

Appendix X

FINAL REPORT

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Utah

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Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
U.S. Department of Agriculture

Executive Summary

This report describes the outcome of the annual review of the Utah Department of Agriculture and Food (UDAF), conducted by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS), including an onsite audit conducted May 15–26, 2023. The annual review process consists of two parts: (1) annual review of the State's self-assessment submissions and (2) triennial onsite audits, which are used to verify whether the State meat and poultry inspection (MPI) program enforces requirements "at least equal to" the Federal requirements. The purpose of the annual review was to: (1) verify the State of Utah 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 Utah administers a State 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.

An analysis of the audit findings within each component did identify systemic findings that may pose an immediate threat to public health.

On June 6, 2023, UDAF submitted an action plan to correct the findings identified during the audit. The action plan identifies the underlying causes of the system-wide findings and includes a verification plan to ensure statewide correction of these findings. UDAF adjusted its method of gathering establishment production data used in the determination of sampling project eligibility and instituted *Escherichia coli* (*E. coli*) O157:H7 and Non-O157 Shiga toxin-producing *E. coli* (non-O157 STEC) sampling of ground beef components other than trim produced at State establishments. In addition, UDAF provided evidentiary documents to demonstrate the changes made to the establishment production data collection process, as well as evidence of the implementation of a sampling project specific to collection and analysis of components other than trim intended for non-intact use for *E. coli* O157:H7 and non-O157 STEC.

Based on thorough evaluations of the audit results and implemented corrective actions, FSIS determined that UDAF is operating 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 an onsite verification audit conducted by the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) in Federal fiscal year (FY) 2023 to evaluate State'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 report also summarizes information examined and analyzed as part of the annual review by FSIS to determine whether the Utah MPI program is "at least equal to" the FSIS inspection system.

The "at least equal to" standard requires that State MPI programs operate in a manner that is at least as effective as FSIS' Federal inspection program 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 scope of the FSIS 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. For each identified component, Utah Department of Agriculture and Food (UDAF) submitted the self-assessment documents in the State Review and Communication Tool (SRCT) that included descriptions of current program operations and procedures, and other supporting documentation pertaining to the attainment of the component's requirements. FSIS verifies the above components to ensure UDAF is implementing food safety verification activities at State-inspected establishments that comply with applicable State laws, regulations, and policies to produce safe and wholesome products. FSIS examined the submitted documentation to verify UDAF continues to maintain regulatory operations in accordance with FMIA (21 U.S.C. 601, et seq.) and PPIA (21 U.S.C. 451, et seq.) and to check for procedural nonconformities that may prevent operations from functioning as intended. In addition, FSIS evaluated the effectiveness of current internal control and risk assessment systems and determined if there were any findings.¹ FSIS also conducted an onsite audit to verify accuracy and implementation of the SRCT submissions for Components 1–9.

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 needs to 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).

Annually, non-designated States are expected to assess and support determinations that their MPI programs operate in a manner “at least equal to” the Federal inspection program. FSIS requires State MPI programs to submit self-assessment documents through the SRCT each year and provides guidance for this process in FSIS’ “At Least Equal To” Guideline for State Meat and Poultry Inspection Programs. At a minimum, the self-assessment documentation should be representative of the current operations of the State MPI program and demonstrate the program’s ability to meet the “at least equal to” Federal requirements for the next 12 months. State MPI programs are to provide narratives in the submitted documentation for any identified administrative or operational changes made to their programs since the last FSIS review and “at least equal to” determination. As a part of the self-assessment process, State MPI programs are expected to consider the intent and assess the applicability of FSIS statutes, regulations, directives and notices in their inspection operations and compliance enforcement strategies. FSIS expects State MPI programs to submit for review copies of all applicable laws, administrative rules, regulations, and policies deemed necessary to carry out inspection programs “at least equal to” the Federal requirements.

In addition, FSIS conducts onsite audits of State MPI programs at a minimum of every three years to verify the accuracy and implementation of the State MPI programs’ self-assessment submissions. In years when a State MPI program is subject to FSIS’ onsite audits, the annual “at least equal to” determination will be based on analysis of results collected through FSIS’ two-part review and audit process. Otherwise, the annual “at least equal to” determination will be based solely on review and analysis of the State’s self-assessment submissions.

