

Appendix AA

FINAL REPORT

Fiscal Year 2023

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Federal-State Audit Staff
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 West Virginia Department of Agriculture (WVDA), 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 is to: (1) verify the State of West Virginia 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 West 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 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 WVDA 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 review results, FSIS determined that WVDA 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 West 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 West Virginia Department of Agriculture (WVDA) 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 FSIS review activities were limited to evaluations of self-assessment documents submitted by WVDA 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 FSIS to the State MPI program 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. WVDA was not subjected to an onsite verification audit in FY 2023.

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

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.

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).

Annually, non-designated States are expected to assess and support determinations that its 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 its 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 its 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 3 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 the State’s self-assessment document review results.

WVDA, 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.

WVDA administers the West Virginia MPI program under authority of Code of West Virginia (CWV). WVDA 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 record reviews that all WVDA personnel are employed by the State of West Virginia 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	0	8	16	24
	Combination Meat and Poultry	0	0	1	1
	Total	0	8	17	25
Number of Custom Exempt Operators	Meat Only	0	12	13	25
	Total	0	12	13	25

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.).

FSIS reviewed the submitted self-assessment documentation and confirmed West Virginia administers WVDA under the applicable State laws, rules, and regulations. The State law, CWV, includes legal requirements comparable to following mandatory requirements of the FMIA and the PPIA:

- ante-mortem and post-mortem inspection (CWV Section 19–2B–6);
- reinspection (CWV Section 19–2B–6);
- sanitation requirements (CWV Section 19–2B–6);
- record keeping requirements (CWV Section 19–2B–5);

² Custom exempt operators are not subject to the routine slaughter or processing 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 (CWV Section 19–2E–5);
- adulteration (CWV Section 19–2B–2);
- misbranding (CWV Section 19–2B–2);
- prohibited acts (CWV Section 19–2B–6);
- access and examination (CWV Section 19–2B–5);
- product control actions (CWV Section 19–2B–6); and
- exemption from inspection (CWV Section 19–2B–8).

The West Virginia Administrative Code (WVAC) grants the authority to promulgate rules and regulations under Title 61-16-1. West Virginia adopts by reference the mandatory meat inspection regulations 9 CFR Parts 301 et seq., mandatory poultry products inspection regulations 9 CFR 381, and associated regulations 9 CFR 412, 9 CFR 416, 9 CFR 417, 9 CFR 418, 9 CFR 424, 9 CFR 430, 9 CFR 441 and 9 CFR 442 in the WVAC Title 61–16–2.

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

FSIS did not have any findings and determined that WVDA 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 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 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 WVDA 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.

WVDA uses the FSIS Public Health Information System (PHIS) to schedule inspection tasks and to collect, consolidate, and analyze inspection data. WVDA administers inspection for any meat or poultry products intended for human consumption, wholly or in part, from the carcass or parts of any animal defined as "livestock" or "poultry" in the CWV Section 19-2B-2 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 and poultry food products are inspected and passed for human consumption. WVDA adopts and implements all relevant FSIS issuances as its own policies for carrying out inspection and food safety verification activities. WVDA does not adopt 9 CFR 500 by reference; however, through the authority of the West Virginia Commissioner of Agriculture granted in its authorizing statutes, employees of WVDA are empowered to take regulatory control actions, withholding actions, and suspensions as deemed appropriate. The intent of the WVDA is to take enforcement actions that are "at least equal to" or exceed those referenced in FSIS' Directive 5100.3, revision 4, "Administrative Enforcement Action Decision Making and Methodology." FSIS determined that the observed procedural differences did not impact WVDA's capability to meet the intended purposes of the FSIS directives.

FSIS did not have any findings and determined that WVDA 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 WVDA's product sampling documents, protocols, procedures, and results presented in the FY 2023 self-assessment submission. FSIS confirmed that the submitted documentation demonstrated WVDA maintains sampling programs, based on sound rationale and goals, for the following:

- *Escherichia coli* (*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.

