

Appendix Q

FINAL REPORT

Fiscal Year 2023

North Dakota

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Federal-State Audit Staff
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
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Executive Summary

This report describes the outcome of the annual review of the North Dakota Department of Agriculture, North Dakota Meat and Poultry Inspection Program (NDDA NDMPPI), conducted by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) for fiscal year 2023. The purpose of this review is to: (1) verify the State of North Dakota imposes laws, regulations, and related policies with authorities and requirements "at least equal to" those provided by the Federal Meat Inspection Act (21 U.S.C. 601, et seq.) and Poultry Products Inspection Act (21 U.S.C. 451, et seq.); (2) determine whether North Dakota administers a State meat and poultry inspection (MPI) program capable of ensuring meat and poultry products produced, distributed, and sold within the State are safe, wholesome, unadulterated, and properly labeled; and (3) confirm the State MPI program carries out its regulatory oversight activities effectively and efficiently.

The annual review focused on all nine "at least equal to" components: (1) Statutory Authority and Food Safety Regulations; (2) Inspection; (3) Sampling Programs; (4) Staffing, Training, and Supervision; (5) Humane Handling; (6) Compliance; (7) Laboratory Methods and Quality Assurance Program; (8) Civil Rights; and (9) Financial Accountability. This year, FSIS reviewed only the self-assessment documentation submitted by NDDA NDMPPI to determine whether the State maintains and enforces requirements for a MPI program "at least equal to" the Federal requirements.

An analysis of the findings within each component did not identify systemic findings that may pose an immediate threat to public health.

Based on thorough evaluations of the results, FSIS determined that NDDA NDMPPI continues to operate a meat and poultry inspection program "at least equal to" the Federal requirements.

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I. INTRODUCTION

This report communicates the results of a compliance review conducted by the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) in Federal fiscal year (FY) 2023 to evaluate North Dakota's administered meat and poultry inspection (MPI) program to determine if it is "at least equal to" FSIS' requirements and is capable of ensuring that the State's supply of meat and poultry products is safe, wholesome, unadulterated, and properly labeled and packaged. This year, FSIS reviewed only self-assessment documentation submitted by the North Dakota Department of Agriculture, North Dakota Meat and Poultry Inspection Program (NDDA NDMPIP) to determine whether it maintains and enforces requirements for a meat and poultry inspection (MPI) program "at least equal to" the Federal requirements.

The "at least equal to" standard requires that State MPI programs operate in a manner that is at least as effective as FSIS in the protection of public health. Under the Federal Meat Inspection Act (FMIA) and Poultry Products Inspection Act (PPIA), FSIS may contribute up to 50 percent of the estimated total cost of the State's MPI program and provide administrative support if the State operates and maintains a program that is "at least equal to" the Federal inspection program (21 U.S.C. 661(a)(3) and 454(a)(3)).

II. OBJECTIVE, SCOPE, AND METHODOLOGY

The review focused on the nine "at least equal to" components: (1) Statutory Authority and Food Safety Regulations; (2) Inspection; (3) Sampling Programs; (4) Staffing, Training, and Supervision; (5) Humane Handling; (6) Compliance; (7) Laboratory Methods and Quality Assurance Program; (8) Civil Rights; and (9) Financial Accountability. This year's review activities were limited to evaluations of self-assessment documents submitted by NDDA NDMPIP via email or the State Review and Communication Tool (SRCT) for each component. FSIS also conducted interviews of State MPI program officials as needed to gain a better understanding of some submitted self-assessment documents. FSIS reported any findings¹ identified during this review to make certain the State MPI program effectively implements corrective actions to resolve them. FSIS analyzed all information collected for each "at least equal to" component during the review process before making a determination regarding the component. The overall determination for the State MPI program was based on the collective results and determinations made for the nine "at least equal to" components. FSIS conducted this review process in accordance with FSIS Directive 5720.3, Methodology for Performing Scheduled and Targeted Reviews of State Meat and Poultry Inspection Programs. NDDA NDMPIP was not subjected to a subsequent onsite verification audit in FY 2023.