UDAF, 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 evaluated the State’s self-assessment documentation and conducted an onsite verification audit of the State MPI program.

The establishment selection process for onsite audits employs a systematic approach that considers risk determinants such as sample results, recalls, production volume and other information obtained directly from the State MPI programs through the SRCT. For this audit, a sample of 7 establishments was selected from a total of 18 State-inspected establishments.

UDAF administers the Utah MPI program under authority of Utah Agricultural Code (Title 4, chapter 32). The program is organized on three levels: State office, State inspection, and compliance program. The program verifies compliance and enforces regulatory requirements at inspected establishments and custom exempt operations.²

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

The table below details the number of 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	4	4	9	17
	Combination Meat and Poultry	0	3	0	3
	Total	4	7	9	20
Number of Custom Exempt Operators	Meat Only	36	44	9	89
	Poultry Only	0	6	0	6
	Total	36	50	9	95

IV. COMPONENT 1: STATUTORY AUTHORITY AND FOOD SAFETY REGULATIONS

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

FSIS reviewed the submitted self-assessment documentation and confirmed Utah administers UDAF under the applicable laws, rules, and regulations. The State Law, Utah Agricultural Code

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).

includes legal requirements comparable to following mandatory requirements of the FMIA and the PPIA:

- ante-mortem and post-mortem inspection (Sections 4–32–103 and 4–32–109);
- reinspection (Sections 4–32–103 and 4–32–109);
- sanitation requirements (Sections 4–32–103 and 4–32–109);
- record keeping requirements (Sections 4–32–103, 4–32–108, and 4–32–109);
- humane methods of slaughter requirements (Sections 4–32–103, 4–32–108, and 4–32–109);
- adulteration (Sections 4–32–103, 4–32–105, and 4–32–113);
- misbranding (Section 4–32–105);
- prohibited acts (Sections 4–32–103, 4–32–109, 4–32–113, and 4–32–115);
- access and examination (Sections 4–32–103, 4–32–109, 4–32–113, and 4–32–115);
- product control actions (Sections 4–32–103, 4–32–109, 4–32–113, and 4–32–115); and
- exemption from inspection (Sections 4–32–106, 4–32–107, and 4–32–108).

The Utah Agricultural Code grants the authority to promulgate rules and regulations (Section 4–32–109) and to adopt by reference the FMIA, PPIA, HMSA, and 9 CFR 300-500 (Section 4–32–103).

FSIS confirmed through onsite record reviews, interviews, and observations that UDAF has statutory authority to enforce the provisions of Utah Agricultural Code and the governing administrative rules and regulations at State-inspected establishments and firms handling meat and poultry product with the State as outlined in the FY 2023 self-assessment submission. There were not any statutory or regulatory changes made this year that affect how UDAF carries out its regulatory duties.

UDAF automatically adopts the newest version of 9 CFR. UDAF is currently making changes to its administrative rule (Utah Administrative Code R58-13) and its statutes (Utah Code Title 4 Chapter 32) to remove “equine” from the list of species considered livestock. Doing so would remove confusing language surrounding the possibility of performing custom slaughter or processing of equine in the State. The process for updating the Statute is legislative and the process for updating the rule is administrative. Both updates have been submitted to the Legislative Director of the Utah Department of Agriculture and Food and should be completed by the end of June 2024. UDAF is not currently making any Statutory revisions related to custom exempt or personal use statutes, nor does Utah have any legislative initiatives related to the expansion of the Custom Exempt or Personal Use statutes in any stage of legislation.

FSIS did not identify any findings and determined that UDAF operates under State laws 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 (SPS), sanitation standard operating procedures (Sanitation SOP) and sanitary dressing regulatory requirements as articulated in 9 CFR 416, or equivalent governing State regulations;
- All official establishments develop, implement, and maintain written and 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 are to 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 are 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 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 as evidence showing that UDAF 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 or poultry products;
- A risk-based methodology to analyze establishments’ food safety systems to verify that the establishments can produce safe and wholesome meat or poultry 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.

