations. On April 12, 2021, FSIS’ Civil Rights Staff concluded that MDAC/MID functions “at least equal to” the Federal civil rights requirements.

**Component 9 – Financial Accountability**

MDAC/MID submitted quarterly and final Federal Financial Reports (SF-425), and an annual Indirect Cost Proposal to demonstrate it conforms to 7 CFR, Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and follows FSIS Directive 3300.1, Rev.2, Fiscal Guidelines for Cooperative Inspection Programs (March 2004). Financial Reviews and Systems Branch (FRSB) determined that MDAC/MID is “at least equal to” Federal standards for financial accountability for FY 2021.

In FY 2021, a Component 9 fiscal review was not scheduled, however, FRSB issued a final determination report for a fiscal review conducted the week of August 23, 2020, which covered federal FYs 2017-2019. The report documented the results and corrective actions taken for the findings identified. In summary, FRSB determined the financial systems, records, reports, and procedures employed by MDAC/MID in the accounting for the MPI program were sufficient. Ultimately, FRSB determined that MDAC/MID is operating in full compliance with the financial and administrative provisions of FSIS Directive 3300.1, Rev.2, Fiscal Guidelines for Cooperative Inspection Programs (March 2004) and the criteria outlined in the FSIS “At Least Equal To” Guideline for State Meat and Poultry Inspection (MPI) Programs (November 2016).
Self-Assessment Determination for Mississippi
Based on the evidence and review results described above, FSIS determined that MDAC/MID provided adequate documentation to show it is operating a meat and poultry inspection program “at least equal to” the Federal requirements.