¹ An issue identified by a Federal-State Audit Staff Auditor. There are two types of findings: 1. Noncompliance, failure to meet a regulatory requirement. 2. Nonconformity, State program, or any State official fails to implement and/or follow a policy or procedure as proffered in their Self-Assessment.

III. BACKGROUND

The FMIA (21 U.S.C. 661) and the PPIA (21 U.S.C. 454) authorize FSIS to cooperate with State agencies in developing and administering State MPI programs. An individual State MPI program is limited to meat and poultry products that are produced and sold within the State and must operate in a manner and with authorities that are “at least equal to” the programs that FSIS implements under the ante-mortem and post-mortem inspection, reinspection, sanitation, record keeping, and enforcement provisions of the FMIA (21 U.S.C. 601, et seq.) and PPIA (21 U.S.C. 451, et seq.). State MPI programs are to ensure that livestock are treated humanely by imposing humane handling requirements that are “at least equal to” the requirements FSIS has established under the Humane Methods of Slaughter Act of 1978 (HMSA) (7 U.S.C. 1901–1906).

The FMIA and PPIA provide for FSIS to review, at least annually, each State MPI program and its requirements and enforcement activities. If a State fails to administer a meat and poultry inspection program that is “at least equal to” FSIS’ Federal inspection program, FSIS will move to “designate” the State in accordance with 21 U.S.C. 661(c) and 454(c).

The FSIS review process consists of two parts: (1) an annual document review of the State MPI program’s self-assessment submission and (2) a triennial verification onsite audit. FSIS may use one or both parts of the comprehensive audit process to determine whether a State MPI program is operating in a manner “at least equal to” the Federal inspection program. Annually, a non-designated State is required to submit self-assessment documentations demonstrating the MPI program operates in a manner “at least equal to” the Federal inspection program. The self-assessment process requires a State MPI program to conduct a comparative assessment of FSIS inspection program and its own to determine whether the implemented inspection operations, regulatory sampling programs and compliance enforcement strategies achieve outcomes “at least equal to” FSIS.

The self-assessment documentation should describe the current MPI program’s administrative and operational procedures for ensuring the uniform enforcement of applicable laws and governing regulations; taking control of adulterated or misbranded products found in intrastate commerce; and assigning competent inspection personnel at establishments where products received the State marks of inspection. The State MPI program is to include the self-assessment submission copies of all applicable laws, administrative rules, regulations, and policies deemed necessary to carry out the inspection program. The State MPI program is to provide sufficient documentation to demonstrate the program’s ability to meet the “at least equal to” standard for the next 12 months. State MPI program is to identify any administrative or operational changes made to the programs since its last self-assessment document submission and review determination.

In addition, FSIS conducts onsite verification audits of a State MPI program at a minimum of every 3 years to verify implemented MPI program accurately reflects procedures and information submitted in self-assessment documents. In years when a State MPI program is not subject to FSIS’ onsite verification audits, the annual “at least equal to” determination will be based on analysis of the State’s results collected through FSIS’ two-part review and audit process.

Otherwise, the annual “at least equal to” determination will be based on the analysis of the State’s self-assessment document review results.

NDDA NDMPIP, a State organization with the overall authority to administer the State MPI program, submitted the required program self-assessment documents to demonstrate administrative and program-wide compliance with all nine “at least equal to” components. FSIS reviewed the State’s self-assessment documentation.

NDDA NDMPIP administers the North Dakota MPI program under authority of North Dakota Century Code (NDCC). NDDA NDMPIP is organized on three levels: State office, State inspection, and compliance program. The program verifies compliance and enforces regulatory requirements at inspected facilities and custom exempt operators.²

FSIS verified through interviews and record reviews that all NDDA NDMPIP personnel are employed by the State of North Dakota and are conducting verification activities as outlined in the self-assessment.

The table below details the number of State-inspected establishments and custom exempt operators.