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

Procedural differences observed between the analogous State MPI policies and FSIS directives/notices articulating key program policies are minor. UDAF adopts the process and procedures described in FSIS Directive 8160.1; however, custom exempt reviews are performed quarterly, not annually, and are performed by inspection personnel and not compliance personnel. Due to low or infrequent production volumes, UDAF has set a monthly frequency for meetings with establishment management in place of the weekly frequency prescribed in FSIS Directive 5010.1. UDAF has elected to perform food safety assessments for cause, and every 4 years and does not utilize the PHRE to “not perform” a routine food safety assessment as is described in FSIS Directive 5100.1. UDAF still requires all labels to be reviewed and approved by inspection personnel and State Office personnel prior to use by the establishment and does not allow for the generic approval of labels via compliance with the regulations as described in Directive 7221.1. FSIS determined that the observed procedural differences did not impact UDAF’s ability to meet the intent of the FSIS directives.

FSIS audited the conditions and documents onsite. The onsite documents audited included, but were not limited to, Sanitation SOPs and associated records; HACCP plans and associated records; generic *Escherichia coli* (*E. coli*) sampling procedures and associated records; procedures for the removal, segregation, and disposition of specified risk materials and associated records; custom exempt records; noncompliance records; and enforcement letters. In addition, FSIS audited the non-food safety consumer protection documents and procedures to determine whether UDAF enforces non-food safety consumer protection regulatory standards “at least equal to” the Federal requirements. This audit included, but was not limited to, ongoing regulatory verification tasks, label approvals, labels, and product formulations.

FSIS evaluated UDAF inspection at seven establishments during the onsite audit. UDAF personnel identified several establishment noncompliances with Sanitation SOPs, Sanitation Performance Standards (SPS), HACCP design and validity, and non-food safety consumer protection requirements. UDAF officials initiated regulatory actions when warranted in the establishments and issued noncompliance records at the time the noncompliances were identified. UDAF submitted closed noncompliance records and detailed the accepted corrective actions for each noncompliance issued during the establishment audits. Overall, the noncompliances identified demonstrated UDAF personnel’s training in regarding the performance of daily inspection tasks and their day-to-day communications with establishment management.

FSIS did not identify any findings and determined that, UDAF 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, 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 testing. Laboratories conducting official analyses for State inspection programs must ensure test results are accurate, reliable, and reproducible.

FSIS reviewed UDAF’s product sampling documents, protocols, procedures, and results presented in the FY 2023 self-assessment submission. FSIS verified through interviews and record reviews that UDAF 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 (RTE) products; and
- Other consumer protection standards.

UDAF implements developed 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, UDAF participates in the National Residue Program and collects and analyzes inspector-generated samples for violative drug residues.

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

FSIS observed some sampling procedural differences from those outlined in several FSIS directives. UDAF combines the routine RTE sampling programs described in FSIS Directive 10,240.3 (RTEPROD_Risk and RTEPROD_Rand) into one sampling program but requests a number of samples equal to the FSIS average of both RTEPROD_Risk and RTEPROD_Rand projects combined. Additionally, UDAF utilizes an administrative system external to PHIS to determine sampling project eligibility at State establishments and to communicate and track sample requests and results to inspection personnel and establishment management. Nonetheless, FSIS determined that the observed procedural differences did not impact UDAF’s ability to meet the intent of the FSIS directives.

FSIS reviewed sampling plans and laboratory results for *E. coli* O157:H7 in raw non-intact beef products and raw ground beef components, non-O157 STEC in raw beef manufacturing

trimmings, *L. monocytogenes* and *Salmonella* in ready-to-eat products, economic samples, violative drug residues, State laboratory activity reports, and sample seals.

FSIS identified the following findings:

- The program auditor identified a deficiency in the information collection process utilized by UDAF to determine sampling eligibility at State establishments. UDAF did not have raw beef components other than trim intended for non-intact use clearly defined on their monthly information collection form. At one establishment, this oversight led to cheek meat harvested for use in ground beef products not being identified as eligible for *E. coli* O157:H7 and non-O157 STEC sampling as described in FSIS Directive 10,010.1, which is adopted by UDAF. It is important to note that the final ground beef product which contained harvested cheek meat mixed with trim and other raw beef components was routinely sampled by UDAF under their ground beef sampling project and, therefore, was not completely left out of the raw beef STEC sampling verification process implemented by UDAF.

