

Appendix Z

FINAL REPORT

Fiscal Year 2023

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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 Virginia Department of Agriculture and Consumer Services, Office of Meat and Poultry Services (VDACS, OMPS), conducted by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) for fiscal year 2023. The purpose of the annual review was to: (1) verify the State of Virginia imposes laws, regulations, and related policies with authorities and requirements "at least equal to" those provided by the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, et seq.) and Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, et seq.); (2) determine whether Virginia 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 accurately 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 VDACS, OMPS to determine whether the State maintains and enforces requirements for a MPI program "at least equal to" the Federal requirements.

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

Based on thorough analysis of the review results, FSIS determined that VDACS, OMPS 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 Virginia'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 Virginia Department of Agriculture and Consumer Services, Office of Meat and Poultry Services (VDACS, OMPS), to determine whether it maintains and enforces requirements for a 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' 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 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 VDACS, OMPS 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. VDACS, OMPS was not subjected to an 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 MPI 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 provide 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, FSIS 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 not subject to FSIS’ onsite verification audits, the annual “at least equal to” determination will be based on analysis of results of the self-assessment document review results.

VDACS, OMPS, 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. This year, FSIS reviewed only the State’s self-assessment documentation.

VDACS, OMPS administers the Virginia MPI program under authority of the Code of Virginia Section 3.2-5403. VDACS, OMPS 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 operators.² In addition, VDACS, OMPS provides inspection at Federal-State Cooperative Agreement Inspection Program³ establishments.

FSIS verified through interviews and record reviews that the State of Virginia employs all VDACS, OMPS personnel 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 for which VDACS, OPMS is responsible.

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	0	2	2	4
	Total	0	2	2	4
Number of Custom Exempt Operators	Meat Only	1	51	72	124
	Poultry Only	0	0	24	24
	Total	1	51	96	148

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, record keeping requirements, and has 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 self-assessment documentation and confirmed Virginia administers VDACS, OMPS under applicable State laws, rules, and regulations. The enacted State MPI laws, Code of Virginia, impose, at a minimum, the following mandatory requirements that are “at least equal to” those under the FMIA and the PPIA:

- ante-mortem and post-mortem inspection (Section 3.2-5404);
- reinspection (Section 3.2-5404);
- sanitation requirements (Section 3.2-5404) and (Section 3.2-5407);
- record keeping requirements (Section 3.2-5404);

² Custom 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).

- humane methods of slaughter requirements (Section 2VAC5-210-30);
- adulteration (Section 3.2-5401);
- misbranding (Section 3.2-5402);
- prohibited acts (Section 3.2-5407);
- access and examination (Section 3.2-5412);
- product control actions (Section 3.2-5413) and (Section 3.2-5414); and
- exemption from inspection (Section 3.2-5405).

The Code of Virginia grants the authority to promulgate rules and regulations Section 3.2-5404. Virginia adopts by reference 9 CFR parts 302-307, 309-320, 325, 329, 335, 350, 352, 354-355, 362, 381 Subparts B through Q, S, U, X and Y, 412, 416-418, 424, 439, 441, 442, and 500 in section 2VAC5-210-10, 2VAC5-210-30 and 2VAC5-210-41 of the Virginia Administrative Code (VAC).

FSIS auditors confirmed Virginia did not enact any statutory or regulatory changes this year that may potentially affect how VDACS, OPMS, carries out its regulatory duties.

FSIS did not have any findings and concluded that, VDACS, OMPS 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, 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 Title 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 is also to implement inspection verification methods to ensure 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 evaluated the self-assessment documentation submitted as evidence and determined that VDACS, OMPS 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 comparable to actions taken by FSIS; and
- An internal control system for evaluating the efficacy and effectiveness of the other systems.

VDACS, OMPS uses the FSIS Public Health Information System (PHIS) to schedule inspection tasks and to collect, consolidate, and analyze inspection data. VDACS, OMPS 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 Code of Virginia section 3.2-5404 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 meat food products are inspected and passed for human consumption. VDACS, OMPS adopts and implements the most relevant FSIS issuances as their own policies for carrying out inspection and food safety verification activities.