Total Number of State-Inspected Establishments and Custom Exempt Operators

	Establishment Type	Slaughter Only	Processing Only	Combination Slaughter and Processing	Total
Number of State-Inspected Establishments	Meat Only	1	2	9	12
	Total	1	2	9	12
Number of Custom Exempt Operators	Meat Only	0	20	42	62
	Poultry Only	0	0	5	5
	Combination Meat and Poultry	0	1	3	4
	Total	0	21	50	71

IV. COMPONENT 1: STATUTORY AUTHORITY AND FOOD SAFETY REGULATIONS

The State laws or administrative rules must grant the State MPI program the legal authority to administer an inspection program. The State MPI program is required to have meat and poultry inspection laws and governing regulations to impose mandatory ante-mortem and post-mortem inspection, reinspection, sanitation requirements, recordkeeping requirements, and enforcement authorities “at least equal to” those prescribed by the FMIA (21 U.S.C. 601, et seq.) and PPIA (21 U.S.C. 451, et seq.).

² Custom exempt operators are not subject to the routine inspection requirements of the FMIA and the PPIA, provided the specified operations meet the exemption requirements (21 U.S.C. 623 and 464).

FSIS reviewed of the submitted self-assessment documentation and confirmed North Dakota administers NDDA NDMPIP under the applicable State laws, rules, and regulations. The State law and administrative rules, North Dakota Century Code (NDCC) and North Dakota Administrative Code (NDAC), includes legal requirements comparable to following mandatory requirements of the FMIA and the PPIA:

- ante-mortem and post-mortem inspection (NDDC Sections 4.1–31–02 and NDAC Sections 7–13–05–01);
- reinspection (NDDC Sections 4.1–31–02 and Administrative Code Sections 7–13–07–01);
- sanitation requirements (NDCC Sections 4.1–31–02);
- record keeping requirements (NDDC Sections 4.1–31–13);
- humane methods of slaughter requirements (NDCC Sections 4.1–31–01.1 and 7–13–05–06);
- adulteration (NDCC Sections 4.1–31–0);
- misbranding (NDAC Sections 7–13–01–04);
- prohibited acts (NDCC Sections 4.1–31–06);
- access and examination (NDCC Sections 4.1–31–03 and 4.1–31–03);
- product control actions (NDCC Sections 4.1–31–20 and 4.1–31–21); and
- exemption from inspection (NDCC Sections 4.1–31–10).

The NDAC grants the authority to promulgate rules and regulations Sections 7–13–01–01. North Dakota adopts by reference 9 CFR parts 301–320, 325, 329, 381, 391, 416–418, 424, 430, 441, 442, and 500 in the NDCC Sections 4.1–31–01.1.

FSIS auditors confirmed North Dakota did not enact any statutory or regulatory changes this year that may potentially affect how NDDA NDMPIP carries out its regulatory duties.

FSIS did not have any findings and determined that, NDDA NDMPIP operates under State laws, rules and regulations that provide legal authority “at least equal to” that provided under the FMIA, PPIA, HMSA, and governing regulations.

V. COMPONENT 2: INSPECTION

The State MPI program is required to administer a regulatory inspection program “at least equal to” that provided by FSIS. The inspection program is to include, at a minimum, inspection verification methods for verifying:

- Animals are suitable for slaughter, and carcasses and parts are eligible for human consumption;
- All meat and poultry products found in intrastate commerce are safe, unadulterated, and truthfully labeled;
- All official establishments comply with sanitation performance standards, sanitation standard operating procedures (Sanitation SOP) and sanitary dressing regulatory requirements as articulated in 9 CFR 416 or equivalent governing State regulations; and

- All official establishments develop, implement, and maintain written Hazard Analysis and Critical Control Points (HACCP) systems as articulated in 9 CFR 417, or equivalent governing State regulations.

The inspection verification methods implemented by the State MPI program must include activities for evaluating compliance at official establishments with the applicable inspection and food safety verification requirements of 9 CFR 300 to End. These include observation of establishments' operations and employees' product handling practices, hands-on verification, and review of establishment records, with the results of verification being entered in the associated inspection records. The State MPI program also is to implement inspection verification methods for ensuring State-inspected meat and poultry products are wholesome, not economically adulterated, truthfully labeled, and meet regulatory requirements. The State MPI program must ensure inspection personnel interpret and apply relevant regulatory requirements uniformly when conducting inspection verification methods. The ultimate regulatory goal of the State MPI is to protect consumers from meat or poultry products that are unwholesome, economically adulterated, or not truthfully labeled (21 U.S.C. 607 and 457).