In response to the findings UDAF submitted the following corrective actions:

- UDAF adjusted their method of gathering establishment production data used in the determination of sampling project eligibility and instituted *E. coli* O157:H7 and non-O157 STEC sampling of ground beef components other than trim produced at State establishments. In addition, UDAF provided evidentiary documents to demonstrate the changes made to the establishment production data collection process, as well as evidence of the implementation of a sampling project specific to collection and analysis of components other than trim intended for non-intact use for *E. coli* O157:H7 and non-O157 STEC.

Although the FSIS identified the above finding, in consideration of the immediate corrective actions implemented by UDAF, FSIS determined that UDAF 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 UDAF’s submitted documents and confirmed UDAF 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. In addition, the documentation outlines a training program that includes both formal and informal job-related courses. The State's supervisory system aligns individual workloads with Utah's public health and regulatory goals and sets standards for assessing job performance that includes measures to correct unsatisfactory performance.

After further analysis of data from UDAF office and establishment audits, FSIS concluded that UDAF has an adequate number of trained persons to provide the required inspection coverage in the establishments, perform compliance verification activities, and provide supervisory oversight, and has implemented procedures to ensure daily inspection coverage in operating establishments. Inspection personnel apply UDAF's inspection methodology and make decisions based upon the correct application of inspection methodology, document findings, and initiate regulatory action if needed. The training program includes measures to ensure that inspection personnel receive training in the areas of meat and poultry ante-mortem and post-mortem inspection, humane handling, processed products, HACCP, Sanitation SOPs, rules of practice, IPPS guidelines, compliance, and Inspection Methods training. UDAF maintains a record keeping system to track participation and completion of training.

UDAF follows the guidance in FSIS Directive 4430.3, In-Plant Performance System (IPPS), to set performance standards and to complete and record ongoing performance evaluations. Supervisors perform at least two IPPS assessments for each inspector annually. UDAF maintains control measures to examine the IPPS assessments for quality, completeness, and accuracy. In addition, Utah mandates a performance plan and evaluation system for all State employees. This system communicates to its employees their work responsibilities, performance goals and objectives, and the results of their annual performance evaluations.

FSIS did not have any findings and determined that UDAF 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 determination that inspection personnel have the education and training to consistently apply UDAF'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 slaughtered livestock in accordance the ritual requirements of with Jewish faith and any other religious faiths.

The State MPI Program is required to ensure poultry operators comply with Good Commercial Practices (GCP). The Poultry Products Inspection Act (PPIA) (21 U.S.C. 453(g)(5)) and the regulations (9 CFR 381.90) provide that poultry carcasses showing evidence of having died from causes other than slaughter are considered adulterated and must be condemned. The regulations (9 CFR 381.65(b)) also require that poultry be slaughtered in accordance with GCP. Poultry are to be slaughtered in a manner that ensures that breathing has stopped before scalding, so that the birds do not drown, and that slaughter results in thorough bleeding of the poultry carcass. Compliance with these practices helps ensure that poultry are treated humanely.

FSIS reviewed submitted humane handling policies, ante-mortem inspection reports, noncompliance records, and periodic supervisory review records. The results of the reviews revealed UDAF 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.

FSIS audited the humane handling program and documents presented onsite to determine whether UDAF adequately enforces the humane slaughter of livestock regulatory standards to ensure that animals presented for slaughter are humanely handled throughout the time they are on official establishment premises. These documents included, but were not limited to, noncompliance records and procedure schedules. When conducting establishment audits, FSIS observed humane handling of livestock, stunning methods and the condition of livestock pens, driveways, and ramps.

UDAF uses FSIS Directive 6900.2, Humane Handling and Slaughter of Livestock, to communicate instructions to inspection personnel. Inspectors document humane handling verifications in PHIS and on UDAF, Meat Inspection Field Logs. During quarterly visits, the UDAF front line supervisor evaluates establishments' humane handling procedures and inspectors' humane handling task performance.

UDAF employs State veterinarians which 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 determined that UDAF operates under State laws and regulations that provide legal authority "at least equal to" that provided under the FMIA, PPIA, 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 to 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 withdraw 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 UDAF Department of Regulatory Services (UDAF/DRS) maintained a compliance system to enforce food safety, food defense, inspection exemption, and other consumer protection statutory requirements in intrastate commerce. UDAF/DRS 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.

FSIS audited the documents presented onsite. These included, but were not limited to, Reports of Investigation, Daily Activity Reports, Programmed Compliance Plans, Incident Reports, Case Reports, Reports of Apparent Violations, and Notices of Warning, etc.

The audit of compliance documents and case files support the conclusion that UDAF/DRS 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.

UDAF/DRS 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 the products are adulterated, misbranded, or otherwise in violation of the Utah Code. The Reports of Investigation were completed in accordance with FSIS Directive 8010.4, Report of Investigation. UDAF/DRS uses the investigative findings and evidence to pursue enforcement actions for administrative, civil, or criminal sanctions.

UDAF/DRS 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.

UDAF/DRS 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; conduct interviews; submit product samples to the laboratory; initiate recall procedures and/or regulatory and enforcement actions; and report potential food safety threats.

UDAF has a system for reviewing custom exempt operations that is in accordance with FSIS Directive 8160.1, Custom Exempt Review Process. UDAF performs reviews on custom exempt operations an average of four times per year, with follow-ups more often if necessary. The UDAF inspection staff conduct the custom exempt reviews following the procedures outlined in the UDAF Custom Review Manual. The UDAF Custom Review Manual includes the Utah administrative code R58-11, the FMIA and PPIA, the form to apply for a Utah custom exempt permit, FSIS Directives 5930.1 and 8160.1, Utah's food processing guideline, a retail food establishment guide, and Utah's custom exempt operations review form.

FSIS did not have any findings and determined that UDAF 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 needed to apply UDAF'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

State MPI programs must use product sampling and laboratory methods with capabilities and safeguards "at least equal to" the 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.

An off-site record reviews of the Utah Department of Agriculture and Food, Laboratory Services (UDAFLS) was performed during FY 2023 to evaluate laboratory quality assurance programs and method equivalence under the State MPI Program.

UDAFLS conducts microbiological testing for *Salmonella*, *L. monocytogenes*, STEC. The USDA/FSIS/Eastern Laboratory conducts food chemistry testing on UDAFLS' behalf to include moisture, protein, salt, and fat. Wyoming Department of Agriculture, Analytical Services Laboratory (WDA) conducts microbiology testing on UDAFLS' behalf to include confirmation analyses for the detection of STEC.

FSIS compared the UDAFLS 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 their self-assessment, UDAFLS met all laboratory quality assurance (QA) requirements including analysts' training and related proficiency testing. WDA met all laboratory QA requirements based on the self-assessment provided by the laboratory.

The USDA/FSIS/Eastern Laboratory has adequate food chemistry capability for the measurement of moisture, protein, salt, and fat. UDAFLS has demonstrated adequate microbiology capabilities for detection of *Salmonella*, *L. monocytogenes*, and STEC screening analyses. WDA has demonstrated adequate microbiology capabilities for the detection of STEC confirmation analyses.

Based on the Component 7 methods and quality assurance program review, Utah will 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 required to collect and submit the appropriate number of samples that are tested for *Salmonella*, *E. coli* O157:H7, and non-O157 STEC.
- At RTE 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. 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 Utah is not currently inspecting poultry establishments slaughtering at least 20,000 chickens and/or turkeys per year.

On September 18, 2023, FSIS determined the analytical methods used for microbiological and chemical analyses are “at least equal to” the 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, UDAF 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 UDAF. 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 01, 2023, FSIS determined Utah 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 is to appropriate 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 is to ensure that there is appropriate use of Federal funds, adequate accounting support for the State inspection program, and timely and accurate submission of expense reports.

UDAF 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 UDAF is "at least equal to" Federal standards for financial accountability for FY 2023.

XIII. DETERMINATION FOR UTAH

On June 6, 2023, UDAF submitted an action plan to correct the findings identified during the onsite audit. The action plan identifies the underlying causes of the system-wide findings. UDAF adjusted its method of gathering establishment production data used in the determination of sampling project eligibility and instituted *E. coli* O157:H7 and non-O157 STEC sampling of ground beef components other than trim produced at State establishments. In addition, UDAF provided evidentiary documents to demonstrate the changes made to the establishment production data collection process, as well as evidence of the implementation of a sampling project specific to collection and analysis of components other than trim intended for non-intact use for *E. coli* O157:H7 and non-O157 STEC.

Based on the evidence and results described above, FSIS determined that UDAF 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.