VDACS, OMPS does not follow as written FSIS Directive 5100.4, EIAO Public Health Risk Evaluation Methodology. VDACS, OMPS does not utilize the PHRE methodology to set the frequency for performing routine FSAs at establishments. Instead, the MPI program continues to perform routine FSAs on a one-year cycle and performs "for cause" FSAs in accordance with "for cause" criteria and methodologies listed in that Directive. FSIS determined that the procedural differences did not impact VDACS, OMPS' capability to meet the intended purposes of the FSIS directives.

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

FSIS examined VDACS, OMPS' product sampling documents, protocols, procedures, and results presented in the FY 2023 self-assessment submission. FSIS confirmed submitted documentation demonstrated VDACS, OMPS 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; and
- Other consumer protection standards.

VDACS, OMPS 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, VDACS, OMPS participates in the National Residue Program and collects and analyzes inspector-generated samples for violative drug residues.

VDACS, OMPS adopts and implements most relevant FSIS issuances as their own policies for carrying out inspection and food safety verification activities. VDACS, OMPS determines sample frequency based on the "Guidance to States on Frequency of Microbiological Testing" for the fiscal year sent out by FSIS. VDACS, OMPS does not utilize PHIS to schedule the collection of regulatory samples and records analytical results.

VDACS, OMPS utilizes their own document, "Procedure for the Verification Sampling Program," which outlines collection procedures for all relevant sampling programs and references all relevant FSIS 10,000 series sampling directives. FSIS determined that the observed procedural differences did not impact VDACS, OMPS' capability to meet the intent of the FSIS directives.

FSIS identified the following finding:

- The VDACS, OMPS utilizes the services of a contract laboratory to perform STEC analysis on raw beef samples. The laboratory briefly lost its certification for 4 months (July to October 2022). Virginia has two establishments that are eligible for STEC sampling. Upon recertification, VDACS, OMPS began sampling again, and the contract laboratory continues to maintain proper certification. FSIS determined VDACS, OMPS has adequately corrected this finding.

FSIS did not have any additional findings and determined that VDACS, OMPS 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 the submitted documentation and confirmed VDACS, OMPS 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 VDACS, OMPS 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 individual work with Virginia’s public health and regulatory goals and sets standards for assessing job performance that include measures to correct unsatisfactory performance.

FSIS concluded that VDACS, OMPS 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 VDACS, OMPS’ 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 SOP, rules of practice, IPPS guidelines, compliance, and Inspection Methods training. Also, the State follows FSIS Enforcement Investigations and Analysis Officer training for auditors, Surveillance, Investigation and Enforcement Methodology for compliance and Public Health Veterinarian training for veterinarians.

FSIS did not have any findings and concluded VDACS, OMPS 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 needed to apply VDACS, OMPS’ 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 with the ritual requirements of the Jewish faith and any other religious faiths.

The State MPI Program is required to ensure poultry operators comply with Good Commercial Practices (GCP). The 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 self-assessment documents and confirmed VDACS, OMPS 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.

VDACS, OMPS implements all relevant FSIS humane handling directives, with only minor changes made to denote the VDACS personnel who are responsible for carrying out the verification activities articulated in these directives. Virginia is prepared to implement poultry GCP if the need arises because of a poultry slaughter facility joining the State MPI program.

VDACS, OMPS 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 VDACS, OMPS Meat Inspection Field Logs. During quarterly visits, the District Veterinary Medical Specialist (DVMS) evaluates establishments’ humane handling procedures and inspectors’ humane handling task performance.

VDACS, OMPS employs public health veterinarians to perform annual humane handling reviews 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 VDACS, OMPS 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 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 VDACS, OMPS maintains a compliance system to enforce food safety, food defense, inspection exemption, and other consumer protection statutory requirements in intrastate commerce. VDACS, OMPS 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.

VDACS, OMPS 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.

VDACS, OMPS 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 Code of Virginia. The Reports of Investigation were completed in accordance with FSIS Directive 8010.4, Report of Investigation. VDACS, OMPS uses the investigative findings and evidence to pursue enforcement actions for administrative, civil, or criminal sanctions.

VDACS, OMPS 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.