FSIS reviewed the self-assessment documentation submitted and confirmed that NDDA NDMPIP has developed and implemented:

- An inspection system to ensure State-inspected establishments comply with applicable food safety and other consumer protection regulations (e.g., ante-mortem and post-mortem inspections, sanitation, HACCP system, and product standards and labeling);
- A label approval policy and process to verify labels, marks, or devices are accurate and comply with regulatory requirements prior to establishments applying them to inspected meat products;
- A risk-based methodology to analyze establishments' food safety systems to verify that the establishments can produce safe and wholesome meat products in accordance with applicable statutory and regulatory requirements;
- A system of administrative enforcement actions to bring establishments effectively under regulatory compliance in a manner that is not inferior to the comparable actions taken by FSIS; and
- An internal control system for evaluating the efficacy and effectiveness of the other systems.

NDDA NDMPIP uses the FSIS Public Health Information System (PHIS) to schedule inspection tasks and to collect, consolidate, and analyze inspection data. NDDA NDMPIP administers inspection for any meat product intended for human consumption, wholly or in part, from the carcass or parts of any animal defined as "livestock" in the NDCC Sections 4.1–31–01 and governing rules, regulations, and policies. The State inspection program maintains assurances that animals intended to be used in meat products sold commercially are slaughtered and processed in the presence of State inspection personnel, and the resulting meat food products are inspected and passed for human consumption. NDDA NDMPIP adopts and implements all relevant FSIS issuances as its own policies for carrying out inspection and food safety verification activities.

FSIS did not have any findings and determined that NDDA NDMPIP maintains inspection and food safety verification systems that meet the “at least equal to” standards. Control measures are in effect to ensure that the inspection system functions as intended.

VI. COMPONENT 3: SAMPLING PROGRAMS

The State MPI program is required to assess establishments’ control of microbial pathogens and violative levels of veterinary drugs, pesticides, contaminants, and other adulterants through product sampling. The State MPI program must have access to laboratory services to conduct chemical, microbiological, physical, and pathological tests. Laboratories conducting official analyses for State inspection programs must ensure test results are accurate, reliable, and reproducible.

FSIS reviewed NDDA NDMPIP’s product sampling documents, protocols, procedures, and results presented in the FY 2023 self-assessment submission. FSIS confirmed that the submitted documentation demonstrated NDDA NDMPIP maintains sampling programs, based on sound rationale and goals, for the following:

- *E. coli* O157:H7 in raw non-intact beef products and raw ground beef components;
- Non-O157 Shiga toxin-producing *E. coli* (non-O157 STEC) in beef manufacturing trimmings;
- *Listeria monocytogenes* (*L. monocytogenes*) and *Salmonella* in ready-to-eat products; and
- Other consumer protection standards.

FSIS reviewed NDDA NDMPIP’s product sampling documents and results, and confirmed NDDA NDMPIP implements sampling procedures for collecting samples, maintaining sample integrity, determining sampling frequencies, conducting sample analyses, responding to positive results, and preventing adulterated product from entering commerce. Additionally, NDDA NDMPIP participates in the National Residue Program and collects and analyzes inspector-generated samples for violative drug residues.

NDDA NDMPIP adopts and implements all relevant FSIS issuances as its own policies for carrying out inspection and food safety verification activities.

FSIS did not have any findings and determined NDDA NDMPIP 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. Control measures are in effect to ensure that the sampling programs function as intended.

VII. COMPONENT 4: STAFFING, TRAINING, AND SUPERVISION

The State MPI program must maintain enough staff to carry out its responsibilities. The State MPI program is to organize a sufficient number of trained veterinarians, inspectors, and enforcement staff to carry out the inspection and regulatory duties of the MPI program well. The State MPI program ensures its personnel receive the professional, technical, inspection, and

managerial training necessary to maintain a competent and effective workforce. The State MPI program is to provide instructions to MPI personnel on performing daily inspection tasks and compliance enforcement activities.

FSIS reviewed NDDA NDMPIP's the submitted documents and confirmed NDDA NDMPIP implements administrative programs to ensure a competent workforce provides daily inspection coverage in each State-inspected meat and poultry establishment where the State inspection marks are applied to products. The NDDA NDMPIP training includes formal classroom and on-the-job components and is developed based on the specific job requirements of its workforce. The State's supervisory system aligns individuals' workloads with North Dakota's public health and regulatory goals. It sets standards for assessing job performance, including measures to correct unsatisfactory performance.

FSIS did not have any findings and determined the NDDA NDMPIP administrative program to be "at least equal to" the FSIS program. NDDA NDMPIP maintains 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 to apply NDDA NDMPIP's inspection methodology, document findings, and initiate regulatory actions when necessary. Control measures are in effect to ensure that the staffing, training, and supervision systems function as intended.

VIII. COMPONENT 5: HUMANE HANDLING

The State MPI program is required to ensure the slaughter and handling of livestock is done humanely in accordance with the HMSA 1978 (7 U.S.C. 1901–1906) and FMIA 21 U.S.C. 603 (b) and 610 (b)). The State MPI program is expected to impose laws "at least equal to" the HMSA and the requirements outlined in FSIS Directives 6900.1 and 6900.2. When livestock are slaughtered humanely, they are to be rendered insensible to pain by means that are rapid and effective before being shackled, hoisted, thrown, cast, or cut. The HMSA requires establishments to comply with a prescribed method of slaughter in which the animal loses consciousness by severing its carotid arteries simultaneously and instantly with a sharp instrument when slaughtering livestock in accordance with the ritual requirements of the Jewish faith and any other religious faiths.

FSIS reviewed submitted self-assessment documents and confirmed NDDA NDMPIP adopts the following FSIS humane handling directives as its own humane handling policies:

- FSIS Directive 6900.2, Humane Handling and Slaughter of Livestock, to communicate instructions to inspection personnel.
- FSIS Directive 6910.1, District Veterinary Medical Specialist (DVMS) – Work Methods.

NDDA NDMPIP implements these FSIS directives, with only minor changes made to denote the NDDA NDMPIP personnel who are responsible for carrying out verification activities articulated in these directives.

NDDA NDMPIP 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 takes appropriate regulatory action in response to noncompliance.

NDDA NDMPIP uses FSIS Directive 6900.2, Humane Handling and Slaughter of Livestock, to communicate instructions to inspection personnel. Inspectors document humane handling verifications in PHIS. During quarterly visits, public health veterinarians evaluate establishments' humane handling procedures and inspectors' humane handling task performance. NDDA NDMPIP employs one director (veterinary medical officer) to perform annual humane handling audits at slaughter facilities in accordance with FSIS Directive 6910.1, District Veterinary Medical Specialist (DVMS) - Work Methods.

FSIS did not have any findings and concluded that NDDA NDMPIP operates under State laws and regulations that provide legal authority "at least equal to" that provided under the FMIA, HMSA, and governing regulations.

IX. COMPONENT 6: COMPLIANCE

The State MPI program is required to enforce compliance with all applicable laws and regulations and to take appropriate action in the event of noncompliance. The State MPI program must have the ability to:

- Detain adulterated or misbranded product (21 U.S.C. 672 and 467 (a));
- Take appropriate control in intrastate commerce of adulterated or misbranded product and ensure proper disposition of such product, including seizure, condemnation, and destruction where appropriate (21 U.S.C. 673 and 467 (b));
- Ensure establishments maintain written recall procedures for all meat and poultry products produced and shipped (21 U.S.C. 613 and 459(c)(1));
- Conduct surveillance activities to ensure animal carcasses, and carcass parts that are not intended for use as human food are not diverted to such uses; and
- Refuse or withdrawal inspection services as warranted (21 U.S.C. 671, 467, and 457 (b)). The State must maintain a statutory process to prosecute anyone who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with officials in the performance of their official duties (21 U.S.C. 675 and 461 (c)).

FSIS reviewed submitted self-assessment documents and confirmed NDDA NDMPIP maintains a compliance system to enforce food safety, food defense, inspection exemption, and other consumer protection statutory requirements in intrastate commerce. NDDA NDMPIP follows State compliance policies or adopted FSIS directives to:

- Conduct surveillance activities and investigations, as warranted, of firms producing meat and poultry products in intrastate commerce;
- Control unsafe or violative products through detentions, seizures, and voluntary recalls;
- Take appropriate enforcement actions when adulterated or misbranded products are found in intrastate commerce; and

- Develop case files to ensure all enforcement actions imposed are legally supported by applicable State laws.

NDDA NDMPIP follows the procedures and methods in FSIS Directive 8010.1, Methodology for Conducting In-Commerce Surveillance Activities, to assess food safety, food defense, non-food safety consumer protection, and compliance with administrative and judicial court orders in firms that prepare, transport, sell, or offer for sale meat and poultry products in intrastate commerce.

NDDA NDMPIP investigates alleged or actual statutory or regulatory violations, as set out in FSIS Directive 8010.2, Investigative Methodology, and controls products when there is reason to believe that the products are adulterated, misbranded, or otherwise in violation of the NDCC Sections 4.1–31–20. The Reports of Investigation were completed in accordance with FSIS Directive 8010.4, Report of Investigation. NDDA NDMPIP uses the investigative findings and evidence to pursue enforcement actions for administrative, civil, or criminal sanctions.

NDDA NDMPIP follows the recall procedures in FSIS Directive 8080.1, Recall of Meat and Poultry Products, with minor modifications fitting its organizational structure. No State-inspected establishments or retail firms recalled product during FY 2023.

NDDA NDMPIP 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 procedures to collect and safeguard evidence; conducting interviews; submitting product samples to the laboratory; initiating recall procedures and/or regulatory and enforcement actions; and reporting potential food safety threats.

NDDA NDMPIP has a system for reviewing custom exempt operations that is in accordance with FSIS Directive 8160.1, Custom Exempt Review Process. NDDA NDMPIP implements a risk-based review of custom exempt operators which is closely adapted from the FSIS Directive. NDDA NDMPIP reviews each custom exempt operator once per year. The results of a custom exempt reviews are documented on North Dakota form SFN 52495. Using the risk criteria outlined in NDDA NDMPIP's risk-based review of custom exempt operators document, NDDA NDMPIP personnel assesses the results of each review conducted to decide when to conduct a follow-up review or if a follow-up review is necessary. NDDA NDMPIP conducts follow-up reviews more frequently in response to an annual custom exempt review receiving a higher risk score.

FSIS did not have any findings and determined the NDDA NDMPIP compliance program to be “at least equal to” the FSIS program. NDDA NDMPIP maintains sufficient resources to conduct surveillance reviews at registered firms, which may lead to investigations and enforcement actions. The information supports individuals, firms, and corporations in complying with applicable State statutes when producing, transporting, storing, and distributing meat and poultry products in intrastate commerce. The information supports the conclusion that inspection personnel have the education and training to apply NDDA NDMPIP’s inspection methodology, to document findings, and to initiate regulatory actions when necessary. Control measures are in effect to ensure that the compliance systems function as intended.

X. COMPONENT 7: LABORATORY METHODS AND QUALITY ASSURANCE PROGRAM

The State MPI program must use product sampling and laboratory methods with capabilities and safeguards “at least equal to” FSIS’ product sampling and laboratory methods. State MPI program is to update and maintain as necessary its laboratory microbiological and chemical detection methods to keep pace with the applicable FSIS methods detailed in the FSIS Microbiology Laboratory Guidebook and USDA FSIS Chemistry Laboratory Guidebook

North Dakota contracts all laboratory work to partnership labs that meet the Laboratory QA requirements of the State MPI Program Laboratory Quality Management System and the Cooperative Interstate Shipment (CIS) “same as” program.