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

WVDA adopts and implements all relevant FSIS issuances as its own policies for conducting inspection and food safety verification activities. WVDA determines sample frequency based on the "Guidance to States on Frequency of Microbiological Testing" for the fiscal year sent out by the Federal-State Audit Staff. WVDA does not utilize PHIS to schedule the collection of regulatory samples and records analytical results. Instead, inspectors and supervisors receive sample request forms generated by the State office at the beginning of the year, with instructions to collect samples as product is available throughout the year. All sample requests and sample results are closely tracked and documented at the WVDA State office and in-plant inspection files. This notable procedural difference did not impact WVDA's capability to meet the intended purposes of the 10,000 series FSIS directives.

FSIS did not have any findings and determined that WVDA 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 documents and confirmed WVDA implements its administrative program 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 WDVA 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 workloads with West Virginia'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 WVDA administrative program to be "at least equal to" the Federal program. WDVA 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 WVDA'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 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 WVDA 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.

WVDA implements all relevant FSIS humane handling and GCP directives, with only minor changes made to denote the WVDA personnel who are responsible for carrying out the verification activities articulated in these directives.

WVDA 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 (PHV) evaluate establishments' humane handling procedures and inspectors' humane handling task performance. Inspection program personnel (IPP) assigned to State the inspected poultry slaughter establishment follow FSIS Directive 6110.1, Verification of Poultry Good Commercial Practices, when conducting procedures to ensure that poultry are slaughtered in accordance with GCP requirements.

WVDA employs one full time and one part-time PHV 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 determined that WVDA 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 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 WVDA maintains a compliance system to enforce food safety, food defense, inspection exemption, and other consumer protection statutory requirements in intrastate commerce. WVDA 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.

WVDA 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.

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

WVDA 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.

WVDA 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.

WVDA has a system for reviewing custom exempt operations that is in accordance with FSIS Directive 8160.1, Custom Exempt Review Process. Supervisors are responsible for scheduling IPP's routine custom exempt reviews both at custom exempt facilities within official establishments and custom exempt only facilities. IPP are instructed to perform custom exempt reviews at a frequency of once per quarter. IPP document the results of the custom exempt

review on the WVDA specific “Exempt Establishment Review Report.” Follow-ups are conducted based upon the number and severity of deficiencies present at the facility, and reviewers document the recommended frequency of reviews on the “Exempt Establishment Review Report.”

FSIS did not have any findings and determined the WVDA compliance program to be “at least equal to” the Federal program. WVDA 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 WVDA’s 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 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.

An off-site records review of WVDA’s, Regulatory and Environmental Affairs Division (READ) was performed during FY 2023 to evaluate laboratory quality assurance programs and method equivalence under the State MPI Program.

READ conducts microbiological testing for *Salmonella*, *L. monocytogenes*, *Campylobacter*, and STEC. READ conducts food chemistry testing for moisture, protein, and salt. USDA\FSIS\Eastern Laboratory (EL) conducts food chemistry testing on READ’s behalf for fat.

FSIS compared the READ 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 its self-assessment, READ met all Laboratory Quality Assurance requirements, including analysts’ training and related proficiency testing.

READ has demonstrated adequate food chemistry capability for the measurement of moisture, protein, and salt. EL has adequate food chemistry capability for the measurement of fat. READ has demonstrated adequate microbiological capabilities for detection of *Salmonella*, *Campylobacter*, *L. monocytogenes*, and STEC.

Based on the Component 7 methods and quality assurance program review, West 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 *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 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.

On September 15, 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, WVDA 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 WVDA. 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 October 17, 2023, FSIS determined West 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 appropriate use of Federal funds, adequate accounting support for the State inspection program, and timely and accurate submission of expense reports.

WVDA 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 WVDA is “at least equal to” Federal standards for financial accountability for FY 2023.

XIII. DETERMINATION FOR WEST VIRGINIA

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