VDACS, OMPS maintains a system to review, analyze, and triage consumer complaints. VDACS, OMPS gathers information pertinent to these complaints, directs the compliance division to investigate these complaints, and files completed investigation documents in the State office.

VDACS, OMPS 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.

VDACS, OMPS has a system for reviewing custom operations that is “at least equal to” FSIS Directive 8160.1, Custom Review Process. VDACS, OMPS utilizes their own procedure manual to communicate the process for reviewing custom operators. Field Supervisors assign inspection personnel to review custom operators. Custom operators are expected to be reviewed at a minimum of once per year. Field Supervisors assign follow-ups when warranted according to risk. The Program Manager will withdraw custom exempt permits for facilities that fail to comply with custom exempt requirements and refer operators to the Enforcement Manager when findings warrant a civil or criminal investigation. Custom Exempt permits in Virginia are valid for one year, and the Program Manager can refuse to renew a permit for facilities that chronically refuse to, or are unable to, comply with requirements.

FSIS did not have any findings and determined the VDACS, OMPS compliance program to be “at least equal to” the Federal program. VDACS, OMPS 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 VDACS, OMPS’ inspection methodology, document findings, and 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 programs must use product sampling and laboratory methods with capabilities and safeguards “at least equal to” FSIS’ Federal inspection program’s product sampling and laboratory methods. State MPI programs should update and maintain their laboratory microbiological and chemical detection methods, so they are “at least equal to” FSIS’ methods, as detailed in the FSIS Microbiology Laboratory Guidebook and USDA FSIS Chemistry Laboratory Guidebook.

Virginia Department of Agriculture and Consumer Services – Lynchburg Regional Animal Health Laboratory (VDACS – LRAHL) contracts all microbiology laboratory work to the North Carolina Department of Agriculture & Consumer Services, Food & Drug Protection Laboratory (NCDACS, FDPL) and Virginia Division of Consolidated Laboratory Services (VDACS – DCLS) and meets the Laboratory Quality Assurance requirements of the State MPI Program.

NCDACS, FDPL conducts microbiology testing on VDACS – LRAHL’s behalf to include detection and confirmation of *Salmonella*, *E. coli* O157:H7 and non-O157 STEC. VDACS - DCLS conducts microbiology testing on VDACS – LRAHL’s behalf to include confirmation of *E. coli* O157:H7. VDACS – LRAHL does not conduct *L. monocytogenes* or *Campylobacter* analyses to support the MPI program as there are no establishments producing ready-to-eat products and no establishments producing eligible product for the *Salmonella* Performance Standards. USDA/FSIS/Eastern Laboratory conducts food chemistry testing on Virginia’s behalf to include the measurement of moisture, protein, fat, and salt.

FSIS compared the NCDACS, FDPL Laboratory Quality Assurance Program to the State MPI program Laboratory Quality Management System Checklist, and evidence of laboratory proficiency and analyst training was evaluated. Based on their self-assessment, NCDACS, FDPL met all Laboratory QA requirements including analysts’ training and related proficiency testing.

USDA/FSIS/Eastern Laboratory has adequate food chemistry capability for the measurement of moisture, protein, salt, and fat. NCDACS, FDPL has demonstrated adequate microbiological capabilities for the detection of *E. coli* O157:H7, *Salmonella*, and non-O157 STEC. VDACS - DCLS has demonstrated adequate microbiological capabilities for the confirmation of *E. coli* O157:H7.

Based on the Component 7 methods and quality assurance program review, Virginia 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 *Escherichia 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 Shiga toxin-producing *E. coli* (non-O157 STEC).
- 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 Virginia is not currently inspecting MPI program poultry establishments slaughtering at least 20,000 chickens and/or turkeys per year.

On October 25, 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, VDACS, OMPS 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 VDACS, OMPS. 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 Virginia’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 that there is appropriate use of Federal funds, adequate accounting support for the State inspection program, and timely and accurate submission of expense reports.

VDACS, OMPS 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 (March 2004).

FSIS determined that VDACS, OMPS is “at least equal to” Federal standards for financial accountability for FY 2023.

XIII. DETERMINATION FOR VIRGINIA

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