North Dakota has an agreement with South Dakota State University, Animal Disease Research and Diagnostic Laboratory (SDSU-ADRDL) for the Cooperative Interstate Shipment (CIS) “same as” program and the State MPI “at least equal to” program to perform FSIS Microbiology Laboratory Guidebook (MLG) methods for the microbiological analysis of *Salmonella*, *L. monocytogenes*, *E. coli* O157:H7 and non-O157 STEC on its behalf. North Dakota has an agreement with USDA/FSIS/Eastern Laboratory to conduct CIS and MPI food chemistry testing for moisture, protein, fat, and salt on its behalf.

FSIS compared the SDSU-ADRDL Laboratory Quality Assurance Program 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 its self-assessment, SDSU-ADRDL met all Laboratory QA requirements including analysts’ training and related proficiency testing (PT).

USDA/FSIS/Eastern Laboratory has adequate food chemistry capability for the measurement of moisture, protein, fat, and salt. SDSU-ADRDL 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, North Dakota may be eligible to perform inspection:

- At beef establishments producing raw ground beef and bench trim, provided that the state collects and submits the appropriate number of samples that are tested for *Salmonella* and

E. coli O157:H7 and at beef slaughter establishments producing manufactured trim, where the state is to collect and submit the appropriate number of samples that are tested for *Salmonella*, *E. coli* O157:H7, and non-O157 O157 STEC.

- At “ready-to-eat” meat and poultry establishments, provided that the state collects and submits the appropriate number of samples that are tested for *Salmonella* and *L. monocytogenes*.
- At poultry slaughter establishments, provided that 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 that raw product for *Salmonella* and *Campylobacter* since it is not required at similar federally inspected plants. Note: Analytical methods for *Salmonella* and *Campylobacter* in raw poultry products were not evaluated as North Dakota is not currently inspecting MPI program poultry establishments slaughtering at least 20,000 chickens and/or turkeys per year.

On September 12, 2023, FSIS determined the analytical methods used for microbiological and chemical analyses are “at least equal to” FSIS methods.

XI. COMPONENT 8: CIVIL RIGHTS

The State MPI program is to adhere to 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.

In November 2022, NDDA NDMPIP submitted the required FSIS Form 1520-1, Civil Rights Compliance of State Inspection Programs, to demonstrate adherence to Federal civil rights laws and USDA civil rights regulations.

FSIS conducted a Civil Rights compliance review of NDDA NDMPIP. The review was conducted to determine compliance with applicable Civil Rights statutes, USDA regulations, and FSIS policies and, where necessary, provide recommendations for program improvement. The review focused on the State’s compliance in eight components: (1) Civil Rights Assurances; (2) State Infrastructure and Program Accountability; (3) Public Notification; (4) Complaints of Discrimination; (5) Civil Rights Training; (6) Civil Rights Compliance, (7) Program Accessibility to Individuals with Limited English Proficiency; and (8) Compliance with the Age Discrimination Act of 1975.

On August 1, 2023, FSIS determined North Dakota’s Civil Rights program to be in compliance with “at least equal to” standards for applicable civil rights laws, USDA regulations, and FSIS policies.

XII. COMPONENT 9: FINANCIAL ACCOUNTABILITY

The State appropriates funds commensurate with those provided by FSIS as specified in the Cooperative Agreement. Funding is sufficient to ensure the operation of an inspection program consistent with the criteria of the Cooperative Agreement and the satisfactory and uninterrupted operation of State inspection program activities. The State ensures appropriate use of Federal funds, adequate accounting support for the State inspection program, and timely and accurate submission of expense reports.

NDDA NDMPIP submitted quarterly and final Federal Financial Reports (SF-425) and an annual Indirect Cost Proposal to demonstrate it conforms to 2 CFR Part 400 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and follows FSIS Directive 3300.1, Fiscal Guidelines for Cooperative Inspection Programs.

FSIS determined that NDDA NDMPIP is “at least equal to” Federal standards for financial accountability for FY 2023.

XIII. DETERMINATION FOR NORTH DAKOTA

Based on the evidence and results described above, FSIS determined that NDDA NDMPIP operates its MPI program “at least equal to” the Federal requirements for all audit components and enforces requirements “at least equal to” those imposed under the Federal